

JOINT COMMITTEE OF PUBLIC ACCOUNTS

*NINTH COMMITTEE
(as at 8 April, 1974)

Senator R.E. MCAULIFFE (Chairman)
A.W. JARMAN, Esquire, M.P. (Vice-Chairman)

Senator J.F. FITZGERALD	F.W. COLLARD, Esquire, M.P.
Senator H.G.C. GUILFOYLE	M.J. MACKELLAR, Esquire, M.P.
	V.J. MARTIN, Esquire, M.P.
	L.J. REYNOLDS, Esquire, M.P.
	A.E. ADELMANN, Esquire, M.P.
	P.F. MORRIS, Esquire, M.P.

* The Ninth Committee heard the evidence given at the public hearings held on 8 and 9 April, 1974.

**TENTH COMMITTEE

Senator R.E. MCAULIFFE (Chairman)
B.W. GRAHAM, Esquire, M.P. (Vice-Chairman)

Senator D.J. GRIMES	F.W. COLLARD, Esquire, M.P.
Senator H.G.C. GUILFOYLE	D.M. CONNOLLY, Esquire, M.P.
	S.A. LUSHER, Esquire, M.P.
	V.J. MARTIN, Esquire, M.P.
	P.F. MORRIS, Esquire, M.P.
	L.J. REYNOLDS, Esquire, M.P.

** The Tenth Committee heard the evidence given at the public hearings held on 20, 21 and 22 August 1974, 12 and 13 September 1974, 1 November and 6 December 1974 and 18 March and 19 August 1975.

***ELEVENTH COMMITTEE

D.M. CONNOLLY, Esquire, M.P. (Chairman) \neq
THE HON F. CREAM, M.P. (Vice-Chairman) (2)

Senator P.E. BAUME	J.L. ARMITAGE, Esquire, M.P. (3)
Senator M.A. COLSTON	THE HON. J.D.M. BOGIE, M.P.
Senator A.J. MESSNER	THE HON. R.V. GARLAND, M.P. (4)
	U.E. INNES, Esquire, M.P. (1)
	S.A. LUSHER, Esquire, M.P. \neq
	V.J. MARTIN, Esquire, M.P. \neq
	J.R. SHORT, Esquire, M.P.

- (1) Discharged 8.4.76
- (2) Appointed 8.4.76. Elected Vice-Chairman 29.4.76
- (3) Elected Vice-Chairman 16.3.76. Resigned as Vice-Chairman 29.4.76
- (4) Appointed (Ex-officio) 9.5.76

*** No evidence was heard by the Eleventh Committee. It will be noted that only three Members of this Committee (shown \neq) heard evidence in relation to this inquiry.

DUTIES OF THE COMMITTEE

Section 8 of the Public Accounts Committee Act 1954 reads as follows:

8. The duties of the Committee are -

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth and each statement and report transmitted to the Houses of the Parliament by the Auditor-General in pursuance of sub-section (1) of section fifty-three of the Audit Act 1901-1950;
- (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,

and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

ONE HUNDRED AND SIXTY-SECOND REPORT
INQUIRY INTO THE FINANCIAL ADMINISTRATION
OF THE DEPARTMENT OF ABORIGINAL AFFAIRS

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CHAPTER 1

INTRODUCTION

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1. The first duty of the Committee as set down in section 8 of the Public Accounts Committee Act 1951 is:

" (a) to examine the accounts of the receipts and expenditure of the Commonwealth and each statement and report transmitted to the Houses of the Parliament by the Auditor-General in pursuance of sub-section (1.) of section fifty-three of the Audit Act 1901-1950."

2. The second duty of the Committee is:

"(b) to report to both Houses of the Parliament with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed."

3. In paragraph 3 of the Auditor-General's Supplementary Report for 1972-73 reference was made to deficiencies in the financial and administrative control over the receipts and expenditure of public moneys by the Department of Aboriginal Affairs. Following consideration of the paragraph, the Ninth Committee resolved, in pursuance of section 8 of the Public Accounts Committee Act 1951, to conduct a public inquiry into the financial administration of the Department of Aboriginal Affairs.

4. On 5 March 1974 the Auditor-General tabled in the Parliament a special report upon the Department of Aboriginal Affairs¹. After examination of the report on 7 March 1974 the Ninth Committee decided to proceed to public inquiry into the financial administration of the Department of Aboriginal Affairs as soon as possible.

5. The Ninth Committee decided that the inquiry would deal with all sections of the report and advised the Department that submissions would be

1. See Appendix B

required on all matters raised by the Auditor-General in his report. Submissions were also requested from the Treasury, the Public Service Board and the Australian National University.

6. Two days of public hearings were completed (8 and 9 April 1974) before a double dissolution of the Parliament occurred on 10 April 1974 and the Ninth Committee went out of existence. The Tenth Committee, the members of which were appointed on 16 July 1974, resolved on 23 July 1974 that it would continue with the inquiry into the financial administration of the Department of Aboriginal Affairs which had been commenced by the Ninth Committee. A further nine days of public hearings were held prior to the double dissolution of the Parliament which occurred on Tuesday, 11 November 1975. The Eleventh Committee, the members of which were appointed on 3 and 4 March 1976, resolved on 16 March 1976 that it would continue with the inquiry and prepare and present a report relating to the inquiry. No public hearings were held by the Eleventh Committee but section 12 of the Public Accounts Committee Act 1951 states that:

"Where the Committee as constituted at any time, or a Sectional Committee of the Committee as constituted at any time, has taken evidence in relation to a matter, but the Committee as so constituted has ceased to exist before reporting on that matter, the Committee as next constituted may consider that evidence as if it had been given before it."

7. During the course of the inquiry submissions were requested from Captain S.J. Benson, C.B.E., Applied Ecology Pty Ltd and the Department of Transport. The Tenth Committee also requested a further submission from the Department of Aboriginal Affairs relating to statements made by the Queensland Premier, Mr J. Bjelke-Petersen alleging mismanagement and waste of public moneys by the Department in respect of the Torres Strait Islands. The Tenth Committee decided that it would not be necessary to hold a public hearing in relation to this submission.

8. On 4 December 1974, the former Minister, the Hon. G.M. Bryant, E.D., informed the Chairman by letter that he wished to appear before the Committee to present his evidence in relation to the inquiry in the form of a submission. Mr Bryant appeared before the Tenth Committee on 6 December 1974 and tendered a comprehensive submission based on the minutes of evidence and the submissions presented by the Department of Aboriginal Affairs to that date, which were made available to him by the Secretariat. He was invited to make a statement in relation to his submission and he did so. The minutes of evidence for that public hearing appear as Appendix C to this Report.

9. Due to the comprehensive and self-explanatory submission presented by Mr Bryant, the Tenth Committee considered that it was not necessary to examine him in relation to it.

10. Following the tendering of Mr Bryant's submission Mr Dexter, the Permanent Head of the Department, of his own volition, submitted a further statement on 24 December 1974, commenting on matters raised in Mr Bryant's submission.

11. On 26 August 1976, during the drafting stages of this Report, the Eleventh Committee decided that Mr Bryant should be given the opportunity to make written comment on Mr Dexter's statement of 24 December 1974. These written comments were received on 4 and 10 November 1976.

12. For the purposes of matters referred to in this Report a public inquiry was held at Parliament House, Canberra on:

Monday, 8 April 1974	Friday, 13 September 1974
Tuesday, 9 April 1974	Friday, 1 November 1974
Tuesday, 20 August 1974	Friday, 6 December 1974
Wednesday, 21 August 1974	Tuesday, 18 March 1975
Thursday, 22 August 1974	Tuesday, 19 August 1975
Thursday, 12 September 1974	

13. The following witnesses were sworn or made an affirmation and were examined by the Committee during the public inquiry:

- Captain S.J. Benson, C.B.E. - Marine Consultant
- Professor W.E.H. Stanner, C.B.E., Ph.D. - Member of the Council of Aboriginal Affairs, Consultant to the Minister and to the Department

Department of Aboriginal Affairs

- Mr R.J. Angel - Executive Officer, Aboriginal Loans Commission Section, Management and Control Branch
- Mr B.G. Dexter - Secretary to the Department
- Mr H.M. Ford - Assistant Director, Planning and Project Branch Northern Territory Division
- Mr R. Huey - Director, Community Development Section No. 2, Community Development Branch
- Mr N.J.L. Janaz - Assistant Secretary Operations Management Branch
- Mr T.C. Lovegrove - Acting Director, Northern Territory Division
- Mr L.A.J. Malone - First Assistant Secretary Operations Division
- Mr K.C. Martin - Director, Policy Review Section

- Mr T.J. Milikine - Executive Officer, Town Services Sub-section, Programming and Projects Section
- Mr D.J. O'Rourke - Assistant Secretary, Programme Planning Division
- Mr C.M. Perkins - Assistant Secretary, Consultation Branch
- Mr B.J. Powell - Director, Resources Review Section
- Mr B.K. Thomas - Director, Enterprise Development Section Programme Planning Branch
- Mr F.C. Thorburn - Acting Assistant Director, Northern Territory Division

Australian National University

- Mr J.D. Brocklehurst - Staff Officer
- Mr D. Hardman - Laboratory Manager, Research School of Biological Sciences
- Mr R.A. Hohnen - Secretary to the University
- Mr N.G. MacDonald - Personal Assistant to the Deputy-Vice Chancellor formerly Internal Auditor
- Mr C.G. Plowman - Registrar, University of N.S.W. formerly Academic Registrar of the Australian National University

Applied Ecology Pty Ltd

Mr R.D. Cooper - Company Secretary

Office of the Public Service Board

Mr W.K. Oakes - Senior Inspector,
Management Consultancy Division

Mr L.B. Woodward - Assistant Commissioner,
Organisation Branch No. 2

Mr R.J. Young - Deputy Commissioner

Department of Transport

Captain R.R.F. Elliott - Chief Marine Surveyor

14. During the inquiry the Committee was assisted by the following Observers:

Mr C.A. Harrington - Auditor-General's Office.

Mr P.J. Hinchy

Mr W.H. Scott

Mr W.J. Harris - Public Service Board.

Mr D.G. Wheen

Mr G.S. Davidson - Department of the Treasury

Mr A.M. Finch

15. As part of the inquiry a five Member Sectional Committee of the Tenth Committee carried out the following inspections of Aboriginal Settlements in the Northern Territory:

Friday, 25 October 1974

Saturday, 26 October 1974

Sunday, 27 October 1974

Monday, 28 October 1974

- Bagot Aboriginal Reserve

- Umbakumba Settlement at
Groote Eylandt, Ngukurr
(Roper River)

- Aboriginal Settlements
near Katherine -

Banyill Settlement
Beawick Cattle Station
Beawick Aboriginal Settlement

- Bathurst Island Aboriginal
Reserve.

16. During the inspection tour Members of the Sectional Committee held discussions with members of Town, Village and Community Councils, Housing Associations, Progress and Development Associations and members of staff of settlements and other Departmental officers. It was observed that living conditions at some of the settlements visited left much to be desired and the inspection resulted in Members becoming much more aware of the real problems and difficulties facing the Department.

17. The Committee's approach to this inquiry has been to attempt to ascertain from the various witnesses and other sources of information the reasons why the financial and administrative control over the receipts and expenditure of public moneys by the Department had been unsatisfactory.

18. It was therefore not considered necessary for the Committee to obtain the complete details of all expenditure incurred on the Turtle Farming Project in order to make a judgment with regard to the Department's financial control of the project. Nor did the Committee consider that it need concern itself with the question of whether the project was economically viable or should have been embarked upon by the Department in the first place. In this regard the Committee was aware that the project had been examined by Mr L.P. Smart, F.C.S. who had presented a report in October 1973 relating to the Organisation,

Management and Market Prospects of the project; Dr F.A. Carr and Professor A.R. Main, who had presented a report also in October 1973 on the ecological implications of the project and the House of Representatives Standing Committee on Environment and Conservation who had presented a report in November 1973 which dealt with Turtle Farming in the Torres Strait Islands.

19. Similarly, in examining the evidence relating to the relationship between the former Minister for Aboriginal Affairs and the Permanent Head of the Department, the Committee was concerned only to establish how this relationship affected the financial administration of the Department.

20. The Report follows generally the order of presentation in the special report of the Auditor-General. To enable easy reference the special report of the Auditor-General has been included as Appendix B to this Report.

CHAPTER 2

THE AUDIT INVESTIGATION AND THE
AUDITOR-GENERAL'S REPORT

21. When the inquiry opened there seemed to be a difference of opinion as to who took the initiative in persuading the Auditor-General that he should carry out an investigation into the financial administration of the Department. It was stated in the departmental submission that it was not the Department's understanding that the examination had resulted from a request by the then Minister as had been stated publicly (allegedly by Mr Bryant according to newspaper reports of 6 and 7 March 1974.) The submission went on to state that the initiative in having the intensive investigation carried out, leading to the presentation of the Auditor-General's Report, was taken by the Permanent Head (Mr Dexter). It was claimed in the submission that Mr Dexter had called on the Auditor-General on 7 September 1973 of his own volition and expressed his deep concern about the financial administration of the Department.

Exhibit
162/1, and
Q. 139

22. Because of this difference of opinion, the Committee sought information on this matter from the Observer from the Auditor-General's Office (Mr Scott) who told the Committee at the inquiry that the special investigation of the Department's accounting commenced in July 1973 on the basis of earlier inspections and indications that a number of areas of the Department's activities required special attention. He went on to say that plans to extend the special investigation were therefore receiving consideration prior to the Permanent Head's discussions with the Auditor-General. However, Mr Scott pointed out that the discussions between the Permanent Head and the Auditor-General certainly confirmed and even added emphasis to earlier views and caused the Auditor-General's Office to intensify the investigation somewhat sooner than otherwise might have been the case.

Q. 32

23. The Committee was also told that the files of the Auditor-General's Office had been very carefully searched and there was no record of any request by the former Minister for an audit

Q. 32 and
Committee
File 1974/4

investigation of his Department. However, a copy of the report from the House of Representatives Standing Committee on Environment and Conservation relating to turtle farming in the Torres Strait Islands had been referred to the Auditor-General by the Minister's Office which had enclosed a "with compliments" slip endorsed "referred by direction of the Minister". Also enclosed was a copy of a letter to the Minister from the Chairman of the House of Representatives Committee which indicated that that Committee believed that perhaps an inquiry into aspects of the turtle farming project should be carried out by the Auditor-General. The Committee was informed that these papers were received in the Auditor-General's Office on 25 September 1973.

24. In the Auditor-General's Report there were a number of references to actions and ministerial decisions of the then Minister (Mr Bryant) which the Department claimed had affected its financial administration. These references included:

P.P. 13
of 1974

(a) On page 3 -

"In correspondence, the Secretary to the Department has agreed generally with the Audit findings. In certain cases the Department has sought to excuse its non-compliance with established procedures on the grounds that it became aware of ministerial decisions involving expenditures only when the accounts for the expenditures concerned were received within the Department or too late for it to follow the approved financial procedures."

(b) On pages 17 and 18 in relation to the establishment and election of the National Aboriginal Consultative Committee - "Advice was also received from the Department. . . "

"(k) The main reasons for such shortcomings as occurred were the inexperience of officers concerned in compiling an electoral list coupled with the fact that no instructions were available; and the deadline for the actual enrolment, set by the then Minister, precluded any detailed procedures being implemented during the enrolment period; officers seconded from the Australian Electoral Office had recommended that the elections not be held until April or May 1974 instead of November 1973."

(c) On page 19 also in relation to the N.A.C.C. elections:

"The Department also stated that:

"Many of the decisions involving financial commitments were arrived at in personal discussions between the Minister and persons engaged in planning the project. Sometimes the results of these discussions were recorded in written approvals, though it was rarely that such approvals were preceded by reference to Finance Officers for an indication of funds availability and for recording in the commitments register. In many cases written approval had to be obtained ex post facto and, in the stress of trying to cope with work loads and deadlines, was sometimes forgotten."

(d) On page 20:

"The Department agreed there were deficiencies in the arrangements for the provision of vehicles for persons engaged on the N.A.C.C. enrolment project. The Department stated, however, that bearing in mind the target date set by the Minister; that the persons involved in the use of cars were ministerial consultants; and that the staff arranging the travel were, regrettably, unaware of the need to seek appropriate approval, the occurrence of the incidents was inevitable."

(e) On page 23 in relation to the expenditure on refitting and the movement of the ex-Taiwanese trawler Yung-Yuan 21:

"In reply the Department advised:

"...When confronted with the situation of making the trawler ready for sea in time to meet the then Minister's deadline, the officers concerned arranged for the funds to be made available to a designated officer to be expended as would a grant; the Department thought it probable that the officer did not even realise it was an advance."

(f) On page 24:

"In reply, the Department advised that the nursing sister was recruited on the then Minister's authority before the Department was given the opportunity to comment."

25. Included in Mr Bryant's submission to the Committee (pages 4 to 6 under the heading "Presentation of the Auditor-General's Report") were a number of statements relating to the critical comment included in the Auditor-General's Report which reflected on the actions of the then Minister. These included the following:

Exhibit
162/25

- (i) "I can understand that nothing should deflect the Auditor-General from the performance of his statutory duties, and criticism of a department or of a Minister or of anyone ought not to be the subject of previous vetting by persons affected. In the present case, the facts that emerge from the Report are that there was correspondence between the Auditor-General and the Department in which reflections were made upon the activities of the Minister. These reflections, passing in letters to and fro between the Department and the Auditor-General, were concealed from me until I saw them articulated in the Auditor-General's Report."
- (ii) "The fact remains that until the Report was tabled in the Parliament no information was given to me of the criticisms made by the Department and repeated in the Report. Leaving aside entirely questions of loyalty and ordinary decency, it seems to me to be a matter of concern that the Auditor-General should have repeated statements, as he did, without according to the person most clearly affected by them, the ordinary fairness of seeking his opinion and/or response."
- (iii) "In the present circumstances, correspondence has plainly passed between the Department and the Auditor-General who has then arrived at a preliminary conclusion based upon the correspondence from the Department. The Minister, who is at the one time the most exposed and vulnerable, identifiable victim of this correspondence is given no opportunity of putting his case until after the report is tabled in the House."
- and
- (iv) "Without in any way suggesting a right to review or influence the Auditor-General's statutory function of reporting, I draw to the attention of the Committee the special unfairness of the present procedure and the desirability of change, at least to the extent of informing Members of the Parliament in advance who are affected by criticism so that they can be in a position fairly and, if necessary, in detail, to defend themselves. The present procedure appears to me to be quite unjust, even improper, with nothing to defend it."

26. In regard to (b) and (d) on pages 10 and 11 of this Report where reference was made to a target date for the N.A.C.C. election being set by the then Minister, the following comments were made by Mr Bryant in paragraphs 75 and 76 of his submission:

Exhibit
162/25

"It is clear from the report of the Auditor-General, that the information passed to him by the Department was that I, as Minister, had fixed a specific deadline for the conduct of the N.A.C.C. election. The inference is invited that the Minister by fixing the date prematurely had inflicted upon the Department all sorts of difficulties in the financial control and administration of the election and associated procedures."

and

"The truth of the matter is that the date of the election was the subject of advice by the Steering Committee of the N.A.C.C. which met from 19-23 March 1973 in Canberra. A number of advisers were asked to attend and were said to have provided "invaluable advice". Amongst the advisers attending was the Permanent Head. Amongst the suggestions made was the suggestion that the election be held on 30 June 1973, a date well in advance of the date finally decided. Presumably, the Secretary took part in this suggestion."

27. As the statements made by the former Minister raised some very important matters of principle relating to the autonomy of the Auditor-General, his method of reporting and his relationship with departments, the Committee held a private meeting with the Auditor-General to discuss the matters raised by the former Minister. The main points made by the Auditor-General during the discussions were as follows:

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- (a) He considered that the combined effect of Section 64 of the Constitution and section 25 of the Public Service Act was that a Department of State consisted of a Minister and a Permanent Head.

1. Further information on the N.A.C.C. elections is contained in Chapter 7 of this Report.

- (b) He was not obliged by law or convention to inform persons that they would be the subject of critical comment in the Auditor-General's Report.
- (c) It would be administratively impracticable for the Auditor-General to seek out and discuss the matter with persons who are to be the subject of critical comment in his Reports.
- (d) He had serious doubts about the propriety of informing persons that they would be featured in his Reports. He considered that he would then be open to the criticism that the person, even if the person was a Minister of State, had foreknowledge of what was to be in a report to the Parliament before that report was tabled.
- (e) It is the normal policy of the Auditor-General's Office to disclose in reports the whole, or part, or a summary of the departmental responses to critical Audit observations.
- (f) The Auditor-General has no acceptable alternative to addressing official communications concerning the audit of a Department to the Permanent Head.
- (g) He maintained that he is entitled to rely on the facts as presented by the Permanent Head unless he has good reason to doubt them in which case he would take up the matter with the Permanent Head. In the cases in question he had no reason to doubt the facts as presented by the Permanent Head.

- (h) He considers that he is entitled to assume that a Permanent Head will comply with section 25(2) of the Public Service Act, which states *inter alia* -

"The Permanent Head of a Department... shall advise the Minister in all matters relating to the Department."

In other words, he considered that the obligation in this case was on the Permanent Head to inform his Minister. It would then be a matter for the Minister to decide if the former Minister should be informed. He stated that he was not aware whether the Permanent Head did, in fact, inform his Minister².

Conclusions

28. Although the Committee was not greatly concerned about the question of who was responsible for persuading the Auditor-General that he should carry out an investigation into the financial affairs of the Department, the matter was raised in the Department's submission and the Committee took evidence in relation to it. It seems clear to the Committee that plans to carry out an intensive audit of the Department's financial affairs were already in train within the Audit Office when Mr Dexter approached the Auditor-General and that this approach merely precipitated proposed audit action.

2. The Committee made special inquiries and was completely satisfied that the Permanent Head had kept the then Minister (Senator Cavanagh) fully informed on all matters pertaining to the audit queries and had in fact shown the Minister all correspondence received from the Auditor-General's Office containing Audit criticisms and all replies sent from the Department in reply to those criticisms.

29. In relation to Mr Dexter's visit to the Auditor-General on 7 September 1973, the evidence does not show whether the proposal to visit the Auditor-General or the results of that visit were discussed by Mr Dexter with his then Minister (Mr Bryant). The Committee believes that if he had not done so he would have been remiss in carrying out one of the major functions of a Permanent Head, which is to keep the Minister informed of the more important questions relating to his Department.

30. After giving full consideration to Mr Bryant's criticism of the Auditor-General's method of reporting and the points made by the Auditor-General in reply, the Committee can see no reason why it should suggest or recommend any changes to the Auditor-General's present reporting procedures.

CHAPTER 3

THE DEPARTMENT OF ABORIGINAL AFFAIRS

Creation of the Department

31. The results of the referendum held in May 1967 greatly increased the Australian Government's responsibility for Aboriginal affairs and led ultimately to the creation of the Department of Aboriginal Affairs. In the referendum of 1967, over 90 per cent of the valid votes were in favour of two amendments to the Constitution, one of which gave the Australian Government the power to legislate for Aborigines in the States concurrently with the State Governments. The results of the referendum were incorporated in the Constitution Alteration (Aborigines) Act 1967.

P.P. 299
of 1974

32. Following the result of the referendum the then Prime Minister, the Rt. Hon. Harold Holt, established a three-man Council for Aboriginal Affairs (Dr Coombe Chairman, Professor Stanner member, and Mr Dexter Executive Member) to advise the Government on policies in this new area of responsibility. The Council was to be assisted by a small Office of Aboriginal Affairs, within the Prime Minister's Department, headed by the Executive Member of the Council.

P.P. 299
of 1974
and Q. 36

33. The Office of Aboriginal Affairs, created on an interim basis at the end of 1967 and formally in early 1968, formed part of the Prime Minister's Department until March 1971, when it became part of the short-lived Department of the Vice-President of the Executive Council and then, from May 1971 to December 1972, of the Department of the Environment, Aborigines and the Arts. In the Northern Territory, however, the Department of Territories and subsequently the Department of the Interior retained prime responsibility for Aboriginal welfare and advancement.

Exhibit
162/1 and
P.P. 299
of 1974

34. The Committee was informed that the Office, under the guidance of the Council, was responsible for drafting policy papers for the Government's consideration, developing national programs and projects and securing Ministerial approval for them.

Exhibit
162/1

35. When the Office of Aboriginal Affairs was established the functions of the Office were as stated by the then Prime Minister:

Exhibit
162/27

"The prime function of the Commonwealth, in the light of these changes to the Constitution will be to carry out a policy co-ordinating role.

To achieve this objective, the Government proposes to establish an Office of Aboriginal Affairs in Canberra. Its task will be to co-ordinate policy and to provide the machinery necessary for joint consultations as the need arises with the States and with relevant Commonwealth Departments. The new Office will draw on the experience of the Department of Territories and have its assistance in any administrative support that may be needed."

36. The Department of Aboriginal Affairs was created in December 1972 to deal with enactments administered by the Minister for Aboriginal Affairs and other matters set out in the Administrative Arrangements Order of 19 December 1972. Mr Gordon Bryant became the first Minister for Aboriginal Affairs upon the creation of the Department on 19 December 1972. After a Cabinet reorganisation Senator J.L. Cavanagh became Minister on 9 October 1973.

P.P. 299
of 1974

37. The formation of the Department was achieved by consolidating elements which had been concerned with Aboriginal Affairs for some years previously and which had been part of the former Department of the Environment, Aborigines and the Arts; the Welfare Division of the former Northern Territory Administration, Department of the Interior; and the Welfare and Social Services Branch of the Central Office of the former Department of the Interior. The Department is responsible for developing national policies in Aboriginal Affairs, in consultation with the Aboriginal people; and for the planning and co-ordination of programs for Aborigines and Torres Strait Islanders and deals directly with these people throughout Australia.

P.P. 299
of 1974

38. The Department of Aboriginal Affairs is located in Canberra with State Offices and/or Regional Offices located in all States and the Northern Territory.

P.P. 299
of 1974

Functions of the Department

39. The Administrative Arrangements Order, described by the Committee in its Third Report (1952-53) as 'the authoritative statement of the field of functions of each department', lists the principal matters dealt with by departments and the Acts administered by Ministers.

P.P. 201
of 1951-52-
53

40. The schedule to the Administrative Arrangements Order of 22 December 1975 specifies the matters dealt with by the Department of Aboriginal Affairs and enactments administered by the Minister for Aboriginal Affairs.

Australian
Government
Gazette
No. S262
22 December
1975

41. The principal matters dealt with by the Department are:

- Matters related to the Aboriginal people of Australia.
- The development and administration of national policies for the advancement and welfare of the Aboriginal people, including the administration of welfare activities in the Territories.
- Special laws for the Aboriginal people.

42. The following enactments are administered by the Minister for Aboriginal Affairs:

- Aboriginal Affairs (Arrangements with the States) Act 1973
- Aboriginal and Torres Strait Islanders (Queensland Discriminatory Laws) Act 1975
- Aboriginal Land Fund Act 1974
- Aboriginal Loans Commission Act 1974
- Australian Institute of Aboriginal Studies Act 1964-1973
- Northern Territory (Administration) Act 1910-1974, Section 21
- States Grants (Aboriginal Advancement) Act 1972-1973
- States Grants (Aboriginal Assistance) Act 1974

Australian
Government
Gazette
No. S262
22 December
1975

43. The functions of the Department are as follows:

Australian
Government
Directory
1975

Policy Division: Responsible for the formulation and review of national policies and for planning and research in Aboriginal Affairs. Provision of secretarial services to various Councils and Committees.

Operations Division: Responsible for the investigation and development of economic development proposals operation of the Capital Fund for Aboriginal Enterprises and investigation of proposals for grants in respect of the Lands Fund. Responsible for the development and control of Commonwealth funded programs for Aborigines in the States and Territories and administer direct aid programs and grants-in-aid to Aboriginal and other organisations.

Program Planning Division: Responsible for the development of operational objectives in consultation with Aboriginal representatives, and for the achievement of approved objectives through program management and budget control.

Management Services Branch: Responsible for providing a range of advisory and executive management and financial services to the department.

Functions of Regional and State Offices:

Administer the responsibilities of the Department of Aboriginal Affairs within the State or Northern Territory as applicable and implement policies relating to the advancement of the Aboriginal people. Maintain communication with individual Aborigines and Aboriginal organisations and advise the Government on their needs and aspirations.

Staffing and Establishment

Office of Aboriginal Affairs

44. The witness for the Department said that the Office of Aboriginal Affairs throughout its five years was grossly understaffed, and that those five years can only be described as a grim period with constant frustration and heartburn in the administrative situation.

Q. 4

45. The Committee was informed that the Office of Aboriginal Affairs commenced with an establishment of seven positions in early 1968. By September 1968 five of these positions had been filled,

Q. 4

including a position of receptionist and a stenographer. In April 1969 the establishment had been increased to 31 positions. In February 1972, the Public Service Board approved an establishment of 51 positions.

46. The witness for the Department told the Committee that the Office of Aboriginal Affairs had experienced great difficulties in its relationships with its three parent departments. The Office was considered very much as an "outsider" by the parent departments. The Department further stated that the Office of Aboriginal Affairs had at no time responsibility for its own finance and accounting affairs or for its management services. No officer in the Office had any financial delegation until the latter part of 1971, when very limited delegations relating, for instance, to travel by officers, were granted. Such delegations did not cover the handling of accounts. The witness said that the Office was therefore unable to develop a capacity in the finance and management area.

Exhibit
162/1 and
Q. 4

47. In its submission the Department stated that the Office of Aboriginal Affairs had responsibility for drawing up programs and projects and generally securing Ministerial approval for them, but the issuing of cheques and handling of accounts were matters for the parent Department. The Committee was informed in evidence that the Office of Aboriginal Affairs would advise the organisation concerned that a specific project had been approved by the Minister, and that a payment was to be made and that such payment would require acquittance.

Exhibit
162/1 and
Q. 34

48. In the course of explaining the financial activities of the Office of Aboriginal Affairs the witness for the Department gave a number of examples of the difficulties and frustrations experienced with the parent departments. These included difficulties in obtaining information from parent departments, low priority treatment, and having to approach the Minister to have payments made and specifically frustrations in payments during the years 1971 and 1972 when there were lengthy unexplained delays in payments in respect of approved projects.

Qs. 4, 34,
35 and 190

49. With regard to staffing proposals the Committee was informed that on 20 April 1970 the Office of Aboriginal Affairs submitted to its parent department (the then Prime Minister's Department) an organisation and establishment proposal. However, it was not until February 1972, 22 months later, that an establishment of 51 positions was approved. During this period of 22 months the Office of Aboriginal Affairs formed part of the Prime Minister's Department, the Department of the Vice-President of the Executive Council and the Department of the Environment, Aborigines and the Arts.

50. The Office of the Public Service Board pointed out that the Office of Aboriginal Affairs being attached to the various Departments necessarily involved consultation within the Departments concerned and an assessment on the part of the respective Permanent Heads of overall departmental needs. The Public Service Board advised the Committee that following considerable discussions with officers of the parent Department agreement was reached on 4 February 1972 on the Departmental establishment proposal relating to the Office of Aboriginal Affairs dated 19 May 1971 and a revised proposal dated 18 August 1971.

The Department

51. Under the proposals promulgated by the Public Service Board the Department created on 19 December 1972 was to have comprised all the positions formerly in the Office of Aboriginal Affairs of the Department of the Environment, Aborigines and the Arts; the Welfare Division, Northern Territory Administration, of the Department of the Interior; the Welfare and Social Services Branch, Northern Territory Government and Social Services Division of the head office of the Department of the Interior, and the Establishment and Finance Branch of the Department of the Environment, Aborigines and the Arts.

Qs. 4 and
189

Q. 220
and
Committee
File
1974/4

Exhibit
162/1

52. It was also proposed, as an interim arrangement, that the Establishment and Finance Branch of the Department of the Environment, Aborigines and the Arts should provide management services to the new Department of the Environment and Conservation. However, by the time the Permanent Head of the Department of Aboriginal Affairs was appointed on 9 January 1973, the Public Service Board had decided, on the recommendation of the Acting Permanent Head, (Sir Lenox Hewitt) who at that time was also Acting Permanent Head of the Department of the Environment and Conservation, that the Establishment and Finance Branch should go to the latter Department.

53. The Department in its submission stated that after the Permanent Head of the Department of Aboriginal Affairs was appointed on 9 January 1973 he sought, unsuccessfully, to have this decision reversed, since it meant that the Department had no direct control over its financial and accounting services even though its work formed the greater proportion of the unit's workload.

54. The Office of the Public Service Board informed the Committee that this establishment was created on an interim basis pending a review of requirements in the light of the Department's substantially expanded functions and revised objectives. The Public Service Board also stated that at the time of the establishment of the Department of Aboriginal Affairs, the Board agreed with the view of the then Acting Permanent Head of the Department of Aboriginal Affairs that the management services staff of the former Department of the Environment, Aborigines and the Arts should be located in the Department of the Environment and Conservation. It was further agreed that the latter department should provide the management service needs of both departments. Accounting services for the Department of Aboriginal Affairs continued to be provided by the Australian Government Publishing Service. The witness for the Public Service Board pointed out that it was not unusual at that time for new departments not to have their own management services unit. The decision was taken to ensure that departments commenced operating as

P.P. 299
of 1974,
Exhibit
162/1 and
Qs. 56,
59, 72 and
73

Exhibit
162/1 and
Q. 56

Exhibit
162/1
and Qs. 59,
210 and
213

quickly as possible and that these interim arrangements ensured the best possible use of the management services unit at a time when there was considerable pressure to finalise the top executive organisations for all newly established departments and when there was a severe shortage of experienced staff.

55. The witness for the office of the Public Service Board informed the Committee that when the new departments were created on 19 December 1972, the Board on that day advised the acting or appointed Permanent Heads of the decisions that had been taken, and also provided the departments concerned with a chart of the suggested form of their organisation on an interim basis. The witness explained that these suggestions were without prejudice to any subsequent submissions the departments might want to make. The Board further sought the co-operation of the Permanent Heads in obtaining reports under section 29 of the Public Service Act 1972.

Q. 1799

56. The witness for the Board further informed the Committee that in an attachment to its letter of 19 December 1972 to the acting Permanent Head, the Board set out the units of other departments, which in the Board's view would be transferred to the new Department of Aboriginal Affairs including the former management services unit of the Department of the Environment, Aborigines and the Arts. However, as a result of a recommendation by the then Acting Permanent Head of the Department of Aboriginal Affairs, who was also the departmental Head of the Department of the Environment and Conservation, the management unit was transferred to the latter Department.

Q. 1799

57. The Committee was informed that the acting Permanent Head of the two Departments gave the following reasons for his recommendation to the Public Service Board. Firstly, the Department of the Environment and Conservation would have no management services at all if the unit was transferred to the Department of Aboriginal Affairs. Secondly, the Office of Aboriginal Affairs, which

Qs. 1800
to 1802

formed the nucleus of the new department, did have a degree of capability in the management and financial area. Thirdly, the staff of the unit concerned preferred to be transferred to the Department of the Environment and Conservation.

58. The witness for the Public Service Board said that initially the Board had made a judgement in relation to this matter without the benefit of the advice of the Permanent Head in its desire to provide departments with this capability as speedily as possible. This initial suggestion was later changed on the recommendation of the acting Permanent Head of the two Departments. Subsequently Mr Dexter made representations to have the unit placed with the Department of Aboriginal Affairs. The Board therefore suggested that the two Permanent Heads try to reach an agreement in relation to the allocation of that particular unit. However, the Permanent Heads advised the Board that they could not come to an agreement and the Board then took the decision that the unit should be located in the Department of the Environment and Conservation with the additional responsibility of providing personnel and management services capability to the Department of Aboriginal Affairs. The witness for the Board said that it would have been impracticable and undesirable to split the unit between the two Departments.

Qs. 1802
to 1804

59. The Committee was informed that as at November 1972 the then Department of the Environment, Aborigines and the Arts comprised the following units:

Committee
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	<u>Unit</u>	<u>Staff</u>
A.	Central Office including the Arts and General Division and Office of the Environment Division	} 449
	Office of Aboriginal Affairs	
	Office of the Australian Council for the Arts	
	Office of the Interim Council for a National Film and Television Training School	
	Commonwealth Archives Office	

- B. Australian Government Publishing Service 918
C. National Library 624

60. The National Library was at that time self-sufficient in terms of establishment, personnel, finance and other services. The Australian Government Publishing Service was similarly self-sufficient and, moreover, provided accounting and staff services (i.e. maintenance of basic staff records, handling pay variations etc.) to the units mentioned above.

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File
1974/4.

61. An Establishments and Finance Branch of 26 positions provided the following services to the Department of the Environment, Aboriginals and the Arts -

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- co-ordination of estimates preparation and associated reviews for the entire department (initial preparation being undertaken in each management unit).
- advice on establishments and personnel matters for the units set out in A above.
- property and office services (other than for the National Library and the Australian Government Publishing Service) to supplement office services (i.e. registry, typing, library, messengerial, duplicating etc.) provided in the following units:
 - Office of Aboriginal Affairs
 - Office of the Australian Council for the Arts
 - Office of the Interim Council for a National Film and Television School
 - Australian War Memorial
 - Commonwealth Archives Office

The composition of the Establishments and Finance Branch at 1 December 1972 is shown in Appendix D.

62. The Department of Aboriginal Affairs commenced operations with a total staff of 957, composed of 51 from the former Office of Aboriginal Affairs, 9 from the former Welfare and Social Service Branch, Department of the Interior, and the bulk of the staff (897) came from the former Welfare Division, Northern Territory Administration of the Department of the

Exhibit
162/1

Interior. A chart of the administrative structure of the Department from 19 December 1972 is attached as Appendix E.

63. The Committee was informed that the Management Services Branch of the Department of the Northern Territory provided on an interim basis the management and financial services for the Department's Northern Territory Division. The Head Office of the Department until well into the latter half of 1973 was obliged to rely on the Management Services Branch of the Department of the Environment and Conservation for establishment, personnel, finance and estimates matters, whilst control of funds and payments of accounts and salaries were carried out by the Finance Branch of Australian Government Publishing Service of the Department of the Media. The latter was replaced by the Department's own Finance Section from 1 July 1973.

Exhibit
162/1

64. The Department explained that following an indication by the Australian Government Publishing Service in May 1973 of its desire to be relieved of its financial responsibility for the Department as from 30 June 1973, the Department was obliged to establish rapidly a skeleton finance staff as from 1 July. The Department in its submission stated that although the necessary establishment had been approved some months before, given the general time-span inherent in recruiting staff to a new establishment, a Finance Officer did not commence duty until September and other accounting officers over a period from September to December 1973. The Department therefore considered it necessary at the time to use the three existing Internal Audit unit officers to set up and operate the Finance Section. In its submission the Department stated that with hindsight, it was evident that it was unwise to have attempted to run the Department's own financial services with its incomplete staff from 1 July 1973 though it was not clear that there was any alternative.

Exhibit
162/1 and
Qs. 223,
224 and
1833

65. The Department stated in its submission that there was no smooth and rapid flow of experienced persons and organisations into a new and operating Department in December 1972, but rather the bringing together of policy and operational elements bereft of any management and financial services of their own. The Department, having started well behind, was not able to make up the leeway quickly, particularly in view of the increasing momentum of financial provision and of programs.

Exhibit
162/1

66. With regard to the general management services, recruitment of officers began in July 1973, though complete separation from the Department of Environment and Conservation did not occur until December 1973. The Committee was told that because the Assistant Secretary of the Management Services Section of the Department of Aboriginal Affairs was also the Director of Establishments and Finance in the Department of the Environment and Conservation at the time the new Departments were formed, he was made responsible for the Management Services Section of both Departments as an interim measure. The witness for the Department informed the Committee that although there was as much co-operation between the two Departments as could be expected the system did not work satisfactorily because there was a shortage of staff. The Management Services Section had only the staff provided under the establishment of the old Department of the Environment, Aborigines and the Arts and there were problems of trying to settle priorities between the two Departments.

Exhibit
162/1 and
Qs. 225 to
232

67. The Committee was informed that during this period, the Northern Territory Division continued to be dependent for its management and financial services on the Department of the Northern Territory.

Exhibit
162/1 and
Q. 233

68. The witness for the Department stated that following the decision that Aboriginal health and education should be dealt with by the appropriate departments, the Northern Territory Division's health and education responsibilities and staff were transferred to the Departments of Health and Education on

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1974, Exhib-
it 162/1 and
Qs. 234 to
238 and
Committee
File 1974/4

1 January and 13 February 1973 respectively, reducing the total staff of the Department to 476. The witness explained that the functions transferred covered all citizens in the Northern Territory. By 30 June 1973 the Department had an approved total establishment of 606 positions with an actual staff of 488 officers. On 25 February 1974, as a result of a transfer of social welfare functions, 98 positions and 85 staff were transferred to the Department of the Northern Territory. The Department at 28 February had an establishment of 718 positions and 614 positions occupied. The Department in its submission pointed out that none of the above figures took account of 700 exempt staff in the Northern Territory. The majority of these were Aborigines who had formerly been employed under a training allowance scheme in the Northern Territory and who are now employed under the Public Service Act following the implementation of the Government's decision to introduce award wages for Aboriginal workers.

69. The Committee was informed that a significant proportion of the administrative effort in recruitment was absorbed in those parts of the organisation which were at a later stage transferred to other departments and therefore did not benefit the department in terms of executing its main functions.

Exhibit
162/1 and
Q. 235

70. The Department informed the Committee that partly due to organisation and staffing problems within the Department, it would take a minimum of nine months to recruit an officer from within the Service to a new position in respect of which the Public Service Board had informally indicated approval. The Department said that the process can sometimes be more rapid in respect of persons appointed from outside the Service, since the right of appeal against them does not exist; but there can be substantial delays here, too. The Public Service Board Observer (Mr Harris) told the Committee that the time between the lodgement and the hearing of an appeal varies from time to time and from State to State and that there are often appellants from different States. He went on to say that in his

Exhibit
162/1 and
Qs. 239
to 252 and
261

experience nine months could not be considered normal but nevertheless, if appeals were involved, it could take some months following the Board's approval for the position to be filled and the officer take up duty.

71. The Committee questioned Mr Harris on the time it normally takes to have establishment proposals considered by the Public Service Board and departments notified of the decision. Specific information regarding establishment proposals relating to the Department of Aboriginal Affairs was supplied by the Board. According to this information although there was considerable variation between the time taken for the Board to consider individual proposals, most of the proposals had been dealt with expeditiously. A brief outline of procedures for handling establishment proposals is set out in Appendix F.

72. The Department stated in its submission that while most Departments have to operate under strength because of the difficulty in obtaining adequate staff, the problem is felt more acutely in a new Department, where the need for more staff will be greater and procedures have not been fully developed. The understaffing problem was compounded because the senior officers responsible for recruitment or selection action were themselves, because of the very under-staffing, already grossly over-committed in their duties including the preparation and management of programs and projects of Aboriginal advancement.

73. During 1973, the Department worked in close consultation with the Public Service Board on the development of the Department's organisation and related aspects of its functional responsibilities. On 23 October 1973, the Permanent Head discussed with officers of the Public Service Board the possibility of conducting studies on certain aspects of the Department's operations and organisations. After further discussions and consultations the Public Service Board in December 1973 commenced an examination of the Department. The

Qs. 240 to
247 and
Committee
File 1974/4

Exhibit
162/1

P.P. 206
of 1974,
Exhibit
162/27 and
Qs. 1812
and 1813

Board's investigators were given a wide-ranging charter to examine the Department's operations, systems, procedures and organisation, initially in the Central Office of the Department, and later in its regional organisation.

74. The witness for the Department stated in evidence that the need for re-organisation arose in part because the Department, towards the latter half of 1973, was in a financial and administrative morass.

75. The Public Service Board in its submission stated that it became apparent to the Board's officers at an early stage of their investigation that inadequacies in programming, control and documentation of projects stemmed in large part from the inherent complexity of rapid change in which the Department found itself. Significant factors in this complex situation included:

- the Permanent Head was confronted with problems of recruiting staff to fill the approved organisation at the time of severe competition from other Departments
- the need to attract and assimilate aboriginal staff into the Department's establishment
- negotiations regarding, and implementation arrangements for, the transfer of existing State aboriginal affairs organisations to the Australian Public Service
- establishment of the National Aboriginal Consultative Committee
- very large increases in the amount of funds made available, and the rapid and wide ranging development of projects for which assistance was to be given
- acceptance of responsibility for major areas of operations in the Northern Territory
- the determination of organisation requirements to meet the rapidly increasing workload

Q. 277

Exhibit
162/27

Pervading all these problems and difficulties, was the impelling requirement to demonstrate early and substantial progress towards the achievement of the Government's policies for the advancement of the aboriginal people.

76. The Office of the Public Service Board informed the Committee in evidence that the examination of the Department had been concluded and that since the examination commenced in December 1973 considerable progress had been achieved.

Exhibit
162/27 and
Q. 1822

77. In the course of explaining the activities of the Public Service Board in the examination of the Department, the Board informed the Committee that the review was in the form of advice to the Permanent Head of the Department as to desired changes in procedures, systems, organisations and form of establishment, etc. The Public Service Board stated that assistance was provided in the development and implementation of a comprehensive project control system in the Department's Central Office. The Public Service Board explained that the system is designed to ensure coverage of policy and authorisation aspects of grants and loans administered by the Department, and strengthened management of funded activities. The main features of the new system were:

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1975,
Exhibit
162/27 and
Q. 1816

- policy guidelines to be specified as they relate to operational activities within the framework of government policies
- program development to be based on a prior and comprehensive assessment of needs, resources and feasible achievements
- consultation with Aborigines to be in the context of specific national, regional and district programs
- integrated community development based on agreed district programs to be co-ordinated by officers specialising in the district
- comprehensive before-approval examination to be made of all aspects of proposed projects, i.e. technical, financial, etc.
- administrative and financial control of on-going operations, grants and loans to be monitored by specialist sections
- policy and program effectiveness to be formally evaluated

78. During the inquiry a witness pointed out that the Department grew out of the Office of Aboriginal Affairs which was trying to deal with a very large problem with a very small staff. And that because of the many demands to help advance the cause of Aborigines the Office tended to be responding to all demands and in trying to deal with particular projects there was little time left for forward planning. The Department in attempting to respond to the many new Government policies and increased demands found itself getting more project orientated and because of this there was little or no opportunity to carry out any forward planning.

Q. 278

79. The witness for the Department said that there are two main aspects of the re-organisation germane to a more satisfactory operational performance of the Department. Firstly, the creation of a third division to undertake program planning functions is expected to greatly increase the future performance of the Department. The division is concerned with a three year rolling program which has been developed to provide a framework for allocation of resources and to permit formulation of annual and three year forward budget estimates.

P.P. 268
of 1975 and
Q. 277

80. The second aspect concerns the establishment of the Operations Management Branch in the Operations Division. The primary task of this Branch is project control. The Branch is responsible for the necessary documentation, checks and balances before and after a project is implemented and the Branch must ensure that all legal implications have been considered and that approved programs are subject to effective control.

Q. 278

81. The Committee was informed that a revised organisation structure to reflect the new system has been agreed between the Board and the Permanent Head. The main features of the revised organisation are:

P.P. 206 of
1974,
Exhibit
162/27 and
Q. 278 and
Committee
File 1974/4

- (a) allocation of the substantive work of the Department between 3 divisions, that is, creation of a new division to undertake program planning functions;
- (b) strengthening of the control function to ensure that all proposals involving departmental operations, loans and grants are comprehensively considered and documented before approvals are given and that once approved are subject to effective control;
- (c) revised organisation structures below the top level to accord with the requirements of the management system, including the provision of 16 new positions.

Departmental Staff Circular 74/183, Appendix G outlines the restructuring of the Department.

82. The Committee was informed in March 1975 that the Public Service Board had approved the establishments for the regional offices except for the Northern Territory. The witness for the Board stated that the skills required to develop programs for Aboriginal advancement particularly at the field level are quite considerable and much of the work is still to be undertaken.

Qs. 1822
and 1823

83. With regard to training, the witness for the Public Service Board stated that training and development are essentially matters for the Department. The Board believed that the Department had now within the management services area the capacity to carry out the necessary training of people for specific work in the Department. The Board's normal continuing training program at management level is open to all departments. In addition, the Board would consider requests for any particular training courses which might be desirable to be conducted on a central level. The witness for the Board further stated that subject to the availability of resources the Board would provide such assistance as is requested.

Q. 1827

84. The witness for the Public Service Board told the Committee that the Board had not instituted a special system to monitor the efficacy of the new establishment of the Department of Aboriginal Affairs. But the Board will continue to provide such assistance on a consultancy basis as the Permanent Head of the Department considers appropriate. Q. 1826

85. In reply to a question the witness for the Board stated that he was not aware of any reluctance generally of officers within the Public Service to seek promotion to positions in the Department of Aboriginal Affairs. Q. 1828

86. It was the view of the Public Service Board that substantial progress had been made towards the implementation of a system which would enable the Department to operate efficiently, economically and quickly. Q. 1819

87. The Public Service Board in its Annual Report for 1974 stated that it had approved an increase in the Department's management services establishment to cope with a rapidly increasing workload. It was also stated that particular attention had been given to the functions of financial controls, internal audit, manpower planning, staff recruitment and development, establishments, and method improvement. Officers of the Public Service Board were at that time assisting Departmental officers in changing over to the new working arrangements and in formulating and documenting revised procedures, and would also assist in staff training and development. P.P. 206 of 1974

88. In relation to the capacity of the Department to carry out its financial and accounting functions, the Committee was informed that when the Department assumed responsibility for its own financial affairs on 1 July 1973 there was a large backlog of unpaid claims handed over by the Finance Section of the Australian Government Publishing Service and also a large number of unacquitted advances some of which were years old. The witness conceded that the Department under- P.P. 13 of 1974 Exhibit 162/27 and Qs. 222, 223, 1818 and 1845

estimated its capacity to cope with the volume of work. The Department in September 1973 approached Treasury for the services of an experienced Treasury officer to advise departmental officers on the development of accounting controls and provision of advice on financial matters. Such an officer was made available on a part-time basis. The Department again approached Treasury for a second Treasury Officer in October 1973 to be made available for a period of two or three months to assist the Department's finance officer in the accounting functions of the Department and in training staff in accounting procedures. This request was also met.

89. The Public Service Board informed the Committee that during the course of its examination of the Department it became apparent that there was a need for a senior and experienced accountant to review the financial administration of the Department and to develop all the accounting systems required including the preparation of an internal audit program. Such a position was provided and on 18 February 1974 a senior Treasury Officer was seconded to this position. After this Officer had completed a preliminary survey of requirements he requested and received further full-time assistance from the Treasury.

Exhibit
162/27

90. Total staff of the Department, i.e. permanent, temporary and exempt staff rose from 641 in June 1973 to 1524 in June 1975, of which 275 were located in the A.C.T., 21 in N.S.W., 59 in Victoria, 35 in Queensland, 41 in South Australia, 84 in Western Australia, 5 in Tasmania and 1004 in the Northern Territory.

P.P. 268
of 1975

Internal Audit

91. The Department in July 1973, obtained an internal audit establishment of 3 positions. In November 1973 the Section had not yet commenced to operate. The Auditor-General informed the Department that having regard to the various weaknesses and other matters raised by Audit, the delay in arranging for the commencement of internal auditing was a matter for concern.

P.P. 13 of
1974 and
Q. 1760.

92. The Department, in November 1973, in an explanation to the Auditor-General stated that because of understaffing and unexpected pressure arising from the N.A.C.C. operation, it had no alternative at the time except to divert officers from the internal audit team to assist in processing accounts.

P.P. 13
of 1974

93. The reply from the Department on 31 August 1973 to a query from the then Minister regarding what arrangements had been made by the Department to establish an 'Internal Audit' Section stated in part that:

Exhibit
162/26

"At the moment, bearing in mind the very limited staff resources of the Department, the number of grants and the nature of many of them, we have found it difficult to comply adequately with the requirements of Treasury Direction 23/8 - e.g. the officers who should have been performing the internal audit function are running the Accounts Section. The filling of the Accounts Section positions is subject to the determination of appeals against provisional promotions."

94. The Committee was informed that the officers in the Internal Audit Section were, as from 2 January 1974, withdrawn from the Finance Section. On 1 November 1974, the witness for the department stated in evidence that the internal audit area was considered one of the priority areas, however, only the positions of Chief Internal Auditor and one assistant were filled at that time. The Section was now engaged in internal auditing and it was expected that the Section's activities would gradually expand with increases of staff, however, the witness was of the opinion that it was difficult to obtain and keep staff of the calibre necessary in the auditing area.

P.P. 13
of 1974 and
Q. 1760

95. The Public Service Board stated in its submission that during the review it became evident that the internal audit function needed strengthening and approval has been given to upgrade the function and to increase the staff employed in the unit from 3 to 5. Further increases would be required as regional organisations were developed.

Exhibit
162/27.

96. The Department on 19 August 1975 informed the Committee that out of a total of 19 approved positions in the Internal Audit Section 16 positions were filled. The Committee was also informed in a supplementary submission that on 25 July 1975 the Department had issued its first Internal Audit Manual with the following main objectives:

- (a) to provide a basis from which the audit program in each region is to be prepared by the Senior Internal Auditor
- (b) that the internal audit program will proceed on broadly uniform lines in all regions and will cover accounting, operational and policy fields; and
- (c) that members of the internal audit staff will approach their tasks with a clear perspective of the aims of the audit and the scope of the program.

97. The Permanent Head of the Department stated in a foreword to the Internal Audit Manual that he regarded the internal audit function as vital to the effectiveness of the Department.

Accommodation

98. The Department expressed the view to the Committee that its problems in Canberra were compounded by the fact that staff were not accommodated in the same building. At the time the Department was established its Head Office was occupying five separate offices in the Civic area of Canberra, apart from the fact that the Management Services Branch of the Department of the Environment and Conservation, and the Australian Government Publishing Service, which together provided management and financial services, were also located in separate buildings. In the latter part of 1975, the situation was further complicated when half of the Head Office moved to Woden. The Department was finally brought together in Woden in December 1973, although still housed in separate buildings.

Q. 2101
and
Committee
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Exhibit
162/1

99. The Department's office accommodation in Darwin and other regional offices in the Northern Territory was also mentioned in the departmental submission as being unsatisfactory. However, the departmental witness told the Committee at the hearing on 20 August 1974 that the Department of Services and Property had indicated that it could now provide satisfactory accommodation for the Department at Darwin and Alice Springs.

100. The Department pointed out in its submission that it was very difficult to achieve the proper flow of business when officers must generally communicate by written minutes instead of by direct discussion, and a sense of cohesion as a Department was difficult to generate in these circumstances.

Conclusions

101. The evidence shows that from its establishment in 1968 the Office of Aboriginal Affairs had experienced great difficulties with its parent departments in obtaining a reasonable priority in dealing with staff proposals and in obtaining necessary information relating to financial matters and arranging payments in respect of approved projects.

102. The Committee also notes from the evidence that the Office at no time had responsibility for its own finance and accounting affairs or for its management services. As a consequence it was unable to develop a capacity in those areas.

103. In these circumstances the Committee finds it difficult to understand why the Public Service Board was so easily persuaded to abandon the original, and in the Committee's view, the more logical proposal that the Establishment and Finance Branch of the former Department of the Environment, Aborigines and the Arts should form part of the new Department of Aboriginal Affairs, particularly as the

Exhibit
162/1 and
Q. 256

Exhibit
162/1

work of the latter Department formed the greater part of that unit's workload.

104. The Committee realises, of course, that the Board was in a very difficult position in this matter because, at the time the decision to abandon the original proposal was made, the same person (Sir Lenox Hewitt) was the Permanent Head of the two Departments involved. Nevertheless, it should have been possible for the Board to refute the claim made by the Acting Permanent Head at that time, that the Office of Aboriginal Affairs had developed a capacity in the management and financial areas. The Committee also did not find the other reasons given for locating the unit in the new Department of the Environment and Conservation any more convincing. It has also occurred to the Committee that the Board could have waited the short time necessary for the Permanent Head of the Department of Aboriginal Affairs to be appointed to avoid the conflict of interests that occurred.

105. It appears to the Committee that the financial difficulties of the Department began with the decision that the Department would initially conduct its financial affairs through Branches of two other Departments. In the Committee's opinion the Department of Aboriginal Affairs should have been given an adequate Finance Branch from its inception.

106. The Committee notes that when the Department requested assistance from the Public Service Board and the Department of the Treasury the assistance was readily given. No doubt the Auditor-General's Office would also have given consultative advice if approached by the Department. It is the Committee's view that the magnitude and range of the problems that finally evolved should have been recognised by the Department at a much earlier stage in their development than was the case and the necessary assistance requested before they reached the proportions discovered by the Auditor-General.

107. The Committee also believes that the Department may not have underestimated its capacity to cope with the volume of work when it assumed responsibility for its own financial affairs on 1 July 1973, if prior discussions had been held with the Australian Government Publishing Service. These discussions, if they had been held, may also have been instrumental in the Department seeking assistance from the Department of the Treasury before it did.

108. In relation to internal audit, the Committee is pleased to note that the Internal Audit Section within the Department has been strengthened and an Internal Audit Manual issued. The Committee would be interested to know the present position of internal audit within the Department including details of the number of internal audit positions actually occupied in relation to establishment and the stage reached in the implementation of internal audit programs.

CHAPTER 4

THE ABORIGINAL ADVANCEMENT TRUST ACCOUNT -
CONTROL OVER GRANTS

Background

109. The Aboriginal Advancement Trust Account was established in 1968 under section 62A of the Audit Act 1901 for the purpose of "...meeting expenditure on and in connection with programs for the welfare and advancement of people of the Aboriginal race (particularly in fields of housing, education and health) that are approved by the Minister responsible for Aboriginal Affairs and the Treasurer". Receipts and expenditure of the Trust Account between 1968 and January 1974 are shown at Appendix B, page 273.¹

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110. In a submission to the Committee the Treasury explained that it was decided to establish the Trust Account as a temporary measure because details of the program to be financed from a special provision of \$10m. in the 1968-69 Budget for Aboriginal Advancement had not been determined when the Budget was introduced. It was not practicable in the circumstances to seek appropriation of the amount on the normal Division and Item basis.

Committee
File 1974/4

111. The Committee was informed that an amount of \$73.5m. was available for expenditure from the Trust Account in 1973-74. In addition a further \$44m. was provided for other programs of support for Aborigines under normal Division and Item appropriations.²

Committee
File 1974/4

1. Actual Expenditure from the Trust Account in 1973-74 was shown at page 17 of the Treasurer's Statement of Receipts and Expenditure for the year ended 30 June 1974 and amounted to \$67,515,000.

2. Examples of programs financed by Division and Item included Support of Aborigines at Government Settlements in the Northern Territory (under Department of Aboriginal Affairs) Aboriginal Study Grants (Education) and Employment Training Scheme for Aborigines (the then Department of Labour).

. Continuation of the Trust Account

112. In the General Summary to his report upon the Department of Aboriginal Affairs the Auditor-General questioned³ the procedure by which large amounts of money were provided by a "one line" appropriation to the Trust Account. While conceding that the flexibility provided by this method may have been necessary in the earlier years of providing finance for Aboriginal Advancement the Auditor-General suggested that funds could now be provided in the same way as for many other Departments, by Division and Item. This would ensure that "expenditures by the Department were more effectively controlled by the Parliament." His report pointed out that flexibility could be maintained by using Additional Estimates and "Advence to the Treasurer" to fund new programs approved during the course of a financial year.

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of 1974

113. In its submission to the Committee the Department disagreed with the suggestion that lack of control had been occasioned by the existence of the Trust Account and commented that -

Exhibit
162/1 and
Qs. 435,
438, 440
and 441

"...the provisions of the Audit Act relating to authorisation and certification of expenditure apply equally to trust accounts as to appropriations, and that the basic differences are that the warrant authority procedure does not apply, once appropriations have been paid into the trust account, and unspent funds do not lapse at 30 June."

The departmental submission stated that the "ability to vary the emphasis between the various programs and to fund new initiatives" was an advantage of the Trust Account which may still be required for some time, and pointed out that flexibility in the Trust Account had only been exercised by the Minister. The Department had, with only minor exceptions sought Ministerial approval for each grant from the Trust Account and claimed that, if anything, it had acted in an over-meticulous manner with regard to the authorisation of such payments.

3. Under Section 54 of the Audit Act which states:

"The Auditor-General may in a report under section fifty-one of this Act or in any special report which he may at any time think fit to make recommend any plans and suggestions for the better collection and payment of the public moneys, and any improvement in the mode of keeping the public accounts and generally report upon all matters relating to the public accounts public moneys and stores, and such plans and suggestions shall be considered and dealt with by the Treasurer".

114. In evidence, the Committee was told that retention of the flexibility of the Trust Account was necessary because it enabled the Department to respond to aboriginal requirements more quickly and it allowed funds to be provided through aboriginal groups, thus taking account of the aborigines' readiness to act on their own behalf.

Qs. 436
and 437

115. The department claimed that there was even greater control of the Trust Account than there was in the normal appropriations because it was required to submit a monthly statement of actual expenditure from the Trust Account including details of the purpose of each payment to the Minister and the Treasurer. It was pointed out that expenditure within the approved program was approved by the Minister in the normal way but the Treasurer's approval was sought for any grants outside the program.

Exhibit
162/1 and
Qs. 435,
438, 440,
and 441

116. In response to questions relating to the exceptions referred to in paragraph 113, the Committee was told that one related to payments to pastoralists for the care of aboriginals on their properties and the other related to the program of making initial payments to aboriginal groups wishing to leave central communities and perhaps live a more traditional type of life. Because the rules for issuing money were quite well defined in each case, the Department had exercised a delegation to approve payments from the Trust Account. Other cases where the Department had exercised a delegation to approve payments from the Trust Account were in special works projects and in relation to grants recommended to the Minister by the National Aboriginal Sports Foundation. It was explained that the Department would seek delegation to approve grants where it could "determine some operational guidelines which would indicate how such a grant ought to be given against certain criteria".

Qs. 409,
410, 430
and 431

117. The Audit Observer (Mr Scott) stated that section 54 of the Audit Act required that suggestions made by the Auditor-General be considered by the Treasurer and that determination of what action, if any, should be taken on the suggestion should be made by the Treasurer. The Treasurer had not commented at the time of the

Qs. 442,
443 and
450

inquiry. However, the departmental witness explained that the Department would have no objection, in principle, to moving items out of the Trust Account as they became clear enough. The Committee was told that as the Department gained more experience more projects could be moved out of the Trust Account and the Trust Account would become a less important feature of the Department.

118. The Treasury Observer (Mr Davidson) told the Committee that discussions were being held on which items could be removed from the Trust Account. In a submission to the Committee, the Treasury stated that the need to continue the Trust Account had been reviewed on three occasions. The Committee's attention was also drawn to the fact that a large proportion of the total expenditures on Aboriginal Affairs was being appropriated in the normal way and that the Parliament was given a comprehensive statement of all expenditure on Aboriginal Affairs in a table attached to the Ministerial Statement presented to Parliament after the Annual Budget.

Qs. 447
and 448 and
Committee
File 1974/4

119. Commenting on the general question of the flexibility provided by the Trust Account it was conceded that this was an important factor in the decision to establish the Trust Account in 1968 but this reflected a special situation. The development of continuing and well-established programs in the period since 1968 gave rise to the present situation where sufficient flexibility could be achieved through the normal appropriation mechanisms. Mr Davidson stated that flexibility could be achieved in an appropriation item which contained almost the same wording as for Trust Account purposes. The main difference then would be that it would lapse at the end of the year. He agreed that the Warrant Authority procedure, as such, did not apply to the Trust Account but pointed out that a similar procedure applies whereby the Authorizing Officer has to establish that money is available in the Trust Account to meet the expenditure being authorized.

Q. 443 and
Committee
File 1974/4

120. Finally, the Committee was told by the Treasury that from an accounting viewpoint there was no reason why the Aboriginal Advancement Trust Account could not be abolished and the necessary funds provided by way of appropriation under Divisions and Items.

Treasury Direction 23/8

121. At page 5 of his report (see Appendix B page 273) the Auditor-General commented that a large number of grants had been made and outlined the Department's responsibilities in respect of these grants in the following terms:

"It is the Department's responsibility to investigate fully all requests for grants to ensure they fall within approved purposes and the applicants have the capacity to control properly the expenditure of the moneys. After a grant has been approved and paid the Department has the responsibility of satisfying itself that the moneys have in fact been applied for the approved purposes."

122. Departmental responsibilities in respect of grants are contained in Treasury Direction 23/8⁴ which at the time of the Auditor-General's inquiry into the Department of Aboriginal Affairs read as follows:

"8. Grants to quasi-governmental and public organisations shall, wherever possible, be made for a fixed period and for specific purposes. Authenticated statements of the year's activities shall be supplied, and if the grant is for a particular purpose, the organisation shall also certify that the purposes and conditions of the grant have been complied with. The annual financial statement of any State organisation shall be accompanied by an audit certificate from the State Auditor-General. For other statements, the certificate shall be that of a qualified public accountant or, if the annual grant by the Commonwealth is small, e.g. does not exceed \$200, that of a person who has had some practical audit experience and who is not an officer or employee of the organisation. Any difficulties encountered by Departments in this matter should be referred to the Treasury."

4. Treasury Direction 23/8 was amended on 6 May 1974 and the full text of the amended Direction is reproduced in Appendix H. The Treasury Observer (Mr Davidson) pointed out to the Committee that the original Treasury Direction 23/8 had been drafted in response to the Committee's Seventeenth Report. It had not been designed to deal with the types of grants being made by the Department of Aboriginal Affairs.

Committee
File 1974/4

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Treasury
Direction
23/8

Qs. 385
and 454

123. In its first submission to the Committee the Department argued that the majority of grants made from the Trust Account were for work performed on behalf of the Australian Government and were not grants in the philanthropic sense. The departmental witness pointed out that the Department, through the Trust Account funded housing associations, legal aid services and various other voluntary or incorporated associations to perform functions which in other circumstances might have been performed by State Governments. It was suggested that the requirements of Treasury Direction 23/8 (prior to amendment) for the control of grants to non-government organisations were more stringent than grants to State Authorities to perform work on behalf of the Australian Government.

Exhibit
162/1 and
Qs. 284
to 287

124. As a further general comment in relation to the Treasury Direction 23/8 requirement to follow-up grants, the Department pointed to the large volume of activities for which the Department was responsible and for which follow-up action was required. Grants paid by the Department in 1972-73 amounted to \$11,194,949 out of a total of \$61,438,000 direct Australian Government expenditure on Aboriginal advancement in that year. Although representing less than 20 per cent of the total program in monetary terms the grants, ranging in amount from \$25 to \$746,100 were 421 in number and were paid to 332 organisations.

Exhibit
162/1

125. The departmental submission explained that the organisational structure of the Office of Aboriginal Affairs and of the Department, in the period immediately after its establishment, was such that a single section or branch had the function of developing, executing and evaluating the effectiveness of programs and projects. Evaluation of programs was based on socio-economic considerations and the aspect of accountability, required under Treasury Direction 23/8, was not given adequate attention by the officers available to the Department. It was pointed out that neither Office of Aboriginal Affairs, nor the Department, possessed management or financial services until the second half of 1973. The Department believed that it would be too much to expect that all officers in operational areas could be thoroughly familiar with the Audit Act, and the Treasury Regulations and Directions.

Exhibit
162/1

It was suggested that such officers would normally be entitled to rely on a specialised management and financial services area to provide advice on these matters and to institute appropriate procedures which would ensure compliance with the provisions of the financial legislation.

Grants paid prematurely or in excess of requirements

126. In his report, the Auditor-General commented that:

"Grants for substantial amounts had been paid to various Aboriginal organisations although it appeared that the amounts were either paid prematurely or were materially in excess of the requirements of the organisations at the time the payments were made."

The Auditor-General reported that the Department had admitted that such criticism might be valid for the period prior to 1 July 1973 when the Office and Department of Aboriginal Affairs had not been responsible for the management of its own financial affairs. The Department had explained that because of the difficulties experienced in obtaining valid information on financial matters there had been a tendency to prefer payment of the full grant when approved.

127. The departmental witnesses explained that difficulties occurred not only because the Office/Department was organisationally separated from its financial services but was also physically separated. This "outsider" status generally resulted in the requirements of the Office/Department receiving inadequate priority in financial matters. It was also pointed out that in some cases the full amount of a grant was paid to show good faith in the ability of Aboriginal organisations to manage their own affairs.

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Qs. 44, 45
and 472

128. In response to Audit criticism that:

"...any difficulty experienced in obtaining valid information on finance matters from the parent Department should have been mutually resolved; and any such difficulty would not justify the payment of moneys before they were actually required by the recipient;"

the departmental witness agreed that the situation should have been remedied but commented that:

"Where non-communication exists or where a degree of non-communication exists, it is very difficult to create communication".

The Committee was told that during the five years that the Office of Aboriginal Affairs had experienced difficulty with its parent Department, some attempts had been made at ministerial level to resolve the problem but these attempts had been only partially successful.

129. At the inquiry the Audit Observer (Mr Hinchy) reiterated the view that payments should not have been made to organisations in advance of a clearly demonstrated need for the funds.

Ngukurr (Roper River) Village Council

130. The Committee was informed that in July 1973, the Minister had approved a grant of \$465,000 to the Ngukurr Village Council in the Northern Territory to enable the community to install a sewerage system. The full amount of the grant had been paid to the Village Council in July 1973. The Auditor-General commented in his report that the payment had been made "although it was evident that moneys to the extent provided were not required at the time of the payment".

131. It was stated that the cheque for the full amount of the grant had been issued by the Department of the Treasury on the authority of the Department of Aboriginal Affairs and forwarded, unaccompanied by any instructions, to the Northern Territory

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of 1974 and
Qs. 384, 394
and 395

Q. 46

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1974 and
Q. 597

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of 1974
and Qs. 597,
598, 603
and 606

Division of the Department. In the absence of any instructions, the Northern Territory Division had forwarded the full amount to the Village Council which banked the cheque within a fortnight of receipt. The Department admitted that a mistake had been made but pointed out that, although the money was properly held by the community, it had been recovered and repaid to the Trust Account on 5 November 1973 and payments were being made on the basis of actual performance and requirements of the Council.

Hunter Region Aboriginal Co-operative Limited

132. In his report (see Appendix B, page 305) the Auditor-General commented that the payment of a grant of \$60,000 on 12 May 1972, to a co-operative⁵ formed to establish a hostel for Aboriginal girls at Newcastle, New South Wales, had been made "well in advance of the time when it was needed".

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133. The Committee learnt that the Hunter Region Aboriginal Co-operative was formed after the New South Wales Department of Lands had made available a block of Crown land for use as an Aboriginal girls hostel. The Co-operative had presented a feasibility study relating to the project (The Durungaling Girls' Training College) to the Office of Aboriginal Affairs in March 1972. The Government was asked to contribute \$60,000 and it was expected that the total cost (including furniture and fittings) could reach \$92,000.

Committee
File 1974/4

134. The Minister for the Environment, Aborigines and the Arts approved the grant on 12 May 1972. Third year students at the School of Architecture, University of Newcastle, prepared designs for the building, under supervision of their Architect-lecturers. It was hoped that this would save money but the resultant delay meant that tenders did not close until 22 June 1973 at which time tendered prices ranging from \$133,848 to \$169,533 were received.

Committee
File 1974/4

5. Although the Auditor-General referred to a "company" it was revealed during the inquiry that the organisation involved was the Hunter Region Aboriginal Co-operative Limited.

Qs. 474
and
Committee
File 1974/4

On 6 August 1973 the Minister for Aboriginal Affairs approved an additional grant of \$81,000 (which was not paid until December 1974) on the condition that ownership of the College would be vested in Aboriginal Hostels Limited. The Hunter Region Aboriginal Co-operative indicated agreement with this condition on 18 December 1974. It was also agreed between Aboriginal Hostels Ltd and the Co-operative that:

- (i) the initiatives for enrolment and types of training at the College would remain with the College's Board of Directors;
- (ii) the College would be operated by the Co-operative's Board of Directors, which would be responsible for all operating costs;
- (iii) the College would be leased to the Co-operative by Aboriginal Hostels Ltd; and
- (iv) Aboriginal Hostels Ltd would also accept responsibility for the cost of all equipment and furniture.

135. At the inquiry, departmental witnesses reaffirmed their view that, at the time the grant was paid to the Co-operative, it appeared to the Department that there was adequate justification for the payments and pointed out that the grant had been used for the purpose for which it had been approved. The departmental witness stated that although he thought that the Audit view that funds should not be paid out prematurely was valid he commented that, to his knowledge, there was no requirement in the financial legislation that the full amount of a grant should not be paid in advance. He also stated that the Department had:

Qs. 460,
461 and 470

"worked on the basis that we must demonstrate to Aboriginal organisations that we trust them and that one means of trusting them is to make funds available to them at the outset."

136. The Audit Observers (Mr Hinchy and Mr Scott) repeated that in the view of the Auditor-General's Office, the payment had been made prematurely and Mr Scott commented that:

"... as a matter of prudence, we considered that the Department should have waited until the money was needed and then made it available in reasonable amounts as the organisation required it."

• Cummeragunga Pty Ltd

137. In the Auditor-General's Report on the Department of Aboriginal Affairs, the following comment was made;

"The whole of an approved grant of \$130,000 was paid to a company on 7 June 1973 to assist it to acquire certain property on behalf of an Aboriginal community whereas the company had requested a cheque for \$13,000 only."

138. The Committee was told that the Cummeragunga Aboriginal Community had set up a company as early as 1964 or 1965 and had obtained loan assistance totalling \$68,000 for the development of the 1500 acres of their reserve in a period when this was the only type of assistance the Government would provide for Aboriginal Communities. In the instance referred to in the Auditor-General's Report, the community had sought the \$130,000 to purchase two properties adjoining the reserve area and totalling 963 acres.

139. A departmental witness who was involved in the negotiations to purchase the properties explained that complications had arisen when one of the three brothers who owned the properties died in February 1973⁶. The Committee was informed that by May the witness had

6. He explained that information given to the Auditor-General's Office that the third brother had died "after the funds were paid to the disbursing agent" had been incorrect and he had, in fact, died before negotiations had been completed.

Q. 469
and 473

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of 1974

Q. 607

Exhibit
162/8 and
Qs. 611 to
613, 616
and 619

Q. 610

become concerned that the remaining two vendors would not wish to proceed with the sale partly because they had no authority to commit the deceased brother's interest and partly because the vendors "found it almost impossible to believe that the Government would actually buy the property". The full amount had been paid on the recommendation of the witness as a token of good faith to show that the Government was really prepared to buy the property. It was explained that the contract had been signed in May 1973 and, although settlement did not take place until 9 April 1974, the community had been given access to the property to start their development program on the basis of the money being available. In the period between payment of the grant in June 1973 and settlement in April 1974, the funds were held in complete security in the company's special account and could only be released upon signatures of the Department's Farm Consultant and the Company Secretary (a local Public Accountant).

• Northern Territory Housing Associations

140. On page 6 of the Auditor-General's Report (See Appendix B page 274) reference was made to payments of substantial amounts which had apparently been made prematurely to a number of housing associations in the Northern Territory. In a submission to the Committee the Department commented on this aspect as follows:

"from the Department's point of view, payment was not substantially premature. On the other hand, it does appear that some of the housing associations may not have moved as quickly as had been hoped to make use of the funds available."

As an example, the departmental submission provided details of a grant totalling \$858,000 to the Meningrida Housing Association of which only \$640,500 had been paid in 1973-74.

141. By way of background, the Committee was advised that the housing association scheme was devised in the Northern Territory to enable aboriginal communities to provide their accommodation requirements through their own efforts. The Committee was informed that there were

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of 1974 and
Exhibit
162/1

Exhibit
162/1 and
Qs. 479,
480 and
483

46 housing associations in the Northern Territory. Prerequisites for assistance from the Government included incorporation of the association and the employment of consultants in technical and accounting aspects. Technical consultants (architects) were responsible for the physical aspects of the building program, and for the preparation of cash flow statements and for reporting progress to the Department; the accounting consultants were required to report monthly to the Department on progress in spending the money and be generally responsible for the administration of the grant. It was on the basis of information provided by the consultants that the Department determined the amount of money to be advanced to the association.

142. The departmental witness pointed out to the Committee that the Auditor-General had not criticised the housing association projects as such but had commented on the apparently premature payments. Consequently the Department had amended its approach to the payment of grants. Q. 494

143. Prior to the Auditor-General's criticism, the Department's Northern Territory Division had worked on the basis of providing operational requirements for six months in advance and capital requirements in full where the association indicated that funds could be expended within six months from the payment of the grant. It was explained that one reason for providing the full capital requirement in advance was seasonal factors in the Northern Territory which meant that all capital requirements needed to be delivered during the dry season if there was to be any continuation of building during the wet season. A witness agreed that in hindsight some of the payments made had been excessive.

144. The Audit Observer (Mr Hinchy) pointed out that the approval by the Minister for the allocation of \$10.75m. to housing associations in the Northern Territory was given on the basis that funds should be made available to each housing association in quarterly instalments based on actual requirements. The departmental witness agreed that the Department had varied from the precise terms of the Minister's approval and admitted that the Department should have sought the Minister's approval to vary the rate of payment. He stressed that, while varying the method of payment, the Department was still operating within the funds approved by the Minister.

Exhibit
182/1 and
Q. 481

Qs. 502,
505 and
506

145. In relation to the payment of \$640,500 to the Maningrida Housing Association in October 1973, Mr Hinchy advised the Committee that, in a Memorandum of 6 November, the Consultant had estimated expenditure over the three months from November 1973 to January 1974 to be \$290,500 and that at 18 January 1974, about the time the audit took place, the association had an unexpended balance of \$571,044. The departmental witness agreed that the Department had "paid out too much too early" although in a supplementary submission forwarded to the Committee it was indicated that, in discussions between the Department and the Maningrida Housing Association Consultants, in the period between submission of the program on 28 June and approval of the program on 3 October 1973, the capital component of the program (valued at \$405,000) was expected to be available and paid for within three months.

Qs. 503
and 504
and
Committee
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146. In its submission the Department reported that "in the light of the Audit enquiries, funds are now being provided for a three month period ...". At the inquiry it was stated that there had been a further variation and advances were being made solely on a needs basis and before any advance could exceed \$100,000 it was necessary for the technical consultants to justify the amount. The Audit Observer commented that the Audit Office was satisfied that the Department was now limiting payments in accordance with proper procedures.

Qs. 495,
497 and
519

Expenditure incurred without prior approval of the Treasurer

147. On page 6 of his report the Auditor-General made the following comment:

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"Although the approved purposes of the Trust Account provide for the meeting of expenditure on and in connection with programmes that are approved by the Minister and the Treasurer, instances were noted where expenditure had been incurred without the prior approval of the Treasurer."

148. In response to the Auditor-General's request for comment regarding three examples where amounts totalling \$421,000 had been expended in August 1973 prior to receipt of the Treasurer's approval, the Department had advised that it had been the practice, in that part of the financial year before the level of funds to be provided in the Budget for the Trust Account was known, to continue to make payments within the headings and at the same rate as for the previous financial year. The Treasury had supported the Department's view when in response to Audit inquiries it had advised the Auditor-General's Office that the amounts the Treasury had agreed to include each year in the Supply Bill for payment to the Aboriginal Advancement Trust Account were determined with a view to ensuring that the amounts available for expenditure from the Trust Account during the Supply period were the minimum required to enable continuity in the Government's Aboriginal advancement programs. The Treasury also pointed out that the inclusion of particular amounts in the Supply Bills had been on the understanding that expenditure would be confined (at least until the Treasurer's concurrence to an annual expenditure program had been obtained) to types of programs previously endorsed by the Treasurer. Treasury also made the point that many of the Aboriginal advancement programs were of a continuing nature and that it did not regard the authority for them as lapsing at the end of the financial year.

149. The Department, in its submission, and during the public inquiry, reaffirmed the view that it had acted correctly in continuing approved programs of expenditure from the Trust Account during the Supply period. The departmental witness commented that the procedures being followed at the time Audit first queried them late in 1973, had been followed since the beginning of the Trust Account, but once Audit had questioned the procedure, the matter had been taken up with the Treasury. In response to questions relating to the three examples referred to the Department by the Auditor-General's Office, the Committee was assured that expenditure on these programs would have

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Exhibit
162/1 and
Qs. 49 and
52 to 54

been within the approval of the Treasurer from the previous year⁷. A departmental witness pointed out that there were two sources of funds for the Trust Account during the Supply period - funds remaining from the previous year which did not lapse because of the nature of the Trust Account appropriation; and funds voted for the Supply period - and any expenditure during the Supply period could have been funded from either of these sources.

150. The Audit Observer (Mr Hinchy) stated that the question of the approval of expenditure from the Aboriginal Advancement Trust Account during the Supply period had now been resolved satisfactorily. He confirmed that the new procedure for approving expenditure during the Supply period would be as outlined at page 7 of the Auditor-General's Report. He explained that at the beginning of each financial year the Minister would submit an interim program, for amounts expected to be expended in the Supply period, for the Treasurer's approval. This procedure would apply to any payment made from the Trust Account, including expenditure of the unexpended balance carried forward from the previous year⁸.

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of 1974
and Qs. 47,
48 and 53

151. In response to a Committee request for information regarding the role of the Treasury in the examination of proposals for expenditure by the Department of Aboriginal Affairs we were told that Departmental expenditures were subject to the normal scrutiny by the Treasury in the Budget context. Treasury, in examining draft estimates sought to establish that proper authority existed for the inclusion of each item and that, on the basis of all available information, the amount sought for each item was reasonable.

Committee
File 1974/4

7. The witness referred to departmental action taken in relation to the purchase of the trawlers as an example of expenditure in the Supply period which the Department felt "did not come within the previous existing approval of the Treasurer", and so a submission seeking the Treasurer's approval for the expenditure had been prepared.

Q. 53

8. Mr Hinchy pointed out that the terms of approval given by the Treasurer in previous years had referred, for example, "to expenditure from the Aboriginal Advancement Trust Account in 1972-73" and stated that "there was considerable doubt as to whether his approval was sufficiently wide to flow over into the following year if the funds had not been expended within that year."

Q. 53

Proposed increases of expenditure on items where authority already existed were given careful attention. Where no authority existed or where agreement could not be reached between officers of the Treasury and the Department, the matter was brought to the attention of Ministers.

152. The Treasury informed the Committee that prior to December 1970 the Minister-in-charge of Aboriginal Affairs had been required to seek in advance the approval of Cabinet or the Treasurer for all programs of expenditure from the Aboriginal Advancement Trust Account. In addition, the Minister-in-charge of Aboriginal Affairs sought the Treasurer's approval to each individual payment from within the general provision in the Trust Account for grants-in-aid. However, substantial increases in requests for approval by the Minister resulted in the Treasurer, in December 1970, agreeing to a proposal that the Minister be authorised each year to approve individual grants up to totals agreed between the Treasurer and the Minister. The latitude granted to the Minister was conditional upon the Department providing a monthly statement of grants approved from the Trust Account. These arrangements have continued to apply until the recent addition whereby the Treasurer's approval is sought, before the beginning of each financial year, to an interim program of expenditure covering all funds available for expenditure from the Trust Account during the Supply period.

Audited financial statements of expenditure from grants

153. In his report, the Auditor-General stated that on 13 August 1973 he had addressed a memorandum to the Department on its apparent failure to take adequate action to ensure the submission of audited financial statements covering expenditure from grants previously made. Various steps were suggested to rectify the deficiencies, including the issue of written instructions covering the application for, registration, processing, payment and follow-up of grants. Reference was also made to the need for consideration to be given to the Government retaining some form of control over equipment should it cease to be used for the purpose

Qs. 47 and
50 and
Committee
File 1974/4

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for which the grant was made. By 31 January 1974, the Department had not, in the Auditor-General's view, taken adequate remedial action. In the memorandum dated that day, further deficiencies relating to the failure to follow-up grants were referred to the Department. These were:

- (i) Further grants had been made to organisations although they had not complied with obligations arising out of earlier grants.
- (ii) Requests for submission of financial statements were often not specific on the nature of the statements to be submitted or on the time of their submission; follow-up of their submission was inadequate.
- (iii) Some financial statements submitted contained insufficient information.
- (iv) There were inadequacies or delays in departmental examination of financial statements submitted by organisations.
- (v) Action taken by the Department to ensure that satisfactory accounting and financial and administrative controls were operating within organisations receiving (or to receive) grants was inadequate or unduly delayed.

154. The Auditor-General reported that the Department had advised him on 31 January 1974 that an officer had been seconded to the specific task of following up grants and "all grants made in 1972-73 and certain earlier grants had been listed for follow-up action; organisations had been written to seeking audited financial statements". In its submission the Department provided the Committee with details of follow-up action taken to 25 March 1974. This involved requesting the submission of audited financial statements from 226 of the 332 organisations which received grants in 1972-73 and, where applicable, requesting statements for previous years, and also reminding the organisations of their obligations to produce financial statements relating to current grants. It was stated in the submission that 90 financial statements had been received by the Department, 24 of

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of 1974 and
Exhibit
162/1

which had been audited, and the remainder had been the subject of further correspondence with the organisations concerned. The Committee was also told that twenty-five letters had been returned unclaimed and that an examination of these cases was proceeding.

155. In its response to the Auditor-General's queries, the Department had expressed the opinion that it would be impracticable and unrealistic to attempt a thorough follow-up of all grants and although appropriate action would be taken as time and staff permitted, it could be necessary to obtain a Treasury dispensation from complying with the relevant Treasury Direction.

P.P. 13
of 1974

156. In its submission to the Committee, the Department explained that it had always been the intention of the Department to follow-up grants and refuse further funds to organisations which, without reasonable explanation, failed to supply appropriate financial statements. However, the Department conceded that with the great increase in the number of grants, "there could have been occasions when grants were made to organisations which had failed to supply audited statements to earlier grants". The Department also pointed out that the varied circumstances applying to the numerous grants had prevented the early development of procedures to standardize follow-up action and that any procedures developed would necessarily be of an interim nature pending the reorganisation of the Department.

Exhibit
162/1

157. The Department explained that it had sought Treasury advice on the application of Treasury Direction 23/8⁹, to small single purpose payments where the submission of professionally audited financial statements would appear to be inappropriate. The Treasury Observer (Mr Davidson) told the Committee that the previous Treasury Direction 23/8 had not been drafted with the type of grant being made by the Department in mind. He explained that under the revised Direction recipients of grants for specific purposes should be required to certify that the purpose and conditions of the grant have been complied with and to produce statements of expenditure on those purposes. Any unaudited statements should be supported by vouchers or verified by an independent public accountant. A statement of expenditure

Exhibit
162/1 and
Qs. 385,
386 and
453

supported by vouchers was sufficient for the very small grants. The departmental witness explained that the revised Direction came much closer to meeting the Department's requirements.

158. In response to questions regarding the follow-up action taken by the Office of Aboriginal Affairs, the departmental witness conceded that although the Office had not had any financial and administrative capacity and had relied on its parent department for these services, one of its functions was to follow up audited statements from organisations in receipt of grants. It was stated that audited statements "were regularly looked for" by the Office but the emphasis placed on the actual projects resulted in the follow-up suffering badly.

Qs. 381
and 383

159. Mr Scott, the Audit Observer, told the Committee that the Office of Aboriginal Affairs had, in November 1971, sought the Auditor-General's advice regarding the need to obtain audited financial statements. The Audit Office had replied in December 1971, advising that it would be appropriate for the Department to adhere to the instructions laid down in Treasury Direction 23/8 and also suggested that the conditions of the grants should include provision for financial statements certified by a qualified public accountant where this was possible. Mr Scott stated that the Audit Office later found that:

Q. 385

"there was the failure as a general rule to ensure that there was the follow-up in the Department of the receipt of certified financial statements."

160. In relation to the questions of control over equipment purchased by organisations with grants, the Department explained that in cases where the success of a project was in any doubt, provision had been made for the retention of some form of control. In the case of grants towards the purchase of properties, the Department generally ensured that a community's memorandum and articles of association required an approach to the Minister before all or part of the land could be disposed of. The Department agreed that in cases where

Exhibit
162/1 and
Q. 531

9. Prior to its amendment

costly equipment was purchased or where pioneering or experimental projects were undertaken, there could be need for a specific provision to ensure retention of Government control. The Treasury Observer believed that the question of control was one of policy and should be decided by the Minister. Treasury Direction 23/8A, which was promulgated by the Treasury during the course of the inquiry, provides:

"Where a grant is to be made for the purpose of purchasing equipment or other assets, the question of ownership of the assets should be determined before the grant is made."

161. Reference was made in the Auditor-General's Report to preparation of procedures relating to processing and follow-up of grants. In its submission to the Committee the Department explained procedural instructions had been revised for the "registration, processing and payment" of grants but the variety of circumstances encountered in practice had prevented the use of a standard form of application, although guidelines were being drawn up where appropriate.

P.P. 13
of 1974
and Exhibit
162/1

162. At the time of the inquiry the Department was in the process of re-organisation. As part of this re-organisation an Operations Management Branch was being established in the Operations Division. The Committee was told that the primary task of this Branch would be project control and the Department believed this would overcome the bulk of the problems which had been encountered.

Q. 277

163. A departmental witness explained in detail the role of the Operations Management Branch and the Committee was provided with a supplementary submission which gave a detailed outline of the Department's new project control system. This information is contained in Appendix G. It was pointed out that the system had been developed with the assistance of a team of officers from the Public Service Board who specialised in systems procedure and control.

Q. 278

164. The new project control system included a very basic application form to be filled out by every organisation seeking funds. The witness expressed the opinion that no Aboriginal organisation should experience any difficulty in filling in this form. Also included was a basic set of financial rules for the guidance of Aboriginal organisations and a form of letter which was designed to advise recipients of funds of all conditions associated with the grant. Also included in the system were procedures to ensure that progress reports were received as required and that various branches in the Department were aware of the rules and their responsibilities in relation to applications.

Qs. 279
and 281

165. The witness expected that the project control system would prevent premature release of funds in the future. The Department had also implemented a system of quarterly payments based on quarterly statements of expenditure provided by recipient organisations as a supplement to the audited annual statement required by Treasury Direction 23/8. It would assist the Department both in preventing the premature payment of funds and in ensuring control over expenditure of funds previously given. Unless Ministerial approval had been obtained to make quarterly payments, the Department would normally seek his approval each quarter to a further grant based on the previous quarter's performance. Under the new project control system, the Operations Management Branch would make the judgement as to whether the organisation had complied with the conditions of the grant or not.

Qs. 279,
337 to
359, 422
and 423

166. The project control system as outlined to the Committee during the inquiry was introduced in the Department's Central Office in the period October/November 1974. At that time the control encompassed all operations in relation to grants made by the Department Australia-wide. The procedures were introduced progressively into the Regional Offices of the Department as these were established.

Q. 278 and
Committee
File
1974/4

167. The Committee also learned that the Grants Review Committee referred to in the Auditor-General's Report (See Appendix B page 276) comprised all Canberra based Second Division Officers and usually numbered about six or eight officers. The Grants Review Committee

Exhibit
162/1
and Qs.
427 to 429

had been in operation since November 1973 and considered draft submissions for grants. Its purpose was to ensure that all interested areas in the Department were involved in decisions relating to the making of grants and were able to make appropriate contributions.¹⁰

168. The Audit Observer (Mr Scott) said that the Auditor-General's Office had examined the Department's new proposals in relation to control and systems for payment of grants and had expressed satisfaction with them. He pointed out that the Office would examine the procedures in a practical situation in the course of its normal duties. Q. 297

169. In paragraph 3.1.2 (page 143) of the Auditor-General's Report 1973-74 the following comment was made in relation to control over grants; P.P. 331 of 1975

"Improvements in the control over grants were noted during the recent Audit review; however, a number of inadequacies, including those referred to below, still exist.

In response to recent Audit enquiries concerning inadequacies in the follow-up of the receipt and examination of financial statements relating to grants to organisations in previous years, the Department stated that a significant number of statements had been received and scrutinised; some were satisfactory but others appeared to warrant closer examination. The Department indicated that it would be some time before the examination was completed and it remained unsure as to what further action it should take to pursue the submission of outstanding statements having regard to limited staff resources."

170. The departmental witness explained that the Department had been allowed only a very small increase in staff and in allocating this increase priority had been given to the Operations Management Branch. The Department was ensuring that ongoing grants were properly scrutinized and would follow-up past grants as staff resources permitted. Q. 1747

10. As an example of the type of contribution the witness explained that an officer from the Management Services area could point out an accounting deficiency while an officer from the policy area may indicate a policy fault. Q. 428

Purchase of Kildurk Station

171. Kildurk Cattle Station in the Northern Territory was purchased in April 1973 with funds provided by way of grant from the Aboriginal Advancement Trust Account. Two aspects of the purchase, on which the Auditor-General sought comment from the Department were:

P.P. 13
of 1974

- the absence of evidence to indicate that the Minister had given his final approval for the purchase of the property for \$829,000
- the failure of the Department to arrange incorporation of the Aboriginal community involved and reach agreement on the portion of the grant to be treated as a repayable loan before the purchase was completed.

172. In its submission to the Committee, the Department commented that although the Auditor-General had made enquiries regarding the handling of the Kildurk Station purchase, it had not criticized the Department's actions. In evidence the departmental witness re-affirmed the view that the Auditor-General had not intended his comments to be regarded as criticisms, however, the Audit Observer (Mr Scott) stated:

Exhibit
162/1 and,
Qs. 545,
547 and 559

"Without doubt the Auditor-General's Report was of a critical nature in connection with this purchase..."

173. By way of background the Committee was informed that the Aboriginal community had applied on the ordinary capital fund form on 9 October 1971 for a 100 per cent loan to purchase Kildurk Station. At that time a loan was the only method by which the community could be assisted. Subsequent changes in Government policy introduced the possibility of a part-loan and part-grant arrangement. The Department had, in its discussions with the community introduced them to the idea that part of the purchase price could be met by a grant. The witness agreed that the Department required a clear and formal indication of the wishes of an Aboriginal community before

Exhibit
162/13 and
Qs. 535,
536, 558,
568 and
569.

entering into any firm commitment and tendered, as evidence of the Aboriginal community's wishes and initiative in the case of Kildurk, a copy of a letter dated 13 April 1973 in which the Aboriginal Community's "Pre-Incorporation Committee" requested the Department to arrange the purchase of the property on their behalf and also to assist with the incorporation of the community.

174. The Auditor-General's criticism regarding the failure of the Department to seek the Minister's "final approval" to the purchase of Kildurk centred on the interpretation of the wording of the original submission, dated 27 February 1973, seeking approval for a grant "of up to \$829,000 to negotiate a walk-in-walk-out price". The Audit Observers (Mr Scott and Mr Hinchy) stated that it was the Audit Office view that a further submission to the Minister would have been appropriate. Mr Hinchy said that the Auditor-General's Office had interpreted the submission of 27 February as informing the Minister that a further submission would be made. Mr Scott pointed out that the Department had, on the same day as the Minister had given approval for expenditure of "up to \$829,000" the Department had telegraphed an acceptance to purchase the property for that figure. He commented that if the Department acted in accordance with the Minister's approval it would have made attempts to purchase the property for a lesser figure.

175. The Department rejected the Auditor-General's criticism on this question and asserted that the approval given on 27 February 1973 was in no way a tentative approval but was subject only to inspection of the property being satisfactory and was to be followed only by recommendations regarding the level of loan monies and technical guidance considered appropriate. The witnesses conceded that the Department had advised the vendor by telegram on 27 February that the Minister had approved purchase of the property for \$829,000 but pointed out that this had been done because the vendor had threatened to cease negotiations with the Department. They insisted that the vendor's threat to cease negotiations had been explained to the Minister who was perfectly well aware when he authorised the grant that he was authorising a grant of \$829,000. It was stated that the submission had been drafted prior to 27 February when there had still been a chance of purchasing the property for a lower price.

Qs. 552
and 558

Qs. 541,
548, 549,
551 to 556
and 558

176. The second area of criticism by the Auditor-General related to the failure by the Department to arrange incorporation of the Aboriginal community and reach agreement on the proportion of the purchase price to be treated as a loan before the contract for purchase was signed on 26 April 1973.

P.P. 13
of 1974
and Q. 550

177. In its submission to the Committee, the Department pointed out that it was not always possible or practicable to complete all formalities prior to purchases being arranged. The Department explained that the Government would introduce legislation to provide for a simplified form of incorporation for Aboriginal communities thus reducing the time taken to incorporate and increasing the number of cases where direct purchase of properties by incorporated communities was feasible. The Committee was told that the community had been incorporated in April 1974 as the Mialuni Community Inc. and both the Community and the Board of Directors of the Amanbidji (formerly Kildurk) Pastoral Co Pty Ltd had undertaken to execute the formal loan agreements.

Exhibits
162/1 and
162/8

178. The Department explained that uncertainties had entered the negotiations regarding the loan component as a result of the Aboriginal Land Rights Commission Report which, the departmental witness suggested would result in there being no loan component at all. At the time of the inquiry (August 1974) the Capital Fund Advisory Committee was examining the question of the funding of Kildurk Station. A further cause of delay in reaching agreement was the climate. The witness explained that a very long wet season made it difficult for the Department to get the community together to discuss the loan component.

Qs. 533,
560, 570
and 571

179. The Committee was told that a loan component of \$233,000 was first suggested by the consultants, Australian Agricultural Consulting Management Company Pty Ltd, but the Department had not made a firm recommendation to the Minister regarding the loan component as it had felt in February 1973, \$233,000 was too low. After the experience of running the property for eighteen months, the Department had concluded that \$300,000 would be an appropriate loan component.

Qs. 543,
558 and
571

180. At the inquiry the departmental witness referred the Committee to an attachment to its second submission as evidence that agreement on the loan component had been reached. The letter from the Chairman of Directors of the Amanbidji Pastoral Co Pty Ltd dated 24 April 1974 stated:

"From what we have been told, we understand a loan for our cattle business is now being considered by your advisers and will possibly be about \$300,000. With our knowledge of the cattle on the Station and what Mr Edey has told us about money matters, we feel this loan is quite fair and reasonable. As soon as all the necessary papers are ready, we would like to have them all signed so that a final dividend for the first cattle season's operations can be determined and the Mialuni Community Inc. can start to improve our Community facilities.

We again wish to thank you for your help and hope you will be finalising loan arrangements soon."

181. The Audit Observer (Mr Scott) stated that the failure of the Department to obtain a firm commitment on the loan commitment prior to purchasing the property could place the Department in an unfavourable position in any future negotiations. He rejected the Departmental witnesses claim that the letter quoted above was in fact an agreement and saw it only as an "intention to make an agreement with the Department".

182. The departmental witness agreed with Mr Scott's view that there was no agreement document although he insisted that the letter was a clear enough agreement by the community to accept the loan commitment.

183. In defence of the failure to obtain formal agreement to the loan commitment the witness stated that the Department would have misgued the community if it had done so as uncertainties still existed regarding the funding arrangements. It was also pointed out that the process of consultation between the Department and

Exhibit
187/9 and
Qs. 560
and 561

Qs. 558,
560 and
562

Q. 564

Qs. 565
and 581 to
584

Aboriginal communities had to be thorough and, of necessity, required a long period of time if Aboriginal communities were to be fully aware of the implications of any decision and were fully cognizant of their commitments.

184. The Committee was assured that at all times during the negotiations and following the purchase of the property, the Department had full control of the asset which was held in a company comprising two shareholders, both of whom were departmental officers, who were holding a share each in trust for the Minister. It was suggested that the difficulties experienced in the case of Kildurk would be overcome by legislation proposing to create an Aboriginal Land Fund. The Land Fund would hold the tenure for any assets purchased on behalf of Aboriginal communities until negotiation and incorporation of the communities was completed at which time title to the assets could be transferred to the community.

Exhibits
162/1 and
162/8 and
Qs. 534
and 544

Conclusions

185. The evidence shows that the Aboriginal Advancement Trust Account was originally established as a temporary measure during the 1968-69 financial year to meet a particular Budget situation and that the need to continue the Trust Account had been reviewed by the Treasury on three occasions since then.

186. The Committee acknowledges that satisfactory control over expenditure from the Trust Account has been maintained by the Department and the Treasury since the Trust Account was established. The Committee also recognises that a comprehensive statement of all expenditure on Aboriginal Affairs has usually been presented to the Parliament by the Minister after the Budget. Nevertheless, the Committee believes that the establishment of any trust account derogates from the power of the Parliament to control expenditure and that the continued use of such accounts must be fully justified. The Committee, therefore, was pleased to note from the

Treasurer's statement in the House of Representatives on 20 May 1976 that it was the Government's intention to abolish the Aboriginal Advancement Trust Account from 1 July 1976. The Committee has since been informed that action to close the Trust Account was taken by the Treasurer's delegate on 24 August 1976. The account has been inoperative since 1 July 1976 and the balance held in the account as at 30 June 1976 has been repaid to Revenue.

187. The evidence shows that the Office of Aboriginal Affairs had difficulty in obtaining information on financial matters from its parent departments and that this had resulted in a tendency to prefer payment of the whole of a grant when approved. Although the Committee appreciates how this practice developed, the Committee is of the view that grants should not be made to organisations in advance of a clearly demonstrated need for funds. The Committee considers that this principle should be applied to the payment of all grants of this nature made by departments and other government instrumentalities. The Committee suggests that the Treasury should give consideration to the desirability of including such a rule in the Treasury Directions.

188. The Committee agrees in general with the comments in the Auditor-General's Report relating to particular instances where it was considered that payments of grants were made before funds were actually required by the recipient organisation. These include payments to Ngukurr (Roper River) Village Council \$465,000; Hunter Regional Aboriginal Co-operative Limited \$60,000 and Cummerunga Pty Ltd \$130,000. In the latter case the Committee considers that the Government's good faith could have been demonstrated by means other than paying over the whole of the grant to be held in the company's special account until needed.

189. The Committee is disturbed by the disclosure that in relation to the funds allocated to aboriginal housing associations, the Department saw fit to disregard the precise terms of the Minister's approval that funds should be made available to each association in quarterly instalments

based on actual requirements. Had the terms of the Minister's approval been adhered to, this aspect of the Department's operations would probably not have attracted criticism from the Auditor-General. The Committee is pleased to note that the Auditor-General's Office is satisfied that the Department is now limiting payments in accordance with proper procedures.

190. In relation to the general control over grants, the Committee notes that as a result of the re-organisation of the Department, a new project control system has been developed which would prevent the premature release of funds and ensure proper control over funds already given. The Committee would be interested to know if the new system is operating satisfactorily.

191. The Auditor-General's Report and the Committee's subsequent inquiry highlighted the fact that the provisions of Treasury Direction 23/B were not quite appropriate for many of the grants made by the Department. The Committee commends the Treasury for the prompt action taken to amend the existing Direction to cover those grants and for the promulgation of a new Treasury Direction 23/BA dealing with the ownership of assets purchased from grants.

CHAPTER 5

TURTLE AND CROCODILE PROJECTS

192. The Auditor-General's comments in relation to the administration of the Turtle and Crocodile farming projects are repeated in full at Appendix B, pages 277-282 and 308-314. The crux of his comments is contained in the conclusion reached on page 13 of his report which states:

P.P. 13
of 1974

"It is evident that neither the Department nor the Australian National University has exercised adequate control over the expenditure of substantial amounts on the turtle and crocodile projects. Their failure properly to control the expenditure appears to have resulted primarily from a lack of definition of the respective responsibilities of each body."

(a) Background to the Projects

193. The Committee was informed that the research projects to assess the economic viability of turtle and crocodile farming, and to study the practicability of developing this type of farming, were to be supervised by Dr Harold Robert Bustard. Dr Bustard came to the Australian National University from Scotland in 1963 as a PhD scholar in the Department of Zoology to conduct ecological studies on Australian lizards. The PhD degree was conferred in 1966 and he won a Queen Elizabeth II Fellowship to continue the work on lizards and to develop further work on the Queensland sea turtles and on fresh water crocodiles in north-west Australia. On the expiry of that Fellowship he was appointed as Research Fellow in the Research School of Biological Sciences for three years from 21 August 1968 and continued his work on the population biology and behaviour of lizards, turtles and crocodiles. In the course of the research he became aware of the economic possibilities of turtle and crocodile farming as a means of livelihood for Aborigines.

Exhibit
162/23 and
Qe. 641
and 649

194. From the evidence and supplementary information given to the Committee it would appear that Dr Bustard approached the Office of Aboriginal Affairs early in 1970 with a view to ascertaining its attitude to projects such as the turtle project¹. Subsequently in September 1970 Dr Bustard obtained the permission of the University Council of the Australian National University to apply for a grant of \$27,730 from the Office of Aboriginal Affairs to analyse the population ecology of turtles in the Torres Strait area and of crocodiles in the Northern Territory and North Queensland, and to carry out detailed work on the management and farming of both turtles and crocodiles.

Exhibit
162/1 and
Qe. 630,
639 and
Committee
File 1974/4

195. Witnesses for the Australian National University pointed out that, although it had been necessary for Dr Bustard as an employee of the University to seek the University Council's approval to obtain funds from the Office of Aboriginal Affairs:

Qe. 1571
and 1572

"the project itself had not been scrutinised and subjected to the normal academic determinations in relation to its ends..."

The University had not made any formal assessment of the project but had been of the opinion that "the sorts of things the Department wanted to do through Dr Bustard appeared to be worthy".

1. While it is apparent to the Committee that Dr Bustard was the instigator of the turtle project, a submission to the then Minister-in-Charge of Aboriginal Affairs, the Hon. W.C. Wentworth throws some doubt on the source of the crocodile farming concept. That submission, dated 5 June 1970, states inter alia: "Dr Bustard has been approached to see whether a research project could be mounted in a suitable place in the Northern Territory, Western Australia or Queensland to breed crocodiles."

Committee
File 1974/4

196. The departmental witnesses explained that the original submission from Dr Bustard, seeking \$10,080 and \$17,650 for the first twelve months operation of the turtle and crocodile projects respectively, was used to obtain approval of the University Council and passed to the Office of Aboriginal Affairs without covering correspondence. There was some doubt regarding the Office's involvement in the actual preparation of the original budgets. One witness believed that the budgets were entirely the work of Dr Bustard² while another stated that the budgets "were prepared by the Department after a series of discussions with Dr Bustard..."³

197. The Committee was informed that recommendations for approval of the grants were submitted to the Minister-in-charge of Aboriginal Affairs (Hon. W.C. Wentworth) on 5 June 1970 and approved by him on 19 June 1970. The sum of \$27,730 was forwarded to the Australian National University on 8 October 1970.

198. At the time the original submissions for the grants were approved it was envisaged that the turtle and crocodile projects would need to be supported financially for a period of three years. A departmental witness stated that the projects were primarily research projects and indicated that it was expected to be quite some time after commencement of the projects before commercial exploitation would occur.

199. In July 1972 in a letter to the Director, Office of Aboriginal Affairs (Mr Dexter) Dr Bustard expressed the opinion that commercial exploitation of the turtle project was near and he

2. A supplementary submission to the Committee supported this view; it stated: "Apart from ... preliminary discussions the Department was not involved in the preparation of the original application."

3. The witness could have been referring to budgets subsequent to the original budget as Q.650 referred to budgets during the period October 1970 to June 1973. Q.655 also tends to support this view.

Exhibit
162/1 and
Qs. 637 to
639, 641,
645 and
650 and
Committee
File 1974/4

Q. 631 and
Committee
File 1974/4

Q. 649 and
Committee
File 1974/4

Qs. 690
and
Committee
File 1974/4

Committee
File 1974/4

Qs. 650
and 655

expected production valued between \$80,000 and \$200,000, depending on the method of marketing, in the financial year. He proposed employment of a person to act as marketing officer to ensure the best return could be obtained. Because of the apparent nearness of commercial exploitation, the Australian National University decided early in 1973 that its association with the project was no longer appropriate and should be terminated. Applied Ecology Pty Ltd a government-owned company was formed and has managed the grants since 1 June 1973.

200. Total grants made, or proposed to be made, on the turtle and crocodile projects are shown in the following table:

Year	\$	Funds Paid to
1970-71	27,730	A.N.U.
1971-72	37,000	A.N.U.
1972-73	(310,000 (180,000)	A.N.U. Applied Ecology Pty Ltd
1973-74	680,000 ⁴	Applied Ecology Pty Ltd
1974-75	800,000 ⁵ (est.)	Applied Ecology Pty Ltd
1975-76	900,000 ⁶ (est.)	Applied Ecology Pty Ltd

201. In evidence, the departmental witness reaffirmed the Department's faith in the projects as an economic base for some Aborigines and Torres Strait islanders. He stated that successive Ministers had had varying degrees of faith and

4. The actual amount approved was \$700,000 (see paragraph 203)

5. The budget for 1974-75 sought a grant of \$1m, but a witness for Applied Ecology pointed out that there was a carry-over of some \$200,000 from previous years and he estimated that \$800,000 would be required.

6. The amount sought for 1975-76 by the Board of Directors of Applied Ecology Pty Ltd was originally \$1.5m. Part of the decrease could have resulted from a carry-over of funds from 1974-75.

Exhibit
162/23 and
Qs. 704, 770
and 1924 and
Committee
File 1974/4

Exhibit
162/1
and Qs. 768
and 769

Qs. 661,
1924 and
Committee
File 1974/4

enthusiasm in the projects and pointed to some of the advantages which had already resulted from the projects and which had been referred to in the Department's submission.

202. The former Minister (Mr Bryant) in his submission to the Committee, stated that he believed the Department's optimism about the turtle and crocodile projects was "whistling in the dark". He stated that the Department had tendered to him a budget in excess of \$1m. for 1973-74 and expressed the belief that had he accepted the Department's advice a large sum of Australian Government money would have been wasted. He supplied the Committee with a copy of a draft budget for \$1.2m. provided by the Permanent Head of the Department on 12 April 1974 and which concluded:

- "4. The expenditure on the project up to the end of June 1973 will be of the order of \$400,000, and compared with this figure, the budget for 1973/74 may appear to be high. It has to be remembered however, that the concept of the project has changed considerably from the original research-type project, and if the Aborigines and Islanders maintain the progress they have shown hitherto, the project will eventually become a substantial commercial enterprise for which the foundations have to be laid now.
5. I expect that it will be necessary to budget for a figure of the order of a million dollars for the project for 1973/74 and as soon as the draft budget is settled after discussion, I shall make a firm recommendation to you."

203. The departmental witnesses stated in evidence and in a supplementary submission to the Committee that the Department had finally recommended a budget of \$430,000 for 1973-74 but the Minister had rejected this advice and approved an amount of \$700,000 which was a figure recommended to him by Senator George, Chairman of Applied Ecology Pty Ltd at the time. The Committee was told by Mr Dexter

Exhibits
162/25 and
162/26

Qs. 661,
664, 704,
706 and 707
and
Committee
File 1974/4

that the budgets referred to by the Minister had been provided in response to a request from the Minister's Office and the budgets were specifically stated to be "under discussion" with no recommendation being made in the minute attached to the budgets.

204. In support of the Department's faith in the projects the departmental submission pointed out that it had been demonstrated that it was technically feasible to farm turtles commercially and that such an industry could be established without substantial damage to the life style of Aborigines and Torres Strait islanders in northern areas. It also stated that the project had already raised substantially the average wage throughout the Torres Strait Island reserve.

205. The submission also stated that the studies commissioned by the Special Minister of State (Mr Bowen) to be undertaken by Mr Smart in relation to the organisation management and marketing prospects and by Doctor Carr and Professor Main on the ecological implications, concluded in separate reports dated October 1973, that the project was feasible, both economically and ecologically, subject to certain modifications. One of the modifications required that harvesting of turtles be done only from turtles bred in captivity instead of the original proposal to breed turtles in captivity, release them after one year, and harvest a comparable number from the sea less ten per cent for ecological purposes. The reason for the changed approach was the uncertainty whether the turtles bred in captivity could survive after their release to the sea. The change in approach meant a considerable delay in commercial exploitation because farm-bred turtles would not reach maturity for six or seven years.

Exhibit
162/1

Exhibit
162/1,
Q. 797 and
Committee
File
1974/4

(b) Control of the Grants to 1 June 1973(i) Conditions attached to the Grants

206. The Committee was told that the only conditions attached to the grants were those contained in the original application for funds by Dr Bustard and these terms were agreed between the Office and the University. In a letter of 24 May 1973 responding to audit queries from the Department of Aboriginal Affairs, Dr Bustard commented that: "very definite accounting guidelines were provided when the initial grants were made" although subsequent comments in the letter indicate that the constraints were largely the result of the small size of the grants rather than a set of specific conditions.

207. In its submission to the Committee the Department commented that it would have been desirable for the Office of Aboriginal Affairs and later the Department of Aboriginal Affairs to have drawn up a specific set of conditions in respect of the turtle and crocodile projects. At the inquiry it was explained that conditions were not drafted initially because there was insufficient time for the small staff of the Office to prepare appropriate guidelines and also, because of the pioneering nature of the projects, the Office was not sure what the constraints would be.

208. In defence of its failure to provide a precise set of conditions for the grants, the Department claimed that if it had decided to provide detailed guidelines it would have been necessary to seek the assistance of another department. In its submission the Department tendered a set of conditions attached to grants made by the Australian Water Resources Council as an example of the types of conditions it could have provided but claimed that even if it had done this it would not have met the requirements of the Auditor-General's Office as set down in items (a), (b),

Qs. 671
to 674
and
Committee
File 1974/4

Exhibit
162/1 and
Qs. 652
and 653

Exhibit
162/1 and
Qs. 654,
658 and
670

(c) and (d) on page 10 of the Auditor-General's Report (see Appendix B page 278).

209. The Audit Observer (Mr Scott) thought that the proposition put forward by the Department was not very realistic and pointed out that even though they may not have met the requirements as outlined in the Auditor-General's Report, preparation of specific conditions would have resulted in more satisfactory handling of the funds provided in the grant and it may not have been necessary for the Auditor-General to write to the Department in those terms.

Q. 670

(ii) Correspondence relevant to Control of the Grants

210. From the evidence, it is apparent to the Committee that the uncertainty regarding control of the turtle and crocodile projects arose from differing interpretations placed by the Office of Aboriginal Affairs and the Australian National University on three letters written in late 1970. Because of their relevance to the difficulties which subsequently arose, the full text of each letter is repeated below.

Exhibit
162/1 and
Committee
File 1974/4

.. Letter of 8 October 1970 from O.A.A. to A.N.U.

"Dear Mrs Cumpston,

I enclose a cheque for \$27,730 to be used to support research studies by Dr H.R. Bustard into the feasibility of turtle and crocodile farming in northern Australia.

These funds are provided specifically for these two projects and, of course, should be used only for expenditure incurred by Dr Bustard in relation to these studies, the terms of which have been agreed between ourselves and him. On the other hand, should Dr Bustard leave his present appointment we would seek to arrange for him to use these funds to continue the project. I understand that the University Accountant will administer the funds in accordance with your normal practices.

Yours sincerely,
(B.G. Dexter)
Director"

.. Letter of 19 October 1970 from A.N.U. to O.A.A.

"Dear Mr Dexter,

Thank you for your letter of 8 October. The University is happy to accept the grant of \$27,730 to support research studies by Dr Bustard into the feasibility of turtle and crocodile farming in Northern Australia.

The University receipt for your cheque is enclosed. I should be grateful if you would let me have a statement of the terms of the grant so that it can be administered in accordance with our normal procedures.

Yours sincerely,
(H.I. Cumpston)
Acting Registrar"

.. Letter of 19 November 1970 from O.A.A. to A.N.U.

"Dear Mrs Cumpston,

I refer to your letter of 19 October and to our recent telephone conversation about our grant of \$27,730 for Dr Bustard's research.

As indicated, we are not particularly concerned that Dr Bustard should keep rigidly to the limits of expenditure on the individual projects which he has indicated in his document of September 1970 headed "Application for a research grant from the Office of Aboriginal Affairs". It may be that as the two projects continue, he will find it necessary to spend more on one project and less on another.

An arrangement whereby accounts are paid on his authorisation or are advanced to him for spending would be quite satisfactory from our point of view. We would expect to have from Dr Bustard about the middle of next year a statement of the progress of these two studies and an accounting for the expenditure of our grant up to that date. I do not think that we need ask you for accounts but rather that he should include a financial statement in a general report which might accompany the requests we would expect about that time for additional funds to continue the project. Since we would need some time to consider a further application for funds such a report should be submitted before all of the present grant has been expended.

I trust that this information is sufficient for your purposes. If not please do not hesitate to seek further clarification.

Yours sincerely,
(J.P.M. Long)
for Director"

211. The Committee was advised that the operation of the grants was a "perfectly routine matter" following the letter of 19 November 1970 and the next significant contact with the A.N.U. occurred about August 1971 when the Applied Ecology Unit "ceased to be an integral part of the University". The departmental witness believed that discussions had taken place between officers of the Office of Aboriginal Affairs and the University and that agreement to the effect that administration of the grants should proceed as previously, had been reached. From that point onwards the arrangements continued with neither the University, nor the Office seeking to amend the instructions in the letters reproduced above.

Qs. 636, 644,
659, 682 and
684

212. A departmental witness explained that when he first became associated with the project in May 1972, he called personally on the University accountant to discuss the accounting system, the form of statements presented to the Office and the budget anticipated for 1972-73. The witness asserted that the University was, at that stage, experiencing no apparent difficulty in accounting for the grant beyond a problem of "analysing and classifying the expenditure under appropriate heads".

Q. 636 and
Committee
File 1974/4

213. The Committee was given the impression that contact between the Office and the University in relation to the administration of the grants was on a personal basis and from the evidence it is apparent that there was no formal contact beyond the letter of 19 November 1970. It was stated that the University did not formally advise the office either of the separation of the Applied Ecology Unit or of the decision to withdraw its administrative support when it became apparent that the stage of commercial expectation was being reached. On each of these occasions the Department learnt of the impending change from Dr Bustard.

Qs. 655, 682
to 684 and
690

(iii) Responsibility for Control - Office of
Aboriginal Affairs Attitude

214. In its submission to the Committee the Department reiterated the view it had previously expressed in response to the Auditor-General's audit enquiries. The Department agreed that neither

P.P. 13 of
1974 and
Exhibit
162/1

the Department nor the Australian National University had had a clear understanding of their respective responsibilities in relation to the authorisation and control of expenditure on the turtle and crocodile projects.

215. The departmental witnesses were unable to offer any explanation for the apparent breakdown in communication. They maintained that the contents of the Office of Aboriginal Affairs letter of 8 October 1970 clearly indicated that the Office assumed that the University would administer the funds in accordance with its normal procedures and believed that the conditions contained in the application for the grant had been agreed between the Office and the University.

216. The Committee was told that there was no uncertainty in the Office regarding control of expenditure and witnesses believed that the "terms and conditions" contained in the application for the grants plus the "clarification" contained in their letter of 19 November 1970 should have prevented any confusion. It was stressed that this sort of grant was in no way unusual.

217. The witnesses for the Department denied that any "looseness" in the arrangements for control of expenditure could have been inferred by the University from the contents of the letter of 19 November either in respect of the ability to move funds between the turtle and crocodile projects or due to the absence of any requirement for the University to provide the Office with accounts. The Committee was informed that the flexibility provided in the ability to move funds between the two projects was necessary because of the pioneering nature and the remote location of the projects while the failure to request accounts was in conformity with the practice previously adopted for similar grants to the University. The witness for the Department explained that the Office had believed that its instructions at that stage had been adequate and he reaffirmed the belief that the grant was treated at all times as a normal grant to the University.

Qs. 635, 671
to 673, 675,
747, 748 and
767

Qs. 634 and
673

Qs. 677 to
680 and 689

218. The Committee sought an explanation from the witnesses for the Department as to what they understood was the University's "normal practice" in the administration of grants. It was learnt that it had been presumed that requests for funds would be made by Dr Bustard or some other person associated with the projects, the requests would then be certified by Dr Bustard as being correct before being passed to the University for examination of the vouchers, certification of the availability of funds and payment.

219. The Committee was told that the authority of Dr Bustard to disburse project funds had been granted by the then Director of the Office of Aboriginal Affairs (Mr Dexter) with the agreement of the then Minister responsible for Aboriginal Affairs (the Honourable W.C. Wentworth). The Committee learnt that the only apparent restrictions on Dr Bustard's authority to disburse funds were the size of the budget and the operation of the University's accounting procedures. The Committee was again advised that the unique nature of the projects and the remoteness of their location required that there should be as few restraints as possible. The witness for the Department stressed that the Office had believed that the normal accounting procedures would prevail. It was suggested that the essential difference between the view of the Office of Aboriginal Affairs and that of the Australian National University was that the latter may have felt that any requisition by Dr Bustard should be met while the former believed that the University's certifying officer possessed the right to question any doubtful requisition.

220. Dr Bustard's authority to incur expenditure also extended to the approval of the employment of turtle farmers, and in deciding on the level of their wages. Witnesses for the Department stated that no formal instructions had been issued regarding the employment of farmers and that Dr Bustard "had a free rein to establish the research project, including questions relating to the level of wages, within the funds made available by the Minister". The departmental submission pointed out that Dr Bustard, in deciding on wage levels, was required to consult with and reach agreement with the Queensland

Qs. 675 and
676

Qs. 773 to
776, 778 and
779 and
Committee
File 1974/4

Exhibit
162/1 and
Qs. 781, 784
and 798

Department of Aboriginal and Island Affairs so that wages paid by the Queensland Government to Islanders in the area would not be disrupted too rapidly. Dr Bustard used his authority to reach agreement on wage levels to reject the initial Queensland Government proposal of \$18 per fortnight in late 1970. The initial wage levels were ultimately pegged at \$34.05 per fortnight for male farmers and \$27.15 for female farmers but six monthly adjustments of the wages had increased these levels to \$84.06 and \$77.16 respectively by March 1974.

221. The requirement to reach agreement with the Queensland Government also placed some limitations on the employment of farmers. We were told that prospective farmers had to be acceptable to the Queensland Authorities and also to the Chairman of the Council of the particular island. It was also necessary for Dr Bustard to reach agreement with the Department on the availability of funds although the departmental witness conceded that Dr Bustard had not been required to provide the Department with any evidence of consultation with the Queensland Authorities.

222. The Committee was told that the Department of Aboriginal Affairs did not become aware that the University was not administering its grants in accordance with its normal procedures until the Auditor-General brought it to their attention in November 1973. Some oral audit representations had been made at a low level within the Department in April 1973. It was stated that these representations were of a very routine nature and, as such, the Permanent Head's attention was not drawn to them. The Department sought Dr Bustard's comments on the matters raised and believed that his reply on 24 May 1973⁷ had resolved the matter. However, the Audit Observer (Mr Scott) stated that the audit inspector was not satisfied and believed a more detailed investigation should be made.

7. Referred to in paragraph 206.

Qs. 780, 782
and 785

Qs. 738, to
741, 750,
751 and 1565

(iv) Responsibility for Control - Australian National University's Attitude

223. In his Report (see Appendix B page 279) the Auditor-General stated that the University held the view that the turtle and crocodile projects were not University projects and normal University procedures were not always applied. The University believed that authority for the disbursement of the funds had been vested in Dr Bustard's hands and that any queries relating to expenditure on the projects should be referred to the Department.

P.P. 13 of
1974 and
Committee
File 1974/4

224. The Australian National University's attitude to its involvement in the turtle and crocodile projects and to its responsibility for the financial management and control of those projects was summarised in a report of the Secretary of the University to the University Council in November 1973. That report, part of which was repeated in the University's submission to the Committee, concluded that:

Exhibit
162/23

"The University drifted unhappily, but with a desire to help, into an undesirably open-ended exercise of financial management of funds which, though technically the University's responsibility, was under the conditions of the grant subject to delegation committed to Dr Bustard by the grantor. When it was seen to be an exercise to which the University could make no useful contribution that could not be carried out by others, it was terminated."

225. In elaboration of the above attitude, the Committee was advised that the University Council had approved Dr Bustard's original application at a time when his academic future with the University was uncertain but had done so because the projects appeared to be important to the Office of Aboriginal Affairs. The Committee was told that the University would not normally sanction projects of this type but because the Office of Aboriginal Affairs attached some importance to the projects, the University had continued its association with the projects and had offered Dr Bustard facilities at the University after his Research Fellowship had terminated in August 1971. These included facilities for

Exhibit
162/23 and
Qs. 1523,
1530, 1571
and 1608
and
Committee
File 1974/4

purchasing, payment and recording of creditors and advances; assistance in the payment of salaries from the University Staff Office; and arrangement of flight bookings and travel arrangements for staff of the Applied Ecology Unit.

226. Witnesses for the University explained to the Committee that although the A.N.U. believed it could appropriately offer secondary support in the form of accounting and other administrative services, it had been made abundantly clear that the University was not interested in the research from an academic or scientific point of view. It was stated that as the emphasis of the work became more commercial in nature, it became less relevant to the work of Dr Bustard's colleagues in the Research School of Biological Sciences and their interest in the projects diminished. As the spectre of commercial exploitation drew nearer, the concern of Dr Bustard's academic supervisors increased.

227. In evidence, the Committee was told that the University had believed that the contents of the letter of 19 November 1970 from the Office of Aboriginal Affairs had relieved it of its responsibility to administer the grant in accordance with its normal procedures. It held the view that the letter had explicitly empowered the A.N.U. to accept Dr Bustard's authorisation for expenditure and therefore:

"the University did not see its role as one of supervising his activities, but rather that of acting as paying agent for expenditures which were a consequence of those activities."

A further letter from the Office of Aboriginal Affairs on 5 July 1972 reaffirmed the University's reliance on Dr Bustard's authority to approve expenditure when it stated "Dr Bustard will, of course, assist you by identifying the various payments he makes for the purpose of this classification". As no clear re-definition of the University's role was made, the University officers relied on what they believed had been the original understanding.

Exhibit
162/23 and
Qs. 1523 and
1609 to 1612

Exhibit
162/23 and
Qs. 1534
and 1541 to
1543 and
Committee
File 1974/4

228. In its submission to the Committee the University asserted that all transactions were properly authorised by Dr Bustard and the University's accounting procedures were applied. While adopting the attitude that Dr Bustard's authority was sufficient for the University to pay accounts, the University procedures required that all accounts for payment be authorised by an officer of the University with specific delegation. To meet this internal requirement, we were told that all requests for goods or services made by Dr Bustard were countersigned by a senior University Officer before being sent to the Accounts Department for processing.

229. By way of explanation of the normal procedures applied by the University in respect of its many research projects, the Committee was told that research grants administered by the University could be broadly categorised into three groups:

- (i) normal university research from University funds,
- (ii) University research from a restricted fund given to the University without any restrictions, and;
- (iii) funds for which the University acted as agent

230. From information supplied to the Committee it is clear that the University believed that the grants were agency funds administered on behalf of the Office of Aboriginal Affairs and that this "agency function" limited the University's ability to apply its normal procedures. It was stated that the details and the acceptability of expenditure on projects emanating from grants of the first type would all be decided within the University's approved procedures but in the case of a grant of the third type, the details of the project would be decided outside the University. The witness believed that while Dr Bustard continued as an employee it may have been able to follow its normal procedures but once Dr Bustard ceased to be an employee the situation was different as the constraints were clearly determined outside the

Exhibit
162/23 and
Q. 1526

Q. 1600

Q. 1571 and
Committee
File 1974/4

University⁸. While it may have been possible to apply normal procedures prior to August 1971, the University's understanding that it could accept the sole authority of Dr Bustard led to the adoption of the attitude that it would probably be improper for the University to officially query any expenditure approved by him.

231. In relation to the administration of the grants subsequent to August 1971, we were told that the University understood that the grants would continue to be administered in accordance with the original understanding. In the belief that the Office of Aboriginal Affairs fully accepted the responsibility for determining all aspects of the projects the University thought it unnecessary to confirm in writing what it believed to be a quite clear change in the relationship between the first and subsequent grants. Q. 1535

232. In its submission the University advised the Committee that the Secretary of the University (Mr Hohnen) arranged for the University's Internal Audit Section to carry out a full review of financial transactions during the period the University had been responsible for the projects. The Committee was told that this review had been ordered following a visit by Senator Georges who had expressed some disquiet about the handling of the turtle and crocodile projects. At the inquiry we were told that there were no recognised problems prior to the visit by Senator Georges in September 1973 although witnesses who had been responsible for the authorisation of accounts admitted that there were occasions where expenditure had been queried. The officer who had been in charge of the University's Internal Audit Section at the time stated in evidence that Internal Audit was not aware of any problems with the projects until after the Secretary of the University had requested a review. Exhibit 162/23 and Qs. 1592 to 1594, 1615, 1616, 1620, 1626, 1631, 1632 and 1636 to 1639

8. The Committee was advised that, with the exception of the original grant of \$27,730, all grants paid to the A.N.U. in respect of the turtle and crocodile projects were paid after Dr Bustard ceased to be an employee of the University.

Exhibit 162/23

(v) Extent of Control

233. The Department, in its submission to the Committee and at the public inquiry, stressed that the Office of Aboriginal Affairs did not have access to the vouchers or documents relating to expenditure on the turtle and crocodile project prior to the Auditor-General raising queries regarding the expenditure. The witness explained that the Office/Department would never seek to examine all the vouchers in respect of a particular grant unless there was particular cause for concern. The routine checking of all vouchers for all grants would impose an impossible load on the staff available.

Exhibit 162/4 and Qs. 656 and 765

234. The Committee learnt that the extent of financial control by the Office was limited to the assistance it gave in the preparation of the budgets and to the checking of periodic financial statements received from the University. The witness stated that the Office had checked these statements, to the extent that their staffing allowed, to ensure that expenditure was proceeding in accordance with approved budgets. Also, on occasions, Dr Bustard would provide the Office with a general report on progress in response to specific requests but the major responsibility for the provision of statements of financial progress rested with the University.

Qs. 656, 657, 660, 678, 764 and 765 and Committee File 1974/4

235. The Committee was advised that the financial statements received from the University were not audited because they formed an integral part of the University's accounting system and were subject only to audit within that general system. It was admitted that the Office of Aboriginal Affairs had operated under a misconception in believing that the statements themselves would be audited. A witness representing the University confirmed that the statements, although prepared within the University Accountant's Office, had not been subjected to internal audit. He also informed the Committee that the statements had, following agreement between an officer of the Office (Mr Janetz) and the University Accountant in May 1972, been supplied on a quarterly basis.

Qs. 681, 686 to 688 and 1587

236. The Audit Observers (Mr Scott and Mr Hinchy) informed the Committee that the Auditor-General was the auditor for the Australian National University but the financial statements the University was providing to the Office of Aboriginal Affairs were not audited financial statements and bore no evidence that they had been audited in accordance with the requirements of Treasury Direction 23/8. We were told that the Auditor-General's Office would examine the adequacy of internal controls, checks and procedures in the University accounting system and sight the reports of the more detailed checks made by the University's internal auditors. It was not possible to cover every item of expenditure by the University but it was possible that two or three projects would be examined in detail. Mr Hinchy agreed that once the Auditor-General had issued a certificate in relation to the University's financial statement as a whole it could be taken that he was satisfied with the procedures and controls.

Qs. 757,
759 to 761
and 767

237. It was drawn to the Committee's attention that Treasury Direction 23/8^a, as it then applied, required certification that the purposes and conditions of the grant had been complied with. One departmental witness explained that, in discussions with the Accountant of the University he was told that audited statements could not be provided to the Office of Aboriginal Affairs but he was assured that vouchers relevant to the project would be part of the University's accounts and would be audited by the Auditor-General's Office in due course. Mr Scott, the Audit Observer, pointed out that the Office of Aboriginal Affairs could have made arrangements for the University's internal auditors to audit and certify the financial statements it would receive. Another witness for the Department believed that if the assumption that the University was treating the accounts in the normal way was correct, the statements of expenditure would have been quite sufficient.

Qs. 761, 762
and 765

238. Further information regarding the system of auditing the Australian National University accounts was provided by witnesses

Q. 759

9. See Chapter 4 "Control Over Grants", page 46 for the full text of the Treasury Direction prior to its amendment.

for the University who informed the Committee that, in addition to audits being undertaken by its own internal auditors and by the Auditor-General's Office, the University engaged a firm of auditors, Fell and Starkey, to carry out audits and report to the University Council. It was explained that as the financial affairs of the University expanded, the University Council felt the need to have a firm of auditors who were responsible to the Council and were constantly available to it. The Committee was told that consultation took place between the three groups of auditors and the Audit Observer (Mr Scott) explained that any reports made by Fell and Starkey were available to the Auditor-General and his staff for perusal.

239. The Committee was told that, although the University's internal audit procedures did involve checking a variety of special projects, a 100 per cent check of research grants was not undertaken and no check of the accounts relating to the turtle and crocodile projects had been made by the University's internal audit group, by Fell and Starkey or by the Auditor-General until after September 1973. A witness for the University pointed out that two-thirds of the \$360,000 spent on the project which had been handled by the University had been spent in the period January - June 1973 and the amount spent on the project between October 1970 and January 1973 would not stand out in an area where there were some four or five hundred special accounts.

Qs. 1546,
1563 and
1590 and
Committee
File 1974/4

240. The University witnesses agreed that the turtle and crocodile projects were unique among the projects handled up to that stage and he conceded that, with the benefit of hindsight, it should have received more attention. However, it was pointed out that unless there were gross peculiarities, the University's audit staff would not become involved. Determination of the priorities of research projects and the consequent allocation of funds was normally an academic matter. The Committee's attention was drawn again to the University's belief that it was merely acting as agent for the Office of Aboriginal Affairs in regard to these projects.

Qs. 1598,
1599, 1601
to 1603 and
1605

241. Mr Scott, the Audit Observer, told the Committee that the Auditor-General had not been aware of the unusual nature of the projects until early in 1973. He stated that the projects were noted for special attention but the matter was not brought to the University's attention at that stage for, in considering the handling of projects of this nature, the Auditor-General's Office preferred to conduct its own investigation before deciding whether there was a case for referring the matter to the controlling body for attention.

Qs. 1604
and 1605

242. Upon seeking information regarding the extent of control exercised by the University the Committee learnt, as mentioned above, that the University required that all expenditure authorised by Dr Bustard should be countersigned by an officer of the University. It was explained that in countersigning such accounts, the University was indicating that the accounts had been properly authorised by Dr Bustard. However, while indicating that the expenditure had been certified by Dr Bustard as being correct, the University did not accept any responsibility for ensuring that the expenditure itself had been incurred correctly although if any expenditure appeared to be of an unusual nature, the University may have checked with the Office of Aboriginal Affairs.

Qs. 1526,
1532, 1533
and 1583

243. The University's submission stated that some personal contact in the approving of expenditure was maintained between senior officers of the University and the Office of Aboriginal Affairs. One of the witnesses, who had been responsible for countersigning vouchers, stated that he had agreed to watch for unusual items of expenditure and explained that he had, on several occasions, contacted the Office regarding items he considered unusual. As examples, the witness referred to large amounts of expenditure on outboard motors and an overseas travel itinerary he believed should be queried. The witness emphasised that these contacts were unofficial and that he would have made no record of them other than to note on the voucher a comment such as "checked with Department". He believed that, given that the University understood that Dr Bustard had the sole authority over expenditure of the funds, it

Exhibit
162/23 and
Qs. 1527,
1544, 1545,
1571, 1577
to 1579, 1581
and 1582.

would not have been proper for the University to withhold funds or to officially query any expenditure which had been approved by Dr Bustard. He also pointed out that any queries he did follow up with the Department would have been due to the size of a particular expenditure, or where a continuing commitment would be involved, and was never intended as any suggestion of impropriety.

(c) Control of the Grants from 1 June 1973

(i) Formation of Applied Ecology Pty Ltd

244. As reported by the Auditor-General, control over the turtle and crocodile projects and of expenditure from grants provided by the Department was transferred to Applied Ecology Pty Ltd, a wholly owned Government company, from 1 June 1973. The Committee learned that this company was one of three subsidiaries of Aboriginal and Islander Development Corporation Pty Ltd which had been formed to conduct the full range of activities emanating from the turtle and crocodile projects. It was originally intended that Applied Ecology Pty Ltd should be responsible for the research aspects only. However, because the Parent Company had not been incorporated and because the other two subsidiaries (Aboriginal and Islander Products Pty Ltd¹⁰ and Aboriginal Islander Marketing Pty Ltd¹¹) had performed only limited roles,¹² effective responsibility for expenditure on the projects rested with Applied Ecology Pty Ltd.

P.P. 13
of 1974,
Exhibit
162/26 and
Committee
File 1974/4

245. Witnesses for the Department explained that in February 1973, after Dr Bustard had informed the Department of the University's desire to terminate its association with the project, the Department had proposed to the Minister that the operation of the projects

Q. 690

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10. Intended to purchase and process the products of individual farms
11. Intended to undertake the marketing function both local and overseas
12. See paragraphs 461-467 for further comments on these two subsidiaries

should continue under the control of a company. It was stated that a company structure was proposed because the department had previously found the formation of companies to be a useful vehicle for protecting the Government's interests. The Committee was told that the Department did not feel it necessary to inform the Treasury of its intention but had acted in accordance with previous advice received from the Attorney-General's Department that the formation of a company, with departmental officers as directors, was an appropriate step.

246. The Committee was informed that the Department had rejected the idea of running the projects itself on the grounds that such a situation would lack flexibility and was contrary to departmental policy to avoid involvement in operational matters. As a general rule the Department preferred to hand projects to bodies which had been incorporated or registered under appropriate legislation. The Department believed this ensured adequate control of projects without encumbering the Department beyond its capacity to cope.

247. The Committee was advised that although the Department commenced action to form Applied Ecology Pty Ltd around February 1973, the actual formation of the Company was rushed through to enable transfer of responsibility from the University to occur from 1 June 1973. An amount of \$25,000 was transferred by the University to the Company on 5 June 1973 representing the balance of the University's grant but it was necessary for the Company to refund an amount of \$17,903.82 on 17 July to meet some outstanding commitments on the projects. The University tendered a statement of account to 30 June 1973 to the Department and to the Company's accountants, Peat, Marwick and Mitchell.

248. From 1 June 1973, when the company assumed responsibility for the projects, the directors of the company were Dr H.R. Bustard, Mr N.J.L. Jenez and Mr B.K. Thomas, the latter two being departmental officers. Senator G. Georges became a member of the

Qs. 690 and
723

Qs. 690 to
693, 1585
and 1586 and
Committee
File 1974/4

Qs. 1859,
1863, 1885,
1877 and
Committee
File 1974/4

Board on 6 July 1973 and Mr J.M. Neill and Mr R.W. Thorburn joined on 30 August 1973. Senator Georges was appointed Chairman on 30 August 1973 and resigned on 24 September 1974. At 17 April 1975 the Board of Applied Ecology Pty Ltd comprised Mr L.P. Smart (Chairman), Mr J.M. Neill, Mr M.M. Fuzzer, Mr J.D. McGuinness (the departmental representative), Dr K.R. Allen and Professor D. H. Trollope.

249. The Committee was told that Dr Bustard resigned from the Board of Directors on 4 March 1975. It was stated that he had previously been dismissed as an employee of the Company on 29 November 1974. The witness explained that the dismissal had occurred because Dr Bustard had acted in a manner which was:

"detrimental to the Company's interest, to the work it was designed to do and to the people it was intended to serve."

250. The Company witness conceded that the dismissal had created a void which had not been completely filled at the time of his appearance before the Committee on 18 March 1975. He pointed out that the appointment of scientific directors, Dr Allen and Professor Trollope had assisted the Company to extract itself from the trough in its activities and that these directors had interviewed possible replacements for Dr Bustard. The Committee subsequently learnt that Mr John Kowowski, a graduate of Perth University, specialising in marine biology, had been employed to take over the work of Dr Bustard.

(ii) Control of Expenditure - Aboriginal Affairs

251. In seeking information regarding the control exercised by the Department following the transfer of responsibility for the projects from the Australian National University to Applied Ecology Pty Ltd, the Committee was advised that no specific directives, as to how proper control of the funds should be maintained, had been issued to the Company. However, the Committee was assured that funds would be properly accounted for because the Department had two representatives

Qs. 1869
and 1870 and
Committee
File 1974/4

Q. 1931 and
Committee
File 1974/4

Qs. 692 and
737

on the Board of Directors while other Directors were appointed by, or in consultation with, the Minister; the company had specific obligations under company legislation; and accountants (Peat, Marwick, Mitchell and Co) and auditors (Edwin V. Nixon) had been appointed.

252. In elaborating on the role of the Departmental officers who were also on the Board of Directors of the Company, the Permanent Head explained that the Department did not use its influence with these officers as an opening for departmental intervention in the Company but allowed them to operate as independently as possible. He explained that the officer responsible for preparing the submission seeking ministerial approval for further funds was also a member of the Board of Directors and was thus well aware of what the situation was. He conceded that this could result in a conflict of interest. It was pointed out that the Department normally sought execution by the Treasurer of an indemnity to cover departmental officers against the processes of company legislation.

Qs. 698, 702
and 703

253. The departmental witness did not believe it was necessary for the Department to be aware of the decisions of the Board but it was pointed out that there had been regular consultation between the Chairman of the Board and the Minister and copies of Board minutes and company accounts prepared by the company's accountants were forwarded to the Minister each month. The Department did not become aware of any consultation between the Minister and the Board unless the Minister sought comments on a particular aspect.

Qs. 700, 701,
703 and 721

254. The Committee was advised that the Department required documentation from the Company before approving funds for the turtle and crocodile projects. It was explained that audited financial statements were required at the end of the financial year to ensure that funds had been properly expended and to provide the Department with an ex post facto control. In addition to requiring an annual audited statement, the Department obtained

Qs. 708 to
711, 714
and 718

periodic statements to justify payments from the approved funds. It was brought to our attention that although approval of the grant was to be made on an annual basis, payments were made as necessary throughout the year. The departmental witness believed that the documentation received enabled adequate control of the funds to be maintained.

255. In referring to the auditing of the books of Applied Ecology Pty Ltd, a departmental witness pointed out that the Board of Directors had passed a resolution giving the Auditor-General access to the Company's books. However, the Audit Observer (Mr Scott) stated that he was unaware of the resolution and stated that such action by the Auditor-General would not be proper as the Company's books were audited privately. He explained that the Auditor-General's only association with the Company would be in examining the periodical audited statements submitted to the Department.

Qs. 715
to 717

256. The Committee was advised that the retrospective examination of expenditure on the turtle and crocodile projects which was being conducted as a result of the Auditor-General's queries related only to the period when the University had been responsible for making payments relating to the project. No examination of expenditure by Applied Ecology Pty Ltd was involved in the Department's follow-up of the Auditor-General's Special Report.

Q. 816

(iii) Control of Expenditure - Applied Ecology Pty Ltd

257. The Committee received a submission from Applied Ecology Pty Ltd which set out the procedures applying to the control of the turtle and crocodile projects being exercised by the Company. The procedures referred to in the Company submission related to the period from 31 August 1973 when the Board of Directors made a number of decisions specifying procedures for the control and authorisation of expenditure on the projects.

Exhibit
162/28 and
Q. 1945

258. Although the Committee sought details of the controls existing in the period between 1 June 1973 and 31 August 1973, we were unable to obtain any definitive statement of the extent of controls from the witness representing the company. He stated that he had not been appointed Company Secretary until 30 August 1973 and, although he had been associated with the projects and the changeover to company responsibility for them from 19 March 1973, he did not know how the Board had controlled expenditure prior to 30 August.

Qs. 1865,
1887, 1943
and 1944

259. The witness told us that the controls relating to expenditure on non-capital items, maintenance expenses and services (as outlined in the submission) had been in existence at the time that Applied Ecology Pty Ltd had assumed responsibility for the projects on 1 June 1973 but he was unable to tell the Committee whether there had been any oversight of expenditure at Board level prior to 31 August 1973. The witness also pointed out that controls had existed in respect of expenditure on capital items prior to 31 August 1973 but they had not been of the type outlined in the Company submission. He commented that Dr Bustard, who was Managing Director of the Company at the time had believed that the administrative portion of the Company should be subservient to the operational portion. The witness stressed, however, that expenditure in the period from 1 June 1973 and 31 August 1973 had been subjected to a "full and complete audit of the basic documents" when the Company's books for the period 6 March 1973 (the date of incorporation) to 30 June 1974 had been audited by Edwin U. Nixon and Partners and he forwarded to the Committee, by way of supplementary information, a copy of the auditor's report.

Qs. 1937,
1939, 1940,
1942, 1943
and 1946 to
1948.

260. In relation to the handover of responsibility to the Company, the witness explained that he was not directly connected with expenditure on the projects between his appointment on 19 March 1973 and the Company's assumption of responsibility on 1 June 1973. He had worked at the Australian National University on procedures to be adopted by the Company. He expressed the belief that the breakdown

Q. 1887

of expenditure which had been used by the University had not been satisfactory and had caused him difficulties when he attempted to prepare initial budgets for the Company.

261. The Company's submission informed the Committee that a list of capital items costing over \$100 was now kept in the Company's Asset Register (maintained by the Company accountants, Peat, Marwick, Mitchell and Co., 19 London Circuit, Canberra, A.C.T. 2601) and individual responsibility for every item of equipment was allocated to a particular member of the staff by signed distribution sheets. However, prior to the handover of responsibility, there had been no list of capital items and it had been necessary for the witness to prepare his own inventories from the basic documents and make a physical check to ensure that the items on the inventory existed.

Exhibit
162/28 and
Qs. 1887 and
1888

262. The submission also informed the Committee that from 31 August 1973 every item of capital expenditure (irrespective of value) had to be referred to the Board of Directors for approval before any expenditure was authorised or incurred. On 9 November 1973 the Board resolved that "Asset recording and accounting be based on assets valued at over \$100 per item" so, from that date, every item of capital expenditure costing more than \$100 per item had to be referred to the Board of Directors for approval before any expenditure was authorised or incurred. That procedure applied until 25 June 1974 when the Board resolved that "the Chairman together with the Secretary be authorised to purchase capital items (i.e. items above \$100 in value) up to the value of \$500; capital items costing above \$500 requiring Board approval before purchase". This was the procedure controlling capital expenditure on all Company projects at the time the submission was presented to the Committee in November 1974.

Exhibit
162/28

263. The witness explained that he, as Company Secretary, examined requisitions for expenditure and presented them to the Board with a recommendation and any necessary clarification.

Exhibit
162/28 and
Qs. 1879 to
1885

Board approval was required for all company expenditure and we were told that, even in relation to expenditure of up to \$500 which, since 25 June 1974, could be approved by the Secretary and Chairman, the Board exercised a final overriding control and examined the expenditure before ratification. The witness expressed the opinion that the detailed attention to expenditure which had been exercised from 31 August 1973 was most unusual and surpassed anything he had experienced in 40 years of company experience. He also told us that Dr Bustard had attended all but one of the Board meetings while he was a Director and had, at times been questioned by other Board members regarding proposed expenditures.

264. The Committee was told that the Company had a total of 126 people on staff of which 120 were Aborigines or Torres Strait Islanders and six were European. A total of 110 persons (including only one European) were involved in the turtle projects. Other members of Staff included five (including one European) engaged on the crocodile project at Edward River; three Aboriginal crocodile farmers at Kalumburu in Western Australia and two Aborigines being trained as oyster cultivators on Palm Island, Queensland.

265. The Committee was told that all salaries, wages and allowances were determined by the Board of Directors, paid fortnightly by the Company accountants and could not be varied without Board approval. The witness explained that the Board had agreed that salaries and allowances should be aligned with equivalent Public Service positions and this was done wherever possible. Members of the Board, who were not ineligible by virtue of their being employed by the Australian Government, received a fee for attendance at Board meetings. This fee had been determined after consultation with the Public Service Board and was based on the Public Service Board's fee for consultants. All Board members received expenses and travelling allowance.

Q. 1886

Exhibit
162/28 and
Qs. 1889 and
1898 to 1901

266. The Committee learned that Public Service equivalents did not apply to the turtle farmers who were paid an amount nominated by the Queensland Government. The amount paid to Aborigines and Torres Strait Islanders varied from \$104.05 per fortnight for the 93 turtle farmers to \$140 per fortnight for the 6 field assistants and \$180 per fortnight for the 3 field officers. All nine field officers/assistants had progressed from being turtle farmers.

Qs. 1886,
1892, 1895
and 1896

267. The Director's Report for the period 6 March 1973 to 30 June 1974 drew attention to the increased ratio of the wages paid to Aborigines and Islanders compared with that paid to Europeans. Aborigines and Islanders were receiving 85% of the salaries and wages component of expenditure on the project by the end of 1973-74 financial year compared with only 58% prior to the reconstruction of the Board around August 1973.

Committee
File 1974/4

268. The Company submission provided the Committee with a detailed summary of procedures relating to expenditure on "Non Capital Items, Maintenance Expenses and Services". The procedures applying in this area are:

Exhibit
162/28

"Field Officer requirements:

- (a) Local purchases. For local purchases (fuels, oils, consumables, etc.) of up to \$50.00 for any one order, Field Officers use official, printed, serially-numbered order forms over-stamped "NOT OVER \$50.00". On receipt of the goods ordered, the Field Officer pays the supplier directly by cheque from a \$500.00 imprest local bank account in the name of the Company. An expenditure limit of \$200.00 per month is imposed on the Field Officer's imprest account. Also on receipt of the goods ordered, the Field Officer acquits the order form and sends a copy of the acquitted order form, together with the receipt for payment, to Head Office where these documents are checked and, if in order, the imprest account is reimbursed to the extent of the documented expenditure.
- (b) Field requirements beyond local purchase powers. For requirements beyond local purchase power, Field Officers use an official, serially-numbered requisition form.

The completed requisition forms are forwarded to Head Office where requisitions up to the value of \$500.00 are approved or disapproved by the Chairman of Directors in conjunction with the Company Secretary and requisitions over \$500.00 are referred to the Board of Directors for decision.

Head Office Ordering System:

The only other ordering procedure used by the Company other than the Field Officer ordering system referred to above, is that controlled by the Head Office of the Company using official, printed, serially-numbered Company order forms. These order forms are closely safeguarded and may be signed by the Company Secretary only. Official order forms are issued to cover all goods and services purchased by the Company with the exception of the regular, continuing services such as salaries, office rent and telephone charges.

Control Limit:

With the exception of regular, continuing services such as salaries, rent and telephone charges, all expenditure on non-capital items, maintenance expenses and services above \$500.00 must be referred to the Board of Directors before expense is authorized or incurred in the same manner as for capital items costing above \$500.00."

269. The Committee was told that the Company had five imprest accounts for field officers. Accounts located in One Arm Point, Kalumburu and Townsville, were inoperative. The only two operating were those used by the maintenance supervisor in the Torres Strait area and by the Manager of the Edward River crocodile farm. The witness stated that two detailed checks, one by his assistant and a second by himself, were carried out on the expenditure documents before the imprest account was restored to its maximum level of \$500. In relation to documentation for expenditure above the local purchase delegation (\$50) the Committee was advised that the serially numbered requisition forms contained all the information the Board considered necessary to allow decisions to be made. The witness stated that the great majority of requisitions from the field would go through Head Office and as an

Qs. 1902 to 1905 and 1911 to 1915 and Committee File 1974/4

example of the expenditure of this nature provided us with the following breakdown of expenditure on equipment and repairs, maintenance and supplies for the period 1 July 1974 to 28 February 1975.

(a) Field Officers Requisition	\$2,324	6%
(b) Purchases resulting from requisitions placed by Field Officers	\$16,100	41.4%
(c) Purchases resulting from Head Office requisitions	\$20,358	52.5%
	<u>\$38,782</u>	<u>100%</u>

270. In its submission the Company stated that all expenditure documentation was acquitted and certified by Company personnel and passed to the Company accountants for checking, auditing and payment processing. Every approved document (including all invoices, statements etc.) requesting payment from the Company was passed to the accountants bearing an "approved for payment" certification by the Secretary personally and only these were processed for payment. In accordance with a Board resolution of 31 August 1973 all cheques were drawn by the Company accountants and bore the signature of the Secretary or Public Officer and a Director. In evidence the witness explained that the Company accountants performed all accounting functions beyond the acquittance of the documents. He explained that this was done because the Company's Head Office staff consisted of only six, including one Aboriginal and one Islander under training.

Exhibit 162/28 and Q. 1916

271. In relation to obtaining funds from the Department of Aboriginal Affairs the witness explained that the Board of Directors examines and approves a draft financial budget prepared by himself. The budget is then submitted to the Department for approval. Once the budget has been approved, the Department provides the Company with an initial allocation according to the Company's cash flow submission. Further cash allocations against the total grant are made as necessary by the Department to the Company.

Qs. 1906 and 1924

(d) Retrospective Examination of Expenditure(i) Progress of Examination

272. In his Special Report upon the Financial Administration of the Department of Aboriginal Affairs, the Auditor-General referred to a number of specific items of expenditure on the turtle and crocodile projects about which he had sought comments from the University and the Department. Details of the nature of these specific audit queries and the replies received were reported at Appendix B of the Special Report (see Appendix B pages 308-314 of this Report).

P.P. 13
of 1974

273. The Department of Aboriginal Affairs stated in its submission to the Committee that almost all of the specific queries related to payments or authorisations by the University on documents submitted by Dr Bustard to the University. The submission pointed out that, as the documents relating to these items were not available to the Office of Aboriginal Affairs, the Office had no means of knowing whether the expenditure was justified. It was explained that a retrospective examination of expenditure would be undertaken and the Department expected that this would indicate whether all expenditure was necessary or a correct charge to the projects.

Exhibit
169/1

274. At paragraph 3.1.2 of his Report for the year ended 30 June 1974, the Auditor-General made the following comment in relation to the retrospective examination of expenditure on the turtle and crocodile projects.

P.P. 331
of 1974

"The Department recently informed my Office that it had undertaken a retrospective examination of all expenditure by the University on the projects; the University, whilst co-operating to the extent of permitting an examination of expenditure vouchers, did not permit access to other University files or records; the examination was therefore confined to expenditure vouchers, stores issue advices and salary payments. Clarification and explanations of certain aspects of the projects had been sought by the Department from Dr Bustard, the University and others involved. Pending completion of the departmental examination most of the Audit queries remain unresolved."

275. In evidence given in August 1974, the departmental witness stated that an officer of the Department had been engaged on the retrospective examination for a period of almost four months. In that time he had examined 10,000 vouchers covering the period October 1970 to June 1973; all salary payments and revenue items for the period; 20,000 stores issue and approximately 100 vouchers from the Queensland Department of Aboriginal and Islander Affairs. The Committee was told that about 1,200 items were considered worthy of further examination. Approximately 500 items were referred to Dr Bustard for explanation and explanations had been sought from the University in respect of fifty items.

Q. 815

276. The Committee was informed that the Department had experienced difficulties in undertaking its retrospective examination of expenditures because it had, as reported above, been denied access to certain University files and records. A further inhibiting factor was the absence of Dr Bustard overseas.

Qs. 792 and
815

277. In relation to the question of the Australian National University withholding certain material from the departmental officer we were told by the Audit Observer, Mr Hinchy, that the Audit Office was not involved in the retrospective examination of the projects. This had been left to the Department and beyond advice received from the Department in a memorandum of 1 August 1974¹³, the Auditor-General's Office was not aware of the progress of the examination.

Qs. 823 and
824

278. Mr Hinchy commented that if the Department did not have access to all the University's records relating to expenditure it would be unable to satisfy itself as to the correctness or other-

Qs. 825 to
827

13. Parts of the text of this memorandum were quoted in evidence and contained information substantially the same as that reported at paragraph 3.1.2. of the Auditor-General's Report for 1973-74 and which has been quoted in paragraph 274.

wise of a particular item of expenditure. Mr Scott, also from the Audit Office, believed that had the Department been able to obtain sufficient information from its examination of the vouchers, it would have replied to the Auditor-General's queries. He assumed that, as replies had not been forthcoming, the Department had not been able to obtain sufficient information. Mr Hinchy stated that he understood that the Department had requested the University to provide additional information.

279. In its submission to the Committee the Australian National University stated: Exhibit 162/23

"The University is co-operating with officers of the Department of Aboriginal Affairs who are making an examination of expenditure on the projects. All financial records are available."

280. In evidence before the Committee, the Secretary to the University said, in an opening statement to the Committee: Q. 1523

"No records have been withheld from staff of the Auditor-General. Dr Bustard's personal file and one other file containing reports to me, to the University Council, to the Auditor-General and to this Committee may be said to have been withheld from the officer of the Department of Aboriginal Affairs sent to undertake a retrospective examination of expenditure on the project, although in fact no formal request was made for them. The officer has had access to all the supporting papers about them and was invited to seek such further specific information as he needed."

281. The witness for the University, on subsequent questioning with regard to access by departmental officers to University files reiterated that only the two files had been withheld and stated the University's opinion that it was not appropriate for the departmental officer to have access to these particular files. The witness stressed that all papers relating to expenditure on the project were made available and the Department was invited to follow-up any particular questions which arose as a result of the examination. Qs. 1660 to 1664.

282. The University witness pointed out that the Department had in fact sought further information on 12 August 1974 and that the University had replied to this on 21 October 1974. While providing some information in relation to the Department's question, the University stressed that it had not queried the details because it had believed that Dr Bustard had had full authority to approve expenditure.

283. In relation to Dr Bustard's absence from Australia, the Committee learnt that he had left for India in April or May 1974 for a short visit and departmental witnesses at the inquiry indicated that he had returned to Scotland and had not expressed any intention of returning to Australia. University witnesses confirmed his whereabouts, stating that they had received a letter from Dr Bustard from Scotland some time during October 1974.

284. The witness for the Department emphasised that, in commenting on the difficulties caused by Dr Bustard's absence and on the necessity to ask Dr Bustard for explanations on 500 items he had not intended to give the impression that Dr Bustard had acted improperly. He pointed out that Dr Bustard had no supporting staff assisting him on the turtle and crocodile projects and it was quite inevitable, in such circumstances, that errors would occur. Q. 818

285. At the public hearing on 1 November 1974, departmental witnesses informed the Committee that the Department had received a reply from Dr Bustard in relation to the Department's queries on expenditure on the turtle and crocodile projects. The Committee was told that the reply was not considered satisfactory in all instances and would be further pursued with him. Q. 1754

286. At paragraph 3.1.2 of the Auditor-General's Report for 1974-75, the following comment was made regarding progress on the retrospective examination of expenditure on the turtle and crocodile projects: P.P. 186 of 1975

Q. 1665 and Committee File 1974/4

Qs. 908, 915, 918, 1491, 1492, 1498, 1675 and 1683 to 1688

"Further advice is awaited from the Department relating to the completion of its examination of this matter."

(ii) Recoveries Made

287. The Committee was informed that, as a result of the retrospective examination of expenditure a total of \$1867.80 had been recovered in respect of expenditure on travel overseas and within Australia. Amounts recovered were:

- \$846.60 - credit from Qantas Airways for unused travel from Edward River to Bangkok and return
- \$ 98.60 - credit from Ansett Airlines for unused travel Thursday Island to Cairns to Normanton
- \$ 22.60 - credit from Ansett Airlines for unused travel Normanton to Mornington and return
- \$200.00 - T.A.A. refund of unused miscellaneous charges order
- \$700.00 - unused travellers cheques formerly issued to Dr Bustard for Overseas travel

Exhibit
162/23 and
Qs. 793 to
796 and
1651 and
Committee
File 1974/4

288. In commenting on the extent of overseas travel undertaken by staff attached to the projects, the departmental witness pointed out that the limiting factor was the funds provided for this purpose in the annual budgets. He stated that Dr Bustard had not been required to obtain approval before embarking on any overseas visits but he had generally informed the Office that he was going. The Office had believed that the visits were justified and had understood that travel would be properly approved within the University's normal accounting procedures. However, it is clear from the evidence given in the inquiry and from correspondence between the University and the Auditor-General and the Department that the University did not see

Qs. 818 and
1655 and
Committee
File 1974/4

itself as having a duty to question any program of travel which had been properly authorised by Dr Bustard although it did concede that it should have taken appropriate action to obtain reimbursement where advances had not been acquitted or where an airline ticket had not been used.

Conclusions

289. The Committee believes that the evidence presented confirms the conclusion reached by the Auditor-General in his Special Report that neither the Department nor the Australian National University exercised adequate control over the expenditure of substantial amounts on the turtle and crocodile projects. While the Committee received no direct evidence of any fraudulent practice relating to expenditure of the funds it is clear that possibilities for fraud and the misuse of public moneys existed as a result of the failure of either the Office of Aboriginal Affairs (and later the Department) or the University to exercise satisfactory control over expenditure of the funds allocated for the turtle and crocodile projects.

290. The Committee is not satisfied that the Office of Aboriginal Affairs gave sufficient scrutiny to the initial proposals relating to the projects before recommending that they be approved. While recognising that the Office may have had limited staff resources at the time the projects were first approved and that the projects may have appeared attractive because of the size of the initial grant and the prospect of the projects being financially self-supporting within three years, the Committee would express its concern that no study of the economic and ecological implications of the projects was considered necessary until September 1973 after more than \$1,200,000 had been allocated to the projects.

291. The Committee, in apportioning responsibility for the lack of definition of the respective duties of the Office of Aboriginal Affairs

and the Australian National University in relation to the projects, believes that both should share some of the blame but that the Office of Aboriginal Affairs is deserving of greater criticism because of -

- (i) Its failure to draw up a precise set of conditions for the grants in an appropriate form;
- (ii) Its failure, in the letter of 19 November 1970 to provide the University with a clear "statement of the terms of the grant", as requested by the University in its letter of 19 October;
- (iii) Its failure to ensure that the financial statements relating to the projects received from the University were properly audited as required under Treasury Direction 23/8; and
- (iv) Its failure, either through formal or informal contact with the University to ascertain the precise nature of the "normal procedures" the University would follow in administering the grant.

292. On the other hand, the Committee believes that the Australian National University contributed to the confusion surrounding control of the grants through:

- (i) Its failure to follow up the Office of Aboriginal Affairs' letter of 19 November 1970, which clearly failed to provide the "statement of the terms of the grant" requested in the University's letter of 19 October, and
- (ii) Its failure to make clear to the Office of Aboriginal Affairs its relationship with Dr Bustard and the effect this had on the University's handling of the projects, particularly after Dr Bustard ceased to be an employee of the University.

293. The Committee has noted the Department's reasons for vesting responsibility for the projects in a Government-owned company from 1 June 1973. The Committee is satisfied that the Department is able to ensure that funds now allocated to the projects are properly accounted for.

294. The Committee is concerned that the operations of projects such as the turtle and crocodile farms were conducted in such a way so that they were removed from the scrutiny of the Auditor-General's Office. The Committee is strongly of the view that all Government-owned companies should be subject to the scrutiny of the Auditor-General. The Committee is also of the opinion that consideration should be given by the appropriate authority to the question of a possible conflict of interest developing for officers of departments who are appointed directors of such companies.

295. The Committee is generally satisfied with the control of funds allocated to the projects by Applied Ecology Pty Ltd since 31 August 1973. However, the Committee registers its concern at the handling of the projects between 1 June 1973 and 31 August 1973. It is not apparent from the evidence that the rigid controls over expenditures, which have been exercised by Applied Ecology Pty Ltd since 31 August 1973, had been in existence from the commencement of the Company's responsibility for the projects from 1 June 1973. The Committee is disturbed that the witness for the Company, although an employee at the time, was unable to give details of the controls during that three-month period. However, the Committee notes that expenditure for the period had been subjected to a full and complete audit of the basic documents by the Company's auditors.

296. The Committee believes that the Department's control of expenditure on the projects should have included the necessity for Dr Bustard to submit details of proposed visits in support of amounts for overseas travel included in the project budgets.

297. The Committee has noted that progress on the retrospective examination of expenditure payments made by the University on the projects, has been slow. The Committee appreciates that there are problems inherent in the Department attempting to satisfy queries on this expenditure by communicating with Dr Bustard, the person who was responsible for authorising the expenditure, by letter. The

Committee is satisfied from the latest information provided on 2 June 1976 that the Department has made all reasonable efforts to investigate the queries raised as a result of the expenditure review. It is the view of the Committee that the point may have been reached where further investigation involving the use of scarce staff resources may not be warranted.

CHAPTER 6

ABORIGINAL LEGAL AID SERVICES

298. The Aboriginal Legal Service Program was introduced by the Department of Aboriginal Affairs, with the assistance of the Attorney-General's Department. Under the program legal assistance is provided in each State and the Northern Territory by Aboriginal Legal Services to aboriginals in need of legal assistance. Funds for Aboriginal Legal Services in each State and the Northern Territory are provided primarily by means of grants from the Aboriginal Advancement Trust Account, some minor amounts being received by way of subscriptions, donations and membership fees.

P.Ps. 13
of 1974
and 54 of
1975 and
Q. 886.

299. The Aboriginal Legal Services are self-governing bodies. Each Service is responsible for the provision of the facility in its State or Territory. The facilities provided vary between the Services and include arrangements with legal practitioners in private practice for representing applicants in individual cases, arrangements with legal practitioners on a retainer basis where the usual arrangements for individual cases cannot readily be made, and the direct employment of legal practitioners, field workers, social workers and administrative staff.

P.P. 299
of 1974
and Q.
844

300. The Auditor-General on pages 14 and 15 of his special report on the Department of Aboriginal Affairs commented on matters relating to the scheme as follows:

P.P. 13
of 1974

(a) A paper titled 'The Aboriginal Legal Service Program', prepared to provide broad guidelines for the operation of the scheme and specifying certain criteria on the nature and extent of legal assistance which might be provided, did not contain specific limitations on capital and administrative expenditure. Audit suggested as a matter for consideration that some restrictions be specified along the following lines:

(1) the grant to be expended only on capital items, other than those of a minor nature, for which specific approval had been sought when the Service submitted its budget; and

- (ii) the maximum salaries which might be paid to each category of staff (legal practitioners, field workers, social workers and administrative staff) and the proportion of funds which might be applied in relation to the employment of persons in the various categories to be specified.
- (b) Grants had been made to certain Services before the Department had received their expenditure budgets; also in advising such Services of the grants approved no conditions had been specified on the purposes for which the moneys provided might be expended.
- (c) Constitutions of certain Services had not been obtained and examined.
- (d) Although letters advising Services of grants approved required submission by each Service of annual financial statements and also quarterly returns, the form and content of the annual financial statements had not been specified and provision had not been made for the inclusion in the quarterly returns of details of actual expenditure on salaries (provision was made for rates only to be shown), capital expenditures, amounts and sources of receipts and cash balances.
- (e) Although it apparently had been envisaged that there would be a National Co-ordinating Committee for Aboriginal Legal Services with responsibilities relating to both the budgets and financial statements to be submitted by the Legal Aid Services, it was understood that the Committee had not been established. Advice was sought regarding action taken or proposed to expedite the establishment of the Committee in view of the responsibilities envisaged for it; also on the nature of alternative interim measures taken by the Department in relation to the performance of the Committee's functions pending its establishment."

301. The Department in reply to the Audit criticism stated that: P.P. 13
of 1974

- "(a) The initial arrangements made in the first half of 1973 were of a temporary nature only; they were designed to provide immediate implementation of Government policy of paying 'all legal costs for Aborigines in all proceedings in all courts'; and it had been intended to review them.
- (b) A meeting was convened in early December 1973 of representatives of the Department, all Legal Aid Services and the Attorney-General's Department. The main point

emerging from this meeting was that no further grants beyond December 1973 would be given to the Services until:

- (i) formal audited financial statements were submitted;
- (ii) formal budgets were supplied; and
- (iii) an overall assessment of the total Legal Aid Services was undertaken with a view to uniformity in operations, capital expenditure, budgeting, employment, etc.
- (c) Continual liaison between all the Legal Aid Services and the Attorney-General's Department is being maintained.
- (d) On receipt by the Department of all proposed budgets and financial statements for previous months' operations, the budgets and financial statements will be examined in detail and analysed.
- (e) An examination for the possible restructuring of the Services will be undertaken; in this regard it is intended to consider the establishment of a central secretariat to co-ordinate the activities of the Services.
- (f) Detailed guidelines for operations, expenditure, etc. will be laid down; it is anticipated that guidelines for periodical examinations of the operations of the Services will be implemented in the near future.
- (g) All rates of salary payments, fees charged etc., will be examined, checked with the Attorney-General's Department and specified when funds are made available to the Services.
- (h) The constitutions of the various Legal Aid Services, where they had not been obtained and examined are being obtained and will be examined in detail in conjunction with the Attorney-General's Department; the constitutions will also be reviewed in conjunction with the possible restructure of the Services."

302. The Department stated by way of background that a commitment to Exhibit
162/1
and Q.
852
pay "all legal costs for Aborigines in all proceedings in all courts" formed part of the Prime Minister's 1972 Policy Speech. It was also stated that the first public statement on this matter after the new Government was formed in December 1972 was apparently made on 2 January 1973 by the then Minister, the Honourable Gordon Bryant, in which he said that the Government expected to be able to carry out, in the next week,

its election promise of paying legal costs for all Aborigines. Mr Bryant went on:

"In the meantime my advice would be for Aborigines to forward any legal accounts to the Government for payment."

303. The Committee was informed that as a result of this statement accounts began to flow in to the Department. The departmental witness stated that at the time the Ministerial statement was made the Department was less than two weeks old. In the initial stages the accounts were handled by officers of the Attorney-General's Department, who approved some cases for payment and, in other cases, authorised barristers and solicitors to act on behalf of Aborigines. The Department was not aware of the methods used by the Attorney-General's Department to ascertain the authenticity of the accounts received, but informed us that a Second Division officer of the Attorney-General's Department approved the expenditure.

304. The Committee was told that the number of legal claims that flowed in during the initial period was such that, despite the critical staff shortage in the Department, two departmental officers and a senior officer from the Attorney-General's Department were employed full time in this area.

305. The Department stated that in order to replace this ad hoc arrangement, a scheme whereby the existing or developing Aboriginal Legal Services would be sponsored and subsidised in their operations was prepared as a combined effort by a ministerial consultant, an officer from the Attorney-General's Department and a departmental officer. This scheme (the Aboriginal Legal Service Program) was amended as a result of a conference on Aboriginal legal affairs held in Canberra on 9 April 1973 between representatives of the Aboriginal Legal Services, the Department and the Attorney-General's Department.

306. In relation to grants to Aboriginal Legal Services the witness said that in the initial period the amounts granted were determined

Exhibit
162/1 and
Qs. 839,
845 to
848 and
852

Q. 853

Exhibit
162/1 and
Qs. 855
and 857

Exhibit
162/1 and
Qs. 336,
859 and
861

somewhat haphazardly and were at best "guesstimates". However, as the Department developed a greater capacity, it was possible to institute a quarterly basis of funding under which the Services had to account for money advances in the previous quarter before further funding was approved. It was explained that due to the volume of work, the Department had not been able until December 1973, to specify in writing the conditions applying to a grant or the purposes for which money provided under a grant might be expended. The witness pointed out that in the earlier period a number of discussions and negotiations with the Services were conducted orally and conditions of the grants were to an extent specified orally.

307. During the course of our Inquiry, the Department informed the Committee that the conditions set out in sub-paragraph b(i), b(ii) and b(iii) on page 15 of the Auditor-General's report had been adhered to with one exception. Adherence to the conditions was a pre-requisite to further grants being made to the Services beyond December 1973. The conditions were that:

Qs. 879
and 881

- (i) formal audited financial statements should be submitted;
- (ii) formal budgets should be supplied;
- (iii) an overall assessment of the total Legal Aid Services should be undertaken with a view to uniformity in operations.

The exception was in New South Wales, where the problem encountered was that this particular Branch of the Aboriginal Legal Aid Services had gone beyond the purposes for which the funds had been provided. Consequently, the Department placed restraints upon this service, until such time that the Service was working on an operational basis which was satisfactory and acceptable to the Department.

308. In response to a question about the controls which had been instigated to ensure that moneys made available for specific purposes

Qs. 336 to
339, 876
and 881

had been expended for those purposes, the witness for the Department stated that because of the size of the grants and the difficulties experienced in controlling grants, the Department now funded more and more on a quarterly basis. In addition to the basic control of expenditure of an audited statement in accordance with Treasury Direction 23/8¹, the organisations were now required to justify their expenditure for every quarter before funds for the next quarter were made available. Also the performance of the organisation was reported upon by staff of the Department.

309. The Department informed the Committee that the establishment of a National Co-ordinating Committee for Aboriginal Legal Services was still under consideration but that there was little enthusiasm among the Services themselves for the concept of a central secretariat. The witness said that the Department did not wish to impose a super-structure of a central secretariat upon the Legal Aid Services against the wishes of the Services. The concept of a Central Secretariat could be accepted in the future, in the meantime the supervision and co-ordination of the Services and continual liaison between the Department, the Services and the Attorney-General's Department were accepted as departmental responsibilities.

310. The Committee was informed that until December 1973 no attempt had been made to regulate salary payments, fees charged etc. by the Aboriginal Legal Aid Services. The Department told the Committee at the time of the inquiry, that all rates of salary payments, fees charged, were examined during the Department's budget considerations, and advice was obtained on these matters from the Attorney-General's Department. In response to a query the Committee was informed that variations in the allowances and payments for solicitors employed by the Services, depended upon the quality of the people available. The Services were also able to engage outside solicitors, who were then paid the normal legal aid fees for that work.

1. See Chapter 4 "Control over Grants", page 46 for the full text of the Treasury Direction, prior to its amendment.

311. The Department informed the Committee that as a result of the establishment of the Aboriginal Legal Aid Services, a number of Aborigines had received on-the-job legal training, in particular at the field officer level.

Qs. 887
and 888

312. In relation to the other measures proposed by the Department to overcome the inadequacies in the control of this expenditure, the Department advised the Committee that a 40-page reference manual relating to the provision of Legal Aid Services for Aborigines had been drafted and would be issued after further consideration had been given to some aspects in conjunction with the Attorney-General's Department. The departmental witness explained that although the manual had not formally been issued, the instructions in the manual were in operation to a large degree. The draft manual related to the legal services to be provided, the method of providing the services, control of the services provided, Government policy on funding of services, procedure for obtaining funds, method of remitting funds to Associations, management policy and control of funds received, informatory content of financial records and the responsibility for submission of returns. The Committee was informed on 11 June 1976 that the manual had not yet been issued but the Department intended to do this as soon as it was able to.

Exhibit
162/1 and
Q. 839

313. The departmental submission stated that the first guidelines for periodical examination of the operations of the various Aboriginal Legal Services had been issued. The submission also confirmed the advice given to the Auditor-General's Office that the constitutions of the Services had been obtained and were being examined in detail in conjunction with the Attorney-General's Department. The constitutions were also being reviewed in conjunction with the possible restructure of the Services.

Exhibit
162/1

Conclusions

314. The Committee notes the measures taken by the Department to overcome the inadequacies reported by the Auditor-General in the administrative and financial control over funds expended on Aboriginal Legal Aid Services.

315. One of the measures taken was the preparation of a reference Manual containing detailed instructions relating to the operation of the legal aid scheme. The Committee was informed that the manual had not formally been issued at the time of the Inquiry because further consideration was to be given to some aspects of the manual in conjunction with the Attorney-General's Department. The Committee believes that everyone connected with the Aboriginal Legal Aid Services would benefit from having the manual available for ready reference. The Committee recommends, therefore, that the manual should be issued as a matter of urgency to provide the necessary guidance to the various Services.

316. Notwithstanding the critical staff shortage experienced by the Department in the early stages of the legal aid program, the Committee considers that such basic control measures as specifying in writing the conditions applying to a grant and the purposes for which moneys provided under a grant might be expended, should have been introduced earlier than December 1973.

CHAPTER 7EXPENDITURE ASSOCIATED WITH THE ESTABLISHMENT AND ELECTION OF THE NATIONAL ABORIGINAL CONSULTATIVE COMMITTEE

317. Early in 1973 the then Minister (Mr Bryant) decided to establish a National Aboriginal Consultative Committee (N.A.C.C.). He convened in February 1973 a meeting of 81 Aborigines, elected by himself to constitute an Interim N.A.C.C. This body elected a Steering Committee to develop specific proposals, and again met in May 1973 to endorse a program leading to the election of a N.A.C.C.

P.P. 299
of 1974

318. The Liaison and Consultation Branch of the Department organised a series of regional conferences of Aborigines during 1973 to explain the wishes of the Minister and the views of the Interim N.A.C.C. At the completion of the regional meetings, State co-ordinators were appointed, a national electoral roll was drawn up, and on 24 November 1973, elections were held in 41 electorates. More than 37,000 electors were enrolled in the 41 electorates.

P.P. 299
of 1974

319. The following comment was made by the Auditor-General in his report regarding the above elections (Appendix B page 284):

P.P. 13
of 1974

"the establishment and election of the National Aboriginal Consultative Committee (N.A.C.C.) had revealed inadequacies in the financial and administrative control over the expenditure in question. These included many breaches of the requirements of the Audit Act and Treasury Regulations."

320. In its submission the Department gave the following as background problems associated with the N.A.C.C. elections:

Exhibit
162/1

"This was a massive project, involving, inter alia, the payment of hundreds of Ministerial consultants¹, the calling

1. The departmental witness stated that these people were not ministerial consultants in the sense of being personally engaged by the Minister and agreed that enrollers, election officials or ministerial employees may have been better terms to have used.

Qs. 922 to
933

together and payment of hundreds of Aboriginal for conferences and the provision of transport facilities including vehicles, charter aircraft and boats.

The management of the Department would have preferred a more deliberate approach, and supported the view of the officer seconded from the Australian Electoral Office that from the electoral point of view the elections should not be held until April or May 1974. With such a time scale many of the deficiencies which occurred in financial control of the N.A.C.C. project, and much of the distortion of the Department's financial and administrative services, might have been avoided.

On the other hand, even under such a time scale it is probable that deficiencies would have occurred for a number of reasons. First, the operation itself was, as has been indicated, of massive proportions. Secondly, the operation was conducted to a great extent through Ministerial consultants who were not subject to effective Departmental control. In an attempt to remedy this situation, the Department sought and obtained the creation of temporary positions for the key persons involved in the operation, particularly State or regional co-ordinators; but by the time the persons involved were recruited to these temporary positions, much of the damage had already been done. Thirdly, proposals for expenditure on the various stages of the project were generally not made known to the Permanent Head, the Head of Management Services and Projects Branch and the Finance Section, and were approved without any prior certification as to the availability of funds and any recording of the commitment involved in the Register."

321. The Department in replying to queries from the Auditor-General's Office advised as follows:

P.P. 13
of 1974

"The main reasons for such shortcomings as occurred were the inexperience of officers concerned in compiling an electoral list coupled with the fact that no instructions were available; and the deadline for the actual enrolment, set by the then Minister, precluded any detailed procedures being implemented during the enrolment period."

322. In a submission to the Committee the former Minister, Mr Gordon Bryant, disputed the Department's statement made in correspondence to the Auditor-General's Office, that he had fixed

Exhibit
162/25

a specific deadline for the conduct of the N.A.C.C. elections. He stated in paragraphs 75 and 76 of his submission that:

"It is clear from the report of the Auditor-General, that the information passed to him by the Department was that I, as Minister, had fixed a specific deadline for the conduct of the N.A.C.C. elections. The inference is invited that the Minister by fixing the date prematurely had inflicted upon the Department all sorts of difficulties in the financial control and administration of the election and associated procedures."

and

"The truth of the matter is that the date of the election was the subject of advice by the Steering Committee of the N.A.C.C. which met from 19-23 March 1973 in Canberra. A number of advisers were asked to attend and were said to have provided "invaluable advice". Amongst the advisers attending was the Permanent Head. Amongst the suggestions made was the suggestion that the election be held on 30 June 1973, a date well in advance of the date finally decided. Presumably, the Secretary took part in this suggestion."

He went on to say that nevertheless, as Minister, he accepted the view that the election should be held as soon as possible.

323. The Permanent Head, Mr Dexter, subsequently informed the Committee that he had attended the meeting of the Steering Committee of the interim N.A.C.C. as stated by Mr Bryant and had given advice on the structure of the Department and the manner in which he hoped to achieve full collaboration between the Department and the N.A.C.C. He maintained that he did not take part, as presumed by Mr Bryant, in the suggestion that the election be held on 30 June 1973. As indicated at an earlier hearing his recommendation was that the elections should be deferred until April or May 1974.

Committee
File 1974/4

324. The Auditor-General also mentioned in his report a number of unsatisfactory features associated with the establishment and election of the National Aboriginal Consultative Committee. These included the absence of documentary evidence to support items of

P.P. 13
of 1974

expenditure, expenditure charged to the wrong appropriation, improper payment of fees and allowances and unsatisfactory aspects relating to the employment of enrollers. For full details of the Auditor-General's comments see Appendix B, pages 284-289 and 312-314.

325. The Department in its submission agreed that during the preparatory and enrolment periods of the N.A.C.C. some unsatisfactory features did arise. The Department also pointed out in its submission that the establishment of the National Aboriginal Consultative Committee diverted the attention and resources of the Department more than all other projects put together, and had a devastating effect on its financial and administrative control.

Exhibit
162/1

326. With regard to the approved lists of conference delegates mentioned by the Auditor-General in sub-paragraphs (a), (b) and (c) on page 16 of his report, the Committee was informed that the Department had found that it was not possible to place such a list before the Minister for his approval prior to the conference because organisations attending could not indicate who their conference delegates would be. The Department has since adopted the alternative of asking the Minister to approve a certain number of delegates and having a finance officer from the Department attend to ensure that the number attending comply with the Minister's approval. The difficulties facing the Department in this regard can be seen in the following statement by a departmental witness:

Qs. 982
and 1087

"It is related to the way things are in Aboriginal Affairs. For example, when a person is invited from these tribal communities he may bring along his brother or one or two of his wives. To not pay those other people would involve us in some problems. On other occasions in the urban situation people presume that they have been invited and that they are entitled to be there. To remove them from the premises is a rather difficult proposition also. So to smooth things over and allow the conference to become meaningful and in order to get the best out of it we allow them to remain and include them in the list of delegates. Of course, this is something which the Department appreciates. These adjustments

had to be made in order to be able to get the project under way. We did not necessarily agree with that and some of the people intruded upon the convenience of others but most made significant contributions and should have been included in the first place."

327. The Auditor-General in his report was critical of the fact that expenditure on regional conferences was charged by the Department to an appropriation when there was no proper authority for such expenditure. The Department agreed that at the time payments were made for regional conferences no formal authority existed for the expenditure. The Department explained that this was due to a difference of opinion between the Treasury and the Department. The regional conferences were set up to explain the N.A.C.C. to the Aboriginal people which the Department considered was a continuation of the normal consultative services. The Treasury had taken the view that a new initiative was involved which required the specific approval of the Treasurer. As explained in the Auditor-General's Report, the charges made to Division 112-3, Item Q2 in error have been adjusted and further adjustments were effected following the receipt of formal authority for the expenditure.

Exhibit
162/1 and
Q. 993

328. The Department in response to the Auditor-General's criticism regarding inadequate details being provided to support estimates of cost of supplies required for regional conferences has re-organised the method of estimating for supplies for conferences to ensure greater accuracy. These estimates are now referred to the Finance Sub-section for checking and final estimating.

P.P. 13
of 1974

329. The Department agreed with the Auditor-General that in some instances some or all of the expenditure incurred under a specific approval had not been recorded against that approval. However, the Department has recorded expenditure against approvals since the Finance Sub-section commenced formal operations in September 1973.

P.P. 13
of 1974

330. The Department, at the time of the inquiry, had not been able to determine whether officers on secondment from both Australian Government and State Departments were in fact paid sessional fees incorrectly. The

P.P. 13
of 1974
and Q. 1013

Committee was told that the investigation into this matter had not been completed because the officer who had been carrying it out had been promoted to another Department. At the time of the inquiry no one had been given the task of completing the investigation.

331. The Auditor-General in paragraph (i) on page 17 of his report was critical of a number of aspects relating to the temporary employment of 240 enrollers in connection with the preparation of rolls for the N.A.C.C. elections. The Department agreed that unsatisfactory features relating to the N.A.C.C. project were almost inevitable, given the pressure to have the elections completed in the shortest possible period, the inexperience of the staff involved and the task, with inadequate staff, of documenting financial procedures and instructions. The Department stated that on several occasions the expenditure of funds was approved by the Minister without the Permanent Head or the Finance Sub-section having been consulted as to the availability of funds or being informed of the approvals.

332. In regard to the Audit criticism that there was no evidence of approval by the Minister for the rates of "salary" and "allowance" paid to the 240 enrollers, the departmental witness agreed that the comment was valid in relation to the enrollers. In all other cases ministerial approval had been obtained. However, it was pointed out that the rates paid to enrollers had the agreement of the Permanent Head and the then Minister had agreed in principle to the proposed rates of salary and allowances.

333. Both when replying to the queries from the Auditor-General's Office and in evidence before the Committee, departmental witnesses agreed that tax deductions should have been made from the salaries paid to enrollers. The Committee was told that after consultation with the Taxation Commissioner on the best way to recover the situation, the Department sent out statements to the persons concerned. The Committee understands that it is now the responsibility of the Taxation Commissioner to determine what further action, if any, should be taken.

P.P. 13
of 1974
and Qs. 950,
969 and
1033

Qs. 950
to 957

P.P. 13
of 1974
and Qs.
1015 to
1020

334. The Auditor-General also stated in sub-paragraph (i) (iv) on page 17 of his report that the procedures for engaging and certifying satisfactory performance of service by enrollers were not considered to provide a proper basis of internal control. The Department in reply stated that the enrollers for the elections were appointed on the advice of Aboriginal State Co-ordinators and reasonably firm arrangements, largely of an oral nature, were made through the State Co-ordinators with the persons engaged as enrollers. In reply to a question as to whose control the sixteen State and Regional Co-ordinators and enrollers were subject, a departmental witness informed the Committee that the sixteen co-ordinators saw themselves as a team representing the N.A.C.C. itself and as having been deputed by the Minister to undertake the task of organising the elections. The Committee was told that they saw their role as the employers of the enrollers and other people required. Financial control as required under the Treasury Regulations would have been considered by them, if they had been aware of what was required, as being of very much less importance than getting the job done.

335. In Appendix C on pages 44 to 46 of his report the Auditor-General has mentioned a number of instances where officers of the Department had not complied with the provisions of the Audit Act and Treasury Regulations in relation to expenditure associated with the establishment and election of the N.A.C.C. These breaches were in respect of section 18 of the Audit Act which requires the written approval of the Treasurer or his delegate to open any public or official bank account; Treasury Regulation 45 in that reference to the requisition or other authority for the expenditure was not made on accounts covering advances made to officers and details were not shown to support the amounts advanced. There was also no evidence that the approval of competent authority had been obtained for the advances as required under Treasury Regulation 74. The departmental witness explained to the Committee that the breaches had occurred because of the limited number of staff available to attend to financial matters and a lack of knowledge by the officers concerned

P.P. 13
of 1974
and Q.
968

P.P. 13
of 1974
and Qs.
1104 and
1160

of the provisions of the Audit Act and Treasury Regulations, who would not have been aware that any offences were being committed.

Hire of Vehicles from Private Firms

336. The Auditor-General in pages 19, 20 and 47 of his report has noted a number of deficiencies in the financial and administrative control over expenditure on the hire of drive-yourself vehicles to assist in the N.A.C.C. enrolment. The deficiencies noted included lack of evidence that appropriate approvals for hire had been obtained or that prior certification that funds were available had been given. It was also stated that there was nothing to indicate that Government-owned vehicles would not have been available, that the provisions of the Treasury Directions in relation to expenditure on personal accident and vehicle damage insurance had been adhered to and that drivers were not required to maintain records of mileage and the purpose of each trip.

P.P. 13
of 1974

337. The Department, in replying to Audit representations, had agreed that there had been deficiencies in the arrangements made for the provision of vehicles for persons engaged on the N.A.C.C. enrolment project. The Department also stated that bearing in mind the target date set for the elections; that the persons involved in the use of cars were ministerial consultants²; and that the staff arranging the travel were, regrettably, unaware of the need to seek appropriate approval, the occurrence of the incidents was inevitable.

P.P. 13
of 1974

338. When questioned by the Committee on the departmental control of transport arrangements in connection with the N.A.C.C. elections a departmental witness replied:

Q. 961

"We tried to see that control was maintained as strictly as we possibly could and we thought we did this rather successfully but there were obviously some circumstances where individuals who were not used to Public Service procedures and Treasury Regulations and were not aware of the financial analysis being undertaken by the Auditor-General,

2. See footnote 1 on page 121.

made arrangements to suit their own convenience in terms of seeing that people were there to enrol appropriately in time to meet the timetable that was laid down rather rigidly by the N.A.C.C. and agreed to by the personnel in the Department and the Minister."

339. Departmental witnesses agreed that most of the expenditure proposals connected with the N.A.C.C. elections were approved without prior certification as to the availability of funds or a recording of commitments at the time of approval. The comment was also made by a witness from the Department that the people concerned were aware that there was an overall amount available in most circumstances. He further added that:

Qs. 1032
and 1033

"It was not a question of them not knowing of their own knowledge that there were funds available, but the normal procedures were not adopted in these particular cases."

340. With regard to the possible use of Australian Government vehicles, the Department told the Committee that it was doubtful if such vehicles could have been made available for the purpose of assisting with the elections as they are generally available only in capital cities or major country areas. It was also pointed out that it was necessary to be a holder of a special licence to drive Australian Government vehicles and that the Department would not have been prepared to provide such licences in a number of cases.

Qs. 1035
to 1038

341. The Committee questioned departmental witnesses on the degree to which existing contracts for hire-car services, either State or Australian Government, were utilised when arranging transport for persons engaged in organising the N.A.C.C. elections. The Committee was told that departmental officers had attempted to use existing contracts but it had been difficult in the time available to find out what contracts were in existence. However, quite fortuitously the Department received the benefit of a State Government contract with a hire-car firm operating in three States and paid the appropriate

Qs. 1039,
1040 and
1046 to
1063

Government rate. The departmental witness informed the Committee that they were not aware of the fact that a State Government contract with that firm existed until after the expenditure had been incurred.

342. In relation to expenditure on personal accident and vehicle damage insurance, the Department stated in its submission that as far as the hiring of cars from the firm that had State Government contracts in three States was concerned, the contract provided for personal accident and vehicle damage insurance to be taken out. The witness pointed out that as the Department had to comply with the terms of the contract it was precluded from following the normal policy set out in the Treasury Directions which state that the Australian Government shall act as its own insurer. In all other cases personal accident and vehicle damage insurance would have been taken out at the time of hiring by the persons arranging the hire. The departmental witness explained that in most cases this action would have been necessary as the persons concerned would not have been classified as employees of the Government and consequently not covered by the Government for personal accident and would have been personally liable for vehicle damage.

343. The Committee questioned departmental witnesses with regard to the method used to calculate mileage allowances paid to delegates attending conferences and to enrollers in connection with the N.A.C.C. elections. The Committee was told that as regards enrollers, the mileage was estimated in accordance with the distance between the towns or areas to be visited on a planned route. In some cases extra miles were added after the trip was completed to cover additional communities visited that were unknown when the journey was undertaken. The departmental witness stated that these additional miles were generally accepted as being correct and were substantiated by the fact that the enroller in question would have names from these additional areas on enrolment forms. In a supplementary submission the Department gave details of some individual cases of allowances paid to delegates attending conferences, including cases where the mileage allowance

Exhibit
162/1 and
Qs. 1040
and 1046
to 1049

Qs. 113B
to 1141
and
Committee
File
1974/4

paid exceeded the equivalent first class air fare. The Department stated that due to the passage of time, no reasons could be given as to why the respective delegates were paid mileage allowance instead of the equivalent normal transport costs.

344. In paragraph 85 of its submission the Department stated in relation to travel arrangements for the N.A.C.C. elections:

"The circumstances were such that the amount of travel required, and therefore the cost, was impossible to forecast with any degree of accuracy. Prior approval and commitment of funds would not have been a very meaningful exercise."

When questioned on this statement the departmental witness agreed that the Department was referring to the task of organising the travel within the very short time scale set down for the elections. He went on to say that the Department would be able to comply with the relevant provisions of the Treasury Regulations and Directions when carrying out such tasks in future.

345. The Committee had noted from the Auditor-General's Report that the Department had stated that:

"Arising from experience more control was being exercised in the use of rental cars and the possibility of negotiating a period contract was being explored."

In response to further questioning the Committee was told that the control now being exercised included the requirement that the approval of competent authority should be obtained before vehicles are hired. On the question of a period contract, the Department stated at the inquiry that it had not been notified by the Australian Government Stores, Supply and Tender Board whether it was possible to negotiate a period contract for the hire of cars to meet the Department's requirements throughout Australia where they couldn't be met by the hire of Australian Government vehicles.

Exhibit
162/1 and
Qs. 1041
and 1043

P.P. 13
of 1974
and Qs.
1066 to
1069

Rental of Office Accommodation, use of Telephones, etc.

346. The Auditor-General in pages 20 and 21 of his report mentioned a number of unsatisfactory features with regard to temporary rental accommodation in Perth and Cairns and the use of telephones and other facilities in Perth in relation to the N.A.C.C. elections. The main tenor of the comment was that approved administrative and financial procedures were not followed in the provision of the accommodation in that the Department of Services and Property was not consulted, prior approval was not sought for the expenditure and prior certification that funds were available was not obtained.

P.P. 13
of 1974

347. The Department had replied to the Audit criticism by stating that the employee renting the Perth accommodation was the State Co-ordinator for the enrolment and election of the N.A.C.C. and that he, like other hurriedly recruited Aboriginal temporary employees, was unable to be fully briefed on departmental procedures because of pressures on both him and the officers who might have given the briefing. The Department admitted that the Co-ordinator had made his accommodation arrangements without consulting the Department and in ignorance of the requirements of the Audit Act and that approval to pay for the accommodation was obtained after the accounts from the hotel were received. It was also stated that the office accommodation in Cairns was arranged by a temporary officer and that the first knowledge the Finance Section had of the arrangement was when the accounts arrived for payment.

P.P. 13
of 1974

348. In reply to a question from the Committee regarding the action taken by the Department to establish whether the telephone, telegram and telex charges mentioned in the Auditor-General's Report were proper charges to be met by the Department, the witness stated:

Q. 1085

"I think this relates to the fact that one of the officers was accommodated and working from a hotel or motel room. We were not aware until after it happened. He used the telephone a great deal. He has assured us that all telephone calls were official. We have no way of checking on this, of course, we can only accept his assurance."

General

349. It was mentioned in the Auditor-General's Report that the Department had given a general undertaking to review all items of expenditure relating to the N.A.C.C. elections which had been brought to its notice by the Auditor-General's Office and to institute recovery action should this be appropriate. Reference to this re-examination was also made in the Department's submission. In reply to a question from the Committee regarding the present position in this matter, the departmental witness replied that the Department did not have sufficient resources available to carry out the review and that it was considered by the Department that it would be an unproductive exercise in any event. It was indicated to the Committee that the Department intended to discuss this question with the Auditor-General's Office.

P.P. 13
of 1974,
Exhibit
152/1 and
Q. 1054

350. Departmental witnesses were asked by the Committee whether the Department had considered the feasibility of preparing a handbook for the use of people such as the enrollers engaged on the N.A.C.C. project which could set out in simple terms the departmental requirements for the financial and administrative control over the type of expenditure likely to be incurred on such projects. The Committee was informed that the Department was already in the process of preparing such material.

Q. 1166

Conclusions

351. The Committee fully appreciates the problems that a project such as the enrolment of electors and the election of the National Aboriginal Consultative Committee (N.A.C.C.) created for the Department with regard to the administrative and financial control of the related expenditure.

352. Although the Committee understands the pressures that led to the decision to hold the N.A.C.C. elections as soon as possible, the Committee agrees that the Department's difficulties were increased to a very great extent by the deadline set for the election. The date finally set allowed very little time for the Department to introduce the necessary detailed control procedures or to attempt to inform the people engaged to carry out the project of departmental requirements regarding the incurring of expenditure.

353. The Department's problems were further aggravated by the fact that the appropriate officers in the Department with financial responsibilities under the Audit Act, Treasury Regulations and Treasury Directions were often not made aware of expenditure proposals relating to the project until after the expenditure had been incurred. In this regard the Committee wonders why the departmental officers organising the enrolment and election of the N.A.C.C. were not aware of the need to keep the officers in the Department with financial responsibilities fully informed of proposals to incur expenditure. The Committee also considers it regrettable that Ministerial staff and departmental officers concerned with the election did not keep the Department's finance officers informed of all expenditure proposals as they were approved by the Minister.

354. The Committee notes the Department's statement that had the N.A.C.C. elections been held in April or May 1974, many of the deficiencies which occurred in the financial control of the project and much of the distortion of the Department's financial and administrative services might have been avoided. In this context the Department informed the Committee during the Inquiry that it was in the process of preparing instructions for the use of people such as enrollers which would set out in simple terms the departmental requirements for the financial control over the type of expenditure likely to be incurred on such projects. The Committee was informed on 11 June 1976 that the need to issue instructions to enrollers had not arisen as the next elections had been deferred pending the report of a Committee of Inquiry which was reviewing the role of the N.A.C.C. The Committee notes the Department's assurance that formal instructions would be provided to enrollers should further elections be held.

355. The Committee also notes the general undertaking given by the Department to review all items of expenditure relating to the N.A.C.C. elections which had been brought to its notice by the Auditor-General and to institute recovery action should this be appropriate. Apparently the Department was having difficulty in carrying out this undertaking because of insufficient staff resources and considered that it would be an unproductive exercise in any event. The Committee wishes to be informed of the final decision taken in relation to this expenditure review.

CHAPTER 8

ACQUISITION OF LUGGERS

356. The Auditor-General on page 21 of his report stated that:

P.P. 13
of 1974

"Audit representations were made to the Department on the apparent breach of Treasury Regulation 52 which occurred when the Department agreed by letter of 2 July 1973 to Aucher Pearling Pty Ltd to purchase the luggers 'Penguin' and 'Pelican' for \$7,500 and \$6,000 respectively. Although tenders had not been called for supply of the vessels, a Certificate of Inexpediency under Treasury Regulation 52AA was not sought until 17 July 1973. The approval of the Treasurer to incur expenditure from the Aboriginal Advancement Trust Account was not obtained until 13 July 1973.

In reply, the Department explained that on 25 June 1973 the then Minister had directed the purchase of the 2 luggers to proceed with urgency. On 2 July 1973, the Minister had approved a grant of \$13,500 to the Torres Strait Co-operative Society Limited of Thursday Island to cover the purchase of the 2 luggers. In the belief that the purchase was to be made by the Co-operative from the approved grant the Department wrote hurriedly to the vendor on 2 July 1973 to ensure the vessels were not sold. On ascertaining subsequently that the Minister intended the ownership of the vessels to remain with the Government, the Department took steps to obtain the necessary approvals before it paid for the vessels on 9 August 1973.

The vessels are presently on loan to the Co-operative pending completion of a formal lease document."

357. The Auditor-General also commented that:

P.P. 13
of 1974

"The Department was in breach of statutory requirements in agreeing to purchase the luggers before approval of the Treasurer was obtained to the expenditure from the Trust Account and before the Department obtained a Certificate of Inexpediency under Treasury Regulation 52AA. My office noted, however, that the necessary approvals were obtained before the Department paid for the vessels."

358. In its submission to the Committee the Department stated that it did not accept the Auditor-General's comment that -

Exhibit
162/1 and
Q. 1167

"the Department was in breach of statutory requirements in agreeing to purchase the luggers before approval of the Treasurer was obtained to the expenditure from the Trust Account and before the Department obtained a Certificate of Inexpediency under Treasury Regulation 52AA."

The witness for the Department stated in evidence that at the time the Department advised the vendor of the intention to purchase the luggers it was believed that the purchase would have been between the Torres Strait Co-operative Society Ltd and the vendor.

359. The Department in its submission informed the Committee that approval for a grant of \$33,500 to the Torres Strait Co-operative in 1973 to purchase the luggers was made in the following circumstances:

Exhibit
162/1

"9 April The Department received from the Minister's Office a copy of a report by Captain Benson, Consultant to the Minister, recommending the purchase inter alia of three luggers, Antonia, Penguin and Pelican.

24 April The Minister told the Permanent Head he wished to purchase all three boats. The Permanent Head's note indicates that the Minister agreed with his recommendation that in this case one vessel be reserved for the Torres Strait Co-operative based on Thursday Island and that the other two be 'envisaged for communities or individuals from within the Torres Strait Islands Reserve', subject to determinations as to how the vessels would be purchased, owned, maintained, supervised, etc.

"17 May The Department wrote to the vendors, Aucher Pearling Pty. Ltd., confirming a telephone conversation of 11 May expressing the interest of the Commonwealth Government in the vessels.

23 May Aucher Pearling confirmed the availability and price.

- 2 June Dr Bustard, whom the Permanent Head had asked to ascertain what Reserve individuals or communities might be interested in accepting two of the luggers, reported that he had found little interest among Islanders. The Permanent Head sought within the Department suggestions as to possible allocations and means of purchase, e.g. use of the Capital Fund or Applied Ecology as holding units was mentioned (the Torres Strait Co-operative was not at that stage incorporated).
- 7 June A meeting was held in the Minister's Office attended by Senator Georges, Captain Benson, Messrs King and Hall of the Minister's Office, Dr Bustard and Messrs Thomas and Janaz of the Department and discussed, without coming to a conclusion, possible uses of the three luggers, an ex-Taiwanese trawler and two ex-Army landing barges. At some stage after this meeting the Minister gave an oral direction that the three luggers should be purchased initially by Applied Ecology Pty. Ltd.
- 19 June A file note by a Departmental officer who was a Director of Applied Ecology recorded that the company had purchased the Antonia and that 'the other two vessels are also to be purchased as per the Minister's directions but we are at the moment short of funds'.
- 20 June The Minister advised Dr Bustard in Thursday Island by telegram to contact Senator Georges, also in Thursday Island, who 'will advise necessary arrangements regarding the lugger Antonia'. In a telegram to Senator Georges the Minister asked him to 'make necessary arrangements for transfer of lugger to Co-operative'.
- 22 June Aucher Pearling advised 'we have received a cash offer for both vessels (Penguin and Pelican) from a private buyer but have refrained from entering into any firm negotiations with him until we have had formal advice from your Department'.

- 22 June The Permanent Head advised the Minister that he was profoundly disturbed by problems which had arisen in Thursday Island during the visit by Senator Georges accompanied by Messrs Thomas of the Department, and Sadger of the Department of the Attorney-General. He said:

'It would appear that there have been developments in regard to these luggers of which the Department was not informed, so that, in acting upon your directions as previously given to us, we were acting in variance to apparent modifications of these instructions.'

He recalled that in discussion the Minister had agreed to the luggers being purchased as an interim measure by Applied Ecology, which might use one of the vessels itself and make one available to the Torres Strait Co-operative. However, the minutes received in the Department on or after 13 June, of a meeting held on 30 May on Thursday Island for the formation of the Torres Strait Co-operative indicated that Captain Benson had offered the Co-operative the three luggers, the Taiwanese trawler, and one landing barge. The Permanent Head, after indicating the consequential steps being taken by the Department, said:

'I do not see how the Department can avoid further similar situations - unless it can be kept informed of changes in approach or of the separate activities of your personal staff as they occur. I would... hope that changes would not be made nor commitments entered into without the Department being first given an opportunity to comment.'

- 25 June The Minister advised that purchase of the luggers as well as of two ex-Taiwanese trawlers and two ex-Army landing barges should proceed with urgency, and that, under Captain Benson's supervision, they should undergo a refit and be placed at the disposal of the Co-operative."

360. The Committee was informed that on 2 July 1973 the Minister directed that a grant of \$33,500 be made to the Co-operative for the purpose of purchasing the two remaining luggers, acquiring the

Exhibit
162/1 and
Gs. 1176 and
1188 to 1191

"Antonia" from Applied Ecology and paying harbour dues on the two ex-Taiwanese trawlers. The Department then advised Aucher Peering Pty Ltd by letter on 2 July 1973 signed by an officer of the Department for the Secretary, Mr Dexter, in the following terms:

"I accept your offer to sell the "Penguin" and the "Pelican" for \$7,500 and \$6,000 respectively. A cheque will be forwarded in the next few days."

361. The Observer from the Auditor-General's Office (Mr Hinchy), said that his Office considered this advice to be clearly an undertaking by the Department to purchase and pay for the vessels, and that no evidence had been produced to his Office to show that the Department had the authority of the Torres Strait Co-operative Society Limited of Thursday Island, to enter into a contract on their behalf. The Auditor-General's Office therefore maintained that a breach of the Treasury Regulations had occurred when the Department wrote to the Company accepting its offer in that tenders had not been called or a Certificate of Inexpediency obtained as required by Treasury Regulations 52 and 52AA. The Treasury Observer (Mr Davidson), concurred with the opinion expressed by Mr Hinchy.

Qs. 1188
to 1191

362. The Treasury Observer (Mr Davidson) was of the opinion that no further Treasury approval would have been required if a grant had been made to the Co-operative and the purchase made by the Co-operative from that grant. Both Mr Davidson and Mr Hinchy agreed that in those circumstances the Treasury Regulations relating to tendering would not have applied to the purchase. Mr Hinchy went on to say that in the opinion of the Auditor-General's Office the Treasury Regulations would apply if the Department was purchasing an item that was to be handed over to another organisation such as the Co-operative. However, both Observers were of the opinion that in this instance the Department, through its letter of 2 July accepting the vendor's offer, entered into a contract with the vendor.

Qs. 1190,
1191, 1197
and 1198

363. The Department, when questioned about its apparent acceptance of the vendor's offer, conceded that the advice to the vendor of 2 July could most certainly have been read as meaning that the Department intended to acquire these vessels, but stated that this

Exhibit
162/1 and
Qs. 1168,
1177, 1189,
1194, 1199
and 1201

had not been the intention. The witness for the Department explained that the Department had originally been negotiating with the purchasers on the understanding that it would purchase the vessels. However, towards the end of June, the Department became aware that the Minister preferred the Co-operative to purchase the luggers rather than the Department. On this basis the Permanent Head (Mr B.G. Dexter) in a minute dated 29 June 1973 advised the Minister in the following terms:

"The Co-operative will require a grant of up to \$33,500 to obtain the five vessels. This amount comprises:

- | | |
|--|-----------------|
| (a) Acquisition of the Antonia from Applied Ecology Pty Ltd (which, as you know, had purchased it in accordance with your earlier direction) | \$15,000 |
| (b) Purchase of the Penguin and Pelican | \$13,500 |
| (c) Payment of Darwin harbour dues and cost of initial equipment required by Captain Benson for the two ex-Taiwanese trawlers (by arrangement with the Co-operative these funds could remain in the Aboriginal Advancement Trust Account and we could pay out direct upon presentation of bills) say | <u>\$ 5,000</u> |
| | <u>\$33,500</u> |

I do not feel able myself to recommend this grant, since as you know, I believe the vessels could be put to better use in other ways. However, you may wish to direct that the grant be made."

364. The Department in its submission stated that in view of the Ministerial direction of 2 July 1973 that a grant be made available to the Co-operative to purchase the vessels and a letter from the vendor to the Department on 22 June saying that "we have received a cash offer for both vessels from a private buyer but have refrained from entering into any firm negotiations with him until we have had formal advice from your Department", it was considered essential to

Exhibit
162/1

advise the vendor of the approval to purchase the vessels. Even though the formal transaction would have been between the Co-operative and the vendor, in all probability the Co-operative would have requested that the cheque comprising the grant be sent direct from the Department to the vendor.

365. The witness for the Department stated that "there was no doubt in the mind of the Aucher Pearling Company in the end that the purchase was to be made by the Co-operative". However, it was finally the Department that did purchase the luggers. The Committee was informed that a letter dated 28 June 1973 from the Minister was received by the Permanent Head on 3 July 1973. This letter stated in part that the vessels should all be regarded as a unit to operate in the Torres Strait, Gulf, Arnhem Land area on loan or lease as required. The Department informed the Committee that in view of the indication in the Minister's letter and partly as a result of a press statement which seemed to indicate that the Minister had changed his mind, the Permanent Head, on 10 July 1973, sought a change in the Minister's decision of 2 July, recommending instead that the Department acquire all the vessels. He advised the Minister that the Treasurer's approval should be sought for such an arrangement, and that the Commonwealth Stores Supply and Tender Board should be approached for a Certificate of Inexpediency. On 13 July the Minister approved of the change sought by the Permanent Head on 10 July. On 31 July the Commonwealth Stores Supply and Tender Board approved the waiving of the invitation of public tenders for the purchase of the luggers and the sale was finalised on 9 August 1973.

366. The Committee learned that the lugger "Antonia", which was purchased by the Department from Applied Ecology Pty Ltd, was the Department's work boat for its Thursday Island Office. The other two luggers were held by the Co-operative on loan from the Department pending the completion of a formal lease agreement.

Qs. 1191,
1202, 1206,
1264, 1265
and 1268

Qs. 1257
and 1269

Conclusions

367. The evidence presented to the Committee shows that on 24 April 1973 the then Minister told the Permanent Head of the Department that he wished to purchase the three luggers 'Antonia', 'Penguin' and 'Pelican'. After some discussions on 7 June 1973, the Minister issued an oral direction that the three luggers should be purchased by Applied Ecology Pty Ltd. However, the company had only sufficient funds to purchase the 'Antonia'.

368. On 25 June 1973 the Minister directed the Department to purchase with urgency the other two luggers, which were to be placed at the disposal of the Torres Strait Co-operative Society Limited of Thursday Island. The Minister on 2 July 1973 approved a grant of \$13,500 to the Torres Strait Co-operative to enable it to purchase the luggers. The Department, on 2 July, advised the vendor, Aucher Pearling Pty Ltd by letter in the following terms:

"I accept your offer to sell the 'Penguin' and the 'Pelican' for \$7,500 and \$6,000 respectively. A cheque will be forwarded in the next few days."

369. The Department maintains that at the time the offer was made in writing to the vendor it was the clear intention that the purchase would be made by the Co-operative from the grant approved by the Minister for that purpose. If that were the case, and the Committee has no reason to believe that it wasn't, then the Committee considers that more care should have been taken in the wording of the offer. The Committee believes that the text of the advice to the vendor could only have conveyed the impression that it was the Department itself that intended to purchase the two luggers and assume ownership.

370. The Committee considers that the Auditor-General's Office was quite entitled to report the apparent breaches of Treasury Regulations 52 and 52AA to the Department. The Committee also noted that following the Minister's later decision for the Department to retain ownership of the luggers, the necessary approvals to regularise the transactions were obtained before the vessels were paid for.

371. It appears to the Committee that the problems that arose in connection with the purchase of the luggers were caused by a lack of liaison between the Minister's Office and Ministerial advisers and consultants, on the one hand, and the Department, on the other. It must have been difficult and time-consuming for those departmental officers with financial responsibilities to keep abreast of the various decisions of the Minister in relation to the luggers and to learn of the changes in approach to the project resulting from the activities of Ministerial staff and consultants, particularly as no attempt was apparently made by the people concerned to keep the appropriate officers in the Department fully informed.

372. The Committee considers that when the decision was taken by the Minister to acquire the luggers the proposal should have immediately been referred by the Minister's Office to the Department for urgent advice on the financial implications of that decision. The same procedure should have been followed with regard to the later Ministerial decisions. In the Committee's opinion such action would have avoided many of the problems that subsequently arose.

373. The Committee has also noted that departmental officers, who were Directors of Applied Ecology Pty Ltd. had been present at meetings where decisions affecting the purchase of the luggers had been made, or announced. The Committee cannot understand why these officers did not see it as their duty to keep the Permanent Head of the Department fully informed on these matters.

CHAPTER 9

EXPENDITURE ON REFITTING AND MOVEMENT OF EX-TAIWANESE TRAWLER

374. The Auditor-General in his report stated that an examination of the accounts relating to expenditure incurred by the Department on the refitting and movement of the ex-Taiwanese trawler Yung Yuan 21 revealed a number of unsatisfactory features including the following:

P. 13
of 1974

- (a) A bank account titled 'Taiwanese Fishing Vessel Account' was opened in July 1973 at the Darwin Branch of a private bank by officers of the Department; advances totalling \$20,000 from the Aboriginal Advancement Trust Account were paid into that account to cover expenditure on the refitting and movement of the trawler. No evidence was sighted of approval of the Treasurer or his delegates being obtained for the opening of the bank account (section 18 of the Audit Act).
- (b) Approval of competent authority was apparently not obtained before the advances were made to one of the officers concerned (Treasury Regulation 74).
- (c) A monthly reconciliation of the account was not effected, following the opening of the account in July 1973, until Audit representations were made in September 1973.
- (d) The Audit Act and Treasury Regulations were not complied with in relation to approval to incur expenditure from the advance; calling of tenders or quotations; issue of purchase orders; certification of the accounts as to the faithful performance of the services and their correctness. Audit enquiries indicated that equipment, etc. was ordered on a cash sale basis including several items each involving expenditure in excess of \$1,000.
- (e) The advances totalling \$20,000 have not been adjusted.

Audit examination of certain additional accounts paid by the Department from Canberra for supplies in connection with refitting and movement of the trawler also revealed unsatisfactory features, including:

- (a) Requisitions had not been prepared, funded and approved in relation to supplies obtained (Treasury Regulations 46, 47 and 49). Particular reference was made by Audit to 3 accounts totalling \$14,423.
- (b) Quotations or tenders had not been called nor was there evidence the supplies were being obtained under an existing contract (Treasury Regulations 51 and 52).
- (c) A certificate had not been obtained from competent authority, where it was considered impracticable or inexpedient to call tenders or quotations (Treasury Regulation 52A).

375. The following comment relating to expenditure incurred on the trawler was also included in the Auditor-General's Report:

P.P. 13
of 1974

"This transaction indicates an apparent lack of adequate investigation of the use to which the trawler could be put before incurring expenditure in excess of \$40,000 on refitting and moving it from Darwin to a shipyard in Maryborough, Queensland. It is understood that the vessel has been held at the shipyard at the cost of the Department pending a final decision whether further work was to be carried out on it.

There is clear evidence that serious breaches of the Audit Act and Treasury Regulations occurred in connection with the incurring of the expenditure on refitting and movement of the vessel."

376. It was stated in the departmental submission that from the Department's point of view the whole Taiwanese trawler project was surrounded by confusion and difficulty. Apart from the Department's lack of precise information about what was intended or required in relation to the trawlers, officers at various levels

Exhibit
162/1

received peremptory orders from officers of the Minister's Office and a consultant to the Minister and this added to the confusion. The submission went on to say that at no time was the Department in a position to investigate the project properly or to control expenditure on it. The Department also informed the Committee that it was evident that negotiations were under way from early March 1973 to acquire two confiscated Taiwanese trawlers which were located in Darwin. The Department first became aware of the negotiations when it received telephoned advice on 12 April 1973 from the Department of Primary Industry that the Minister had written to the Minister for Primary Industry on 7 March 1973 asking that the two trawlers be transferred to the Department of Aboriginal Affairs for use by Aborigines.

377. Negotiations continued between the Minister's Office and the Department of Primary Industry with the Department of Aboriginal Affairs being kept informed of proceedings, for the most part, by advice from the Department of Primary Industry. On 17 April the Department received from the Minister's Office a copy of the Minister for Primary Industry's letter of 26 March in which he said the vessels could not be disposed of until all legal processes had been finalised and that they would be costly to convert for use by Australians. On 7 May the Department received a letter from the Department of Primary Industry stating that Captain Benson should contact Mr Purnell-Webb of that Department, apparently assuming that the Department of Aboriginal Affairs was aware of the previous negotiations. On 1 June the Department of Aboriginal Affairs received a copy of the Minister's letter of 22 May in which he wrote to the Minister for Primary Industry accepting an offer of one of the trawlers and requesting delivery of the vessel to Captain Benson. This letter arrived at the Department of Aboriginal Affairs under cover of another letter from the Department of Primary Industry.

Exhibit
162/1

378. Finally, on 25 June the Minister advised the Department that the trawler Yung Yuan 21 was available for delivery to the Department and instructed the Department to consult with Captain Benson about his

Exhibit
162/1

arrangements to take delivery of the trawler, to have the necessary bedding, messing and other equipment taken on board and engage the necessary engineers and other crew members to bring the ship to a suitable shipyard for thorough refit prior to it being made available under Captain Benson's supervision, to the Torres Strait Co-operative. It was also stated on the minute that a second trawler, the Lan Yang 1, was available on similar conditions and "should be accepted and passed to Captain Benson for refit and allocation."

379. On 3 July 1973 Mr King, the Senior Adviser to the Minister, wrote to the Permanent Head of the Department of Aboriginal Affairs stating that Captain Benson was arranging for the movement of the trawlers, that it was proposed that the Minister and Mrs Bryant would accompany Captain Benson on one of the trawlers and that a great deal of careful planning and provisioning would be necessary in Darwin.

Exhibit
162/1 and
Committee
File
1974/4

380. The Committee was informed by Captain S.J. Benson, Marine Consultant to the former Minister for Aboriginal Affairs, the Hon. G. Bryant, that the background to the trawler project was that the Minister had indicated to him that the guidelines for Aboriginal development mentioned by the Prime Minister in a letter dated 28 May 1973 to the Acting Premier of Queensland were to be followed. The relevant sections of the letter were as follows:

"Furthermore, it is fundamental to my Government's approach to this matter that the Aboriginal and Island communities themselves should be involved in the working out of policies, be identified with those decided upon, and should participate actively in their administration. This factor limits the degree to which principles of the kind I outlined should be applied."

and

"My Government believes that self-determination is an empty promise unless it is backed by economic independence. We intend, therefore, to assist Aboriginals as individuals, groups and communities to develop their own economic future. To this end we believe business enterprises on reserves should be owned and (with professional technical and managerial assistance) managed by the communities themselves. We are prepared to back such ventures with grants and loans and with professional and technical services. Income from such enterprises will be available to the communities to improve conditions for them in accordance with their own decisions."

381. As a result when the Taiwanese trawlers confiscated for illegal fishing became available, the Minister requested Captain Benson to inspect these vessels to see if they could be used by the indigenous people of the Torres Strait. The Minister's wishes on this matter were indicated in an undated minute which was received in the Department of Aboriginal Affairs together with a note from the Minister's Senior Adviser, Mr Bill King, dated 11 July 1973. The minute proposed that one trawler, the Yung Yuan 21, should become the property of the Department and be leased to the Torres Strait Co-operative while another, the Lan Yang 1 should be controlled by the Torres Strait Co-operative Advisory Committee and Captain Benson. The Minister wished to acquire the two vessels but Captain Benson recommended that one only be acquired - the Yung Yuan 21. Later it was decided not to proceed with refitting the Lan Yang 1 because of the great expense and difficulty of arranging an overhaul of the engine and as a consequence no expenditure was incurred by the Department on refitting the vessel.

Exhibit
162/1 and
Qs. 1213,
1214 and
1404

382. In carrying out the Minister's wishes Captain Benson, before proceeding to Darwin on 23 May 1973 to inspect the trawlers, obtained from the Department of Primary Industry a survey on the Yung Yuan 21 which had been carried out for that Department by Milner and Melbye, Marine Consultants and Surveyors of Darwin. Captain Benson wrote to the Minister on 25 May 1973 recommending that the Yung Yuan 21, which had been lying in Darwin Harbour for a number of months, should be taken to Walkers Shipyard at Maryborough, Queensland for a refit.

Exhibit
162/32

383. Captain Benson informed the Committee that he had found work for the trawler with a firm of fish processors, Craig Mostyn Pty Ltd. It was proposed that the Yung Yuan 21 be used as a receptacle vessel so that small trawlers operating in the Gulf of Carpentaria could come alongside the vessel and deposit their 15 tons of prawns into its hold. When the vessel had taken on board approximately 200 tons of prawns, the catch was to be taken to Karamba for processing. He informed the Minister of the arrangement made with Craig Mostyn Pty Ltd in a minute dated 5 July 1973. However, the Committee was told by departmental witnesses during the inquiry that there were very grave doubts as to whether the prawning venture would have been approved by the Department of Primary Industry.

Exhibit
162/29 and
Qs. 1452
and 1977

384. The Department provided the Committee with a copy of a letter from Milner and Melbye which stated that Captain Benson had telephoned on 3 July 1973 to say that he would like to appoint them to supervise the fitting out of the Yung Yuan 21 for a voyage to Maryborough if and when he had obtained official approval to go ahead. On 5 July 1973 Captain Benson telephoned again and formally requested the firm to undertake the necessary steps to ensure that the vessel could sail from Darwin on 23 July 1973. He also stated that he would personally command the vessel and that adequate provision should be made to accommodate the Minister, his staff and possibly the Minister's wife. Captain Benson, in a letter dated 5 July 1973 to the Minister, stated that Milner and Melbye could have the vessel ready to leave Darwin on or before 23 July.

385. Captain Benson told the Committee that the amount of work he had considered necessary to prepare the Yung Yuan 21 for the voyage to Maryborough should have cost somewhere between \$5,000 and \$10,000. However, he stated that the costs were greatly increased by the Department of Transport's insistence that the vessel should meet the survey requirements of the Australian Navigation Act and the incurring of expenditure, which Captain Benson stated was not authorized by him, on the purchase of additional stores, freezers and the construction of toilets on the vessel. The final expenditure incurred on the refitting and movement of the trawler was approximately \$55,000. In a letter dated 12 February 1974 to the Northern Territory Division of the Department, Captain Milner, of Milner and Melbye, stated that:

"About a week after we commenced preparations as instructed we were approached by the resident Surveyor to the Dept. Shipping and Transport and advised that the Department would be taking a special interest in the vessel. The departmental requirements materially increased the cost of fitting out.

If there had been no hard and fast departure date to meet the requirements of the Minister the fitting out would have been processed at a normal rate and the final cost would have been in the order of \$20,000."

Exhibits
162/1
162/34 and
Qs. 1274,
1275, 1990,
2224 and
2323

Exhibit
162/1 and
Qs. 1424,
2079 and
2172

386. The Department illustrated how the sailing date of 23 July and the tight schedule for departure caused expenditure to rise by referring to the purchase of carbon dioxide bottles for the fire protection system on the vessel, where the bottles were airfreighted to Darwin to meet the deadline. The supplier wrote to the Department stating that the cost of the bottles:

"...could be considerably reduced if in future situations we could be given more time in which to produce supplies. In this case we would have bought the bottles from a supplier at a better price. Unfortunately they were not available ex-stock. Add to this air freight charges, which are enormous compared to normal freight costs."

The total cost of the carbon dioxide system and labour was \$2,940 of which approximately \$667 was for airfreight.

387. In relation to the sailing date of 23 July the Committee noted that the date was mentioned by Captain Benson on 5 July when he telephoned Milner and Melbye and again by Captain Benson in his letter of 5 July 1973 to the Minister. The Department stated that the decision that one of the trawlers was to be made seaworthy by 23 July was made in the Minister's Office early in July. The departmental witness from Darwin who had been involved in the arrangements for the trawler's departure, commented that he had received numerous telephone calls from the Minister's Office stressing that the vessel must be ready to sail by 23 July. On the other hand, Captain Benson stated during the inquiry that the reason the work had to be finished in a hurry was because two marine surveyors from the Department of Transport had to be back in Perth by 21 July. The Department of Transport stated that the sailing date of 23 July 1973 was mentioned in the telex of 9 July 1973 from the Acting Senior Marine Surveyor, Darwin to the Chief Marine Surveyor in Melbourne and that the information came from Mr Melbye. Captain Milner also reported on 6 July 1973:

Exhibit
162/45 and
Q. 2336

Exhibits
162/1 and
162/34 and
Qs. 1274,
2060, 2061,
2079, 2224
and 2323

"Captain S. Benson was advised that the undersigned considered it feasible to have the vessel in seaworthy condition for departure 23 July. He was also advised that this schedule was tight and without allowance for major repairs if such should be considered necessary in order to secure a safe passage. On this basis the undersigned received the go-ahead and a request to do the utmost to keep to the schedule agreed upon, as a VIP was expected to join the vessel upon departure from Darwin."

388. The telex mentioned in the previous paragraph from the Acting Senior Marine Surveyor, Darwin stated that:

"A Taiwanese fishing vessel Yung Yuan 21 has been laid up for the past seven months in Darwin Harbour and is being prepared for a delivery voyage to Maryborough by a local marine engineer Mr Melbye on behalf of Captain Benson. The estimated time of departure is 23 July. Delivery crew to be twelve in number but Minister for Aboriginal Affairs making the voyage if work permits. Local office of Department of Aboriginal Affairs have no knowledge of vessel, etc. and it appears arrangements made by Captain Benson as nautical adviser to Mr Bryant."

Following receipt of this telex the Department of Transport contacted Captain Benson at his home in Victoria on or about 9 July 1973 to seek confirmation of the intended movements of the trawler. According to the Department of Transport's submission Captain Benson confirmed his appointment as nautical adviser to the Minister and stated that he was commissioned to take the vessel to Maryborough where it was to be re-fitted as a fish carrier. He was advised by representatives of the Department of Transport that a vessel employed as a fish carrier would be classified as a cargo vessel and as such would be required to undergo survey at Darwin for the issue of a Certificate of Survey for a Cargo ship in accordance with section 206V(1) of the Navigation Act 1912. The witness from the Department of Transport (Captain Elliott) said that the fact that the Minister intended to travel on the vessel had not influenced his Department's decision regarding survey requirements in any way.

Exhibit
162/46 and
Qs. 2114
and 2117

389. It was explained to the Committee that departmental policy, based on past legal advice, is that a vessel undertaking a delivery voyage interstate or from the Northern Territory to a State for the purpose of engaging in trade or commerce is subject to Part IV, Ships and Shipping, of the Navigation Act, 1912 and therefore subject to survey for seaworthiness. As the vessel was built overseas to unknown standards and lacked any stability data or other documentation as to survey it was decided that the vessel could not be exempted under section 206V(2) without danger to the ship or its crew.

Exhibit
162/46

390. The witness from the Department of Transport was asked by the Committee whether any steps were taken to obtain constructional data on the vessel from the owners or the manufacturer. The witness explained that the Department decided that because the vessel had been confiscated it would be inappropriate to approach the Taiwanese Government or the owner of the vessel to ask for the papers relating to the ship. He went on to say that the vessel had been searched and Captain Milner had been asked whether he had any plans or construction or stability data relating to the trawler but there were none available.

Qs. 2192 to
2196

391. It was decided that if the Yung Yuan 21 were surveyed by officers from the Department of Transport and made seaworthy for the issue of a Certificate of Survey, an exemption would be granted under section 227A(2) in relation to a load line certificate, subject to the following:

Exhibit
162/46

- . No passengers or cargo to be carried;
- . Delivery crew to be restricted to 12 men; and
- . Closing appliances on the vessel to be satisfactory.

The Committee was informed that this decision was influenced by the fact that the vessel could not be "clipped" at Darwin to permit an external examination of the hull, rudder, propeller and underwater openings, and for the same reason, the Certificate of Survey would be valid only for the voyage to Maryborough.

392. The Department of Transport told the Committee that Captain Benson was also advised that due to a lack of stability data on the vessel, it would be necessary for an inclining experiment to be conducted by the Department's Naval Architect at Darwin. The Department of Aboriginal Affairs was also advised by letter dated 20 July 1973 of the information the Department of Transport had received from Captain Benson and of that Department's requirements for the intended voyage.

393. Because of evidence given by Captain Benson to the effect that the Department of Aboriginal Affairs had requested the Department of Transport to carry out the survey required for a certificate to be issued under the Navigation Act, the Committee questioned witnesses from both Departments to ascertain how the Department of Transport became involved in the affair. A witness from the Department of Aboriginal Affairs stated that he had spoken to a senior officer from the Department of Transport about the Yung Yuan 21, who had advised him that he was already aware of the vessel and the proposed voyage and that his Department would be taking the normal action under the Navigation Act. The witness from the Department of Transport confirmed that action had not been initiated or requested by the Department of Aboriginal Affairs and that action had commenced after the telex of 9 July 1973 from the Acting Marine Surveyor in Darwin had been received. Further confirmation of the sequence of events was contained in the Department of Transport's letter to the Department of Aboriginal Affairs dated 20 July in which reference was made to the discussions held with Captain Benson and to the fact that the vessel would be subject to the Navigation Act for the voyage to Maryborough and treated in the normal manner.

394. There was a great deal of discussion during the inquiry over the question of the classification of the vessel for the purpose of determining whether the provisions of the Navigation Act should have been applied to the vessel. Captain Benson maintained that it was a fishing vessel and as such should not have

Exhibit
162/46 and
Q. 2131

Qs. 1995,
2060, 2081
to 2083,
2131 and
2148

Exhibit
162/29
and Q.
2018

been subject to action under the Navigation Act. He stated that if the vessel had been treated as a fishing vessel or in the same manner as other ex-Taiwanese trawlers that have been refitted or repaired in Australian shipyards and are now operating from Australian ports, then the costs charged against the Yung Yuan 21 would have been considerably less. Nevertheless, Captain Benson had stated in his submission that the trawler was to be a receptacle or store ship to serve smaller prawning vessels in the Gulf of Carpentaria.

395. The Committee was informed that the Department of Aboriginal Affairs had received a letter from the Department of Primary Industry dated 21 May 1973 in which was a reference to discussions held on 17 May with Captain Benson which clarified the use to which the vessel was to be put. It was understood by the Department of Primary Industry from these discussions that it was intended to use the vessel as a refrigerated mother ship in the Gulf of Carpentaria where it would collect prawns from trawlers. Q. 2121

396. The witness from the Department of Transport said that the policy of the Department was that fishing vessels were not subject to survey as a general rule, although surveys have been carried out by the Department when requested by owners of fishing vessels. However, in the case of the Yung Yuan 21 the Department decided after discussions with Captain Benson that the intention was to use the vessel as a fish carrier which meant that it would be classified as a cargo vessel and subject to survey under the Navigation Act. He went on to say that even if the vessel had been classified as a fishing vessel his attitude would not have been any different. He would still have recommended that the vessel be surveyed in the same way because of its size. The trawler was stated to be 100 ft by 22 ft with a 9 ft draft and would carry 200 tons of frozen fish. The dead weight of the ship, including a full load of fish, was stated to be 500 tons.¹ Qs. 1988,
2121 and
2128

397. The submission from the Department of Transport stated that prior to the Department's survey of the vessel, Mr Melbye had Exhibit
162/46

1. An order made by the Governor-General under section 423 of the Navigation Act on 18 January 1962 exempts fishing boats of less than 50 tons gross registered tonnage from the Navigation (Survey) Regulations. Exhibit
162/47

already commenced the work of preparing the vessel for sea. The Yung Yuan 21 had been laid up in Darwin for a period of seven months with no maintenance being carried out to her structure, machinery and equipment. The submission stated that Mr Melbye investigated the following work:

- general cleaning of accommodation, engine room, bridge, radio room, galley, store rooms, etc;
- repairs to main engine and auxiliary machinery, steering gear and alternator; and
- underwater inspection of the hull.

The Department of Transport stated that the above work would have been necessary in any event to ensure that the trawler was seaworthy for the intended voyage regardless of whether a Certificate of Survey was required under the Navigation Act.

398. The Committee was told that because the Acting Senior Marine Surveyor at Darwin was a nautical officer, an engineer surveyor from Perth, together with a naval architect from Melbourne, was flown north at Department of Transport's expense to respectively survey the machinery and oversight the inclining experiment. An Australian Post Office radio surveyor resident in Darwin conducted the survey of the radio equipment. The survey of the vessel was completed and Mr Melbye was advised of the Department of Transport's requirements to make it seaworthy for the voyage to Maryborough and to permit the issue of a Certificate of Survey.

Exhibit
162/46

399. It was explained to the Committee by the witness from the Department of Transport that this was the normal procedure in the conduct of any survey. The owner decides whether he will complete repairs and order the equipment necessary to permit the issue of a Certificate of Survey. The witness went on to say that the Department's surveyors have no authority to tell anyone to obtain particular items of equipment or carry out certain repairs. All

the surveyors can say is that if the owners wish to have a Certificate of Survey issued for a particular vessel then certain work must be done and items of equipment supplied.

400. The Department of Transport in its submission stated that the survey conducted on the vessel was similar to any other initial full survey of a vessel required under the Navigation Act except for the external examination of the hull. Department of Transport surveyors listed the following items of working equipment as being required to permit the issue of a Certificate of Survey:

Exhibit
162/46

- 200% liferaft capacity for the crew (the liferaft on board was unseaworthy);
- 1 liferaft portable radio;
- 4 lifebuoys;
- 2 manoverboard signals;
- 1 lifejacket per person complete with light and whistle;
- 1 linethrowing apparatus;
- 12 parachutes, distress rockets;
- emergency lighting consisting of torches, hand lamps and batteries;
- 1 power driven and 1 manual fire pumps;
- 5 fire hoses with spray and jet nozzles;
- 8 portable fire extinguishers, (plus spare charges) for machinery, galley, bridge, radio and crew spaces;
- 5 portable fire extinguishers for engine room in lieu of 1 x 100 pounds fire extinguisher;
- 4 fire buckets;
- 4 x 100 lb. CO₂ bottles and piping for machinery space fire protection;
- hand lead line and 7 lb lead;
- International Code Book of Signals and Flags N and C;
- Morse Aldis Lamp;
- Freeing of mushroom vents, skylights, engine room doors, freeing ports, portholes, closing appliances, provision of wood plugs and covers for deck pipes, fitting of certain valves, blanking of engine room access;

- Requirement for two means of power to navigation lights and separate emergency battery power for the radio equipment; and
- Compass repair and adjustment.

401. In his evidence Captain Benson referred to the fact that he had protested to the Department of Transport regarding the need for the stability inclining experiment and to his professed ability to be able to look at the vessel in question and calculate the metacentric height. The Department of Transport pointed out to the Committee that the metacentric height of a vessel is only a small part of the stability data necessary to ensure that a vessel will be stable at all times. The Department stated that it was in the year 1973 that the Department first had doubts of the inability of some senior officers at sea to use stability data in a proper manner and the subsequent sinking of the Blythe Star and Straitsman confirmed the Department's worst fears. The inclining experiment and subsequent preparation of stability data requires specialised knowledge and when, as in the case of the Yung Yuan 21, there was a complete lack of structural information, the Department had no alternative but to despatch an experienced naval architect to Darwin to perform the task. As a result of his visit the following telexed message was sent to the surveyor at Darwin:

"M.V. Yung Yuan No. 21. Re-examination of inclining experiment shows departure G.M. for vessel based on inclining experiment is 1.5 feet. Righting levers and range of stability are minimum acceptable for passage Darwin/Maryborough. Attention of master and crew should be drawn to need to minimise free surface in tanks at all times."

It was also stated in evidence by the witness from the Department of Transport that in a recent survey of the Yung Yuan 21 carried out in Adelaide for its new owners, solid ballast had to be put in the bottom of the vessel to increase its stability.

Exhibit
162/46 and
Qs. 2039
and 2160

402. It was Captain Benson's contention that a great deal of unnecessary expenditure was incurred in preparing the vessel for the voyage to Maryborough because of the intervention of the Department of Transport. He stated that the vessel was only 2 years old and had new engines which he had personally tested by running for 3 days to see if they were satisfactory. In reply the witness from the Department of Transport (Captain Elliott) stated that any work carried out was the minimum necessary to ensure the safety of the persons on board for the voyage to Maryborough and that any work carried out in Darwin would not have to be repeated as part of the refit and final survey to be carried out in Maryborough. Captain Benson contested this statement by referring to the inconvenient position in which the foam smothering apparatus had been installed. Captain Elliott replied stating that the equipment purchased would still be utilised but shifted to a permanent position more suitable to the nature of the vessel's future voyages. He also pointed out to the Committee that all of the work done and equipment installed in Darwin was accepted as part of the survey carried out in Adelaide for the vessel's new owner.

Qs. 2171,
2172, 2174
and 2179

403. Captain Benson also stated in evidence that apart from the additional expenditure caused by the requirement to obtain a Certificate of Survey for the journey to Maryborough, stores had been ordered in Darwin in excess of those he had requested, two freezers had been purchased when he had stipulated that ice should be purchased for the voyage, and that an elaborate toilet and shower system with running water had been constructed on the vessel when he had specified a much simpler pan toilet system with canvas screens for privacy.

Exhibit
162/29 and
Qs. 1990
and 2027

404. Because of the doubts that arose regarding the authority for some of the expenditure incurred on the Yung Yuan 21, the Minister issued instructions to the Department on 14 August and 4 and 17 September 1973 with regard to the payment of accounts relating to this expenditure. He directed that accounts should not be paid, except with his approval, for goods and services that

Exhibit
162/41 and
Q. 1992

had not been ordered by Captain Benson or on his authority or where delivery of supplies had not been acquitted by Captain Benson or on his authority. All outstanding accounts were subsequently examined by Captain Milner who certified that the work covered by the accounts was done under direction from Captain Benson. Captain Benson finally agreed to certify that the accounts were in order so that contractors could be paid although he did this under protest as he maintained that he had not directly authorised the expenditure.

405. A witness from the Darwin Office of the Department of Aboriginal Affairs told the Committee that on 9 July 1973 the Office had received from the Minister's Office by telex a long list of items that were considered by Captain Benson to be necessary for the voyage. The list comprised items of hardware, foodstuffs and other stores including a 12 foot aluminium boat with a 10-20 horse-power motor. The Darwin Office was aware of Captain Benson's involvement in the project and that he had Ministerial authority to make arrangements for the preparation of the trawler for the voyage. The proposed sailing date of 23 July was also known to the Darwin Office and an officer was detailed to assist Captain Benson to obtain any of the goods or services required.

406. In regard to the funding of the proposed expenditure for preparing the Yung Yuan 21 for the voyage to Maryborough, the Department stated that the Minister had, on 13 July 1973, sought and obtained the Treasurer's concurrence to using funds totalling \$100,000 from the Aboriginal Advancement Trust Account for the purchase, modification, repair and operation of 3 luggers, 2 ex-Taiwanese trawlers and 2 ex-Army landing barges. The Committee was informed that on 16 July 1973 \$10,000 was made available to the Department's Darwin Office for expenditure associated with the refitting and movement of the Yung Yuan 21 and that this was later increased to \$20,000. Subsequently, the Central Office of the Department directed that accounts unpaid after the \$20,000 had been expended should be forwarded to Canberra for payment.

Q. 1276

Qs. 1268,
1276, 1285,
1371 and
1372.

407. The Senior Adviser to the Minister (Mr King) sent a minute to the Permanent Head of the Department on 12 July which stated that the Minister understood that there had been some delay in making funds available for equipping the Yung Yuan 21 for the journey to Maryborough and that he had requested that funds be made available in Darwin immediately. The minute went on to say that the Minister was astonished and dismayed by the delay. Mr Dexter replied in a minute to the Minister on 18 July which included the following:

"I refer to a minute of 12 July by Mr King...in which he communicated your 'astonishment and dismay' at the alleged delay.

I trust that it is realised that any problem in relation to the vessels project has resulted from the fact that my Department was presented with a fait accompli in relation to the vessels. The first advice we received from you or from your officers was in your minute of 25 June.

In endeavouring to straighten the matter out and ensure that my responsibilities under the Audit Act and Treasury regulations were fulfilled and the interests of other departments were known and heeded it was found that the position was far from straightforward. Notwithstanding the difficulties I was able to provide funds to Darwin as you had requested, and I therefore do not understand the reason for your concern as expressed by Mr King."

408. One of the difficulties encountered by the Department in arranging matters relating to the trawlers revolved around the question of eventual ownership. The minute of 25 June from the Minister to Mr Dexter mentioned that the Yung Yuan 21 should, after refit, be "made available" to the Co-operative indicating that the trawler was to be owned and operated by the Co-operative. On 3 June, Mr Dexter advised the Minister that the Co-operative would require a grant to pay harbour dues and the cost of initial equipment for the trawler (\$5,000) and to purchase three luggers (\$28,500), and on 2 July the Minister directed that a grant of \$33,500 be made to the Co-operative. However, on 3 July the

Qs. 1291 to
1293 and
Committee
File 1974/4

Exhibit
162/1

Minister advised Mr Dexter that the vessels "should all be regarded as a unit to operate in the Torres Strait Gulf Arnhem Land area on loan or lease, as required." In view of the indication that the vessels should operate on loan or lease, the Secretary to the Department sought a change in the Minister's decision of 2 July regarding the making of a grant to the Co-operative, recommending instead that the Department acquire all the vessels. The Minister approved the change sought by the Secretary on 13 July 1973.

409. The witnesses for the Department stated that departmental officers in Darwin were confused by the situation they found themselves in. Captain Benson was not a departmental officer but was giving orders regarding what was to be purchased and what work was to be done. There was also the pressure brought about by the extremely short time-scale on the operation and the fact that the Minister was involved in the project. The witnesses stated that the Audit Act and Treasury Regulations were probably the least things the officers in Darwin were concerned about. It was pointed out to the Committee that the Central Office of the Department was certainly not aware that breaches of the Audit Act and Treasury Regulations had occurred. It was some time later that the Central Office found that the goods had been obtained and paid for in the short time available by making advances totalling \$20,000 to the officer detailed to assist Captain Benson and paying the accounts from those advances.

P.P. 13 of
1974 and
Gs. 1280 to
1283

410. It was explained to the Committee that the Department's officers in Darwin had assumed that as the expenditure was to be met from the Aboriginal Advancement Trust Account, the normal Treasury Regulations would not apply and that it would be in order to make cash advances to an officer in the same way as grants are made direct to Aboriginal communities. In the process of making the advances and meeting the expenditure, a bank account was opened without obtaining the approval of the Treasurer or his delegate as required under section 18 of the Audit Act and other sections of the Audit Act and certain Treasury Regulations were not complied with.

P.P. 13 of
1974 and
Exhibit
162, 1 and
Q. 1461

The approval of competent authority was also not obtained to make the advances as required by Treasury Regulation 74. The Department has since taken steps to ensure that there is no misconception among officers of the Northern Territory Division about the nature of the Aboriginal Advancement Trust Account and the financial procedures that apply to it.

411. The Committee took evidence from several witnesses relating to the question of who authorised the additional expenditure on stores, freezers and the construction of toilets on board the vessel mentioned by Captain Benson. Captain Benson was adamant that none of this additional expenditure was authorised by him. Mr Malone, First Assistant Secretary, Department of Aboriginal Affairs stated in a submission to the Committee that the Department did not authorise the expenditure on the vessel. The Department of Transport stated, in relation to this additional expenditure that, as it was a delivery voyage only, the Department was not concerned with the accommodation or hygiene arrangements on board. As a consequence, the provision of food and other stores for the voyage, portable deep freezers, an aluminium dinghy and the erection of toilets was not discussed by its officers with officers from the Department of Aboriginal Affairs.

Exhibits
162/44 and
162/46 and
Q. 1990

412. The officer from the Darwin office of the Department who had been detailed to assist Captain Benson (Mr Milikins) told the Committee that he had been involved in the purchase of foodstuffs and other items of a domestic nature and had been responsible for increasing the quantities of stores ordered by telex from the Minister's Office. He explained that he had taken a copy of the telex to a local firm in Darwin who were experienced in victualling ships and who had recommended increases in some items in the belief that the stores were required for the whole of the journey to Maryborough. Mr Milikins commented that at no time did he have any idea or was told that it was proposed to purchase additional food at Thursday Island. A copy of the telex with the extra quantities purchased noted thereon was provided to the Committee. Mr Milikins

Exhibit
162/45 and
Gs. 2223,
2228, 2256,
2257 and
2307

also stated that he had not ordered the aluminium boat and that he had no idea who had. Mr Milikins told the Committee that all of the increases in the quantities of foodstuffs ordered by telex and any items substituted, were ordered after consultation with Captain Benson.

413. With regard to the purchase of the freezers, Mr Milikins admitted that he had ordered the freezers but explained that he had taken this action on the authority of Captain Benson. He stated that his recollection of what happened was that Captain Benson had instructed him originally to order one large deep freezer but had later decided on two small units as a safeguard against possible break-down. Captain Benson maintained that he had no consultation with Mr Milikins whatsoever regarding the freezers and that it was a complete surprise to him when he saw the freezers on board.

414. Mr Milikins also informed the Committee in relation to the construction of the steel toilets mentioned by Captain Benson that at no time during the refitting of the vessel did he commission any repair work for, or structural alterations to, the Yung Yuan 21. He stated in evidence that he remembered that there were toilets built on the vessel but he did not know who authorised their construction or how much the construction had cost.

415. During the course of the inquiry the Committee questioned a departmental witness as to the correctness of a statement made in the Department's submission relating to expenditure on the refitting of the trawler that:

"The commitments were entered into by Captain Benson as consultant to the Minister and the Department had no knowledge of them until it received the accounts."

416. The departmental witness agreed that the statement was not strictly correct in view of the fact that a departmental officer in Darwin had been aware that certain works were being carried out on the trawler. The witness explained that the word "Department" in the above sentence was used in the sense of the financial authorities concerned with this matter.

417. Captain Benson sought to support his contention that unnecessary costs had been incurred on the Yung Yuan 21 to meet the survey requirements of the Navigation Act by referring to remarks attributed to Mr Williams of the Department of Transport at an inter-departmental meeting held on 20 September 1973. It was recorded in the minutes that Mr Williams stated in relation to the vessel that "not much would need to be done" and that he quoted section 423 of the Navigation Act 1912. It was also stated in the minutes of the meeting that he said that "it appeared that the only requirement to meet is the load line requirement". The witness for the Department of Aboriginal Affairs drew the Committee's attention to the fact that the meeting was held after the work had been carried out in Darwin and suggested that Mr Williams meant that not much more needed to be done to make it seaworthy. He also quoted an extract from a report made by Mr Melbye which stated inter alia:

"Our rise in costs was mainly contributed by the extra work involved by the requirements set forth by the departmental surveyors as well as the fact that certain VIPs and extra persons were expected to join the vessel for the voyage. However, most of the repairs, reconditioning and purchases carried out in Darwin will be of lasting value and would have had to be done in any case in order to bring the vessel back into service".

418. The Yung Yuan 21 sailed from Darwin to Maryborough as scheduled on 23 July 1973 without the former Minister or his wife on board. The Committee was informed that the aim in taking the vessel to Maryborough was to enable Walkers Engineering Limited to give a firm quote on the work considered necessary to make the vessel seaworthy. This aim was conveyed to the Minister by Captain Benson in a letter dated 25 May in which Captain Benson also stated that work on the vessel should not be started until a quote was given and that should the quote be excessive, the vessel should be sold and the money obtained used to purchase another vessel for the Torres Strait Co-operative. Captain Benson informed the Committee that Walkers Ltd was selected because of the shipyard's high standard of workmanship, its lower cost of repairs and the fact that it was the nearest shipyard to the Torres Strait capable of carrying out the refit by January 1974 - the beginning of the prawning season. He also said that Commonwealth surveyors and overseers were readily on

Q. 2148 and
Committee
file 1974/4

Exhibits
162/1,
162/29 and
162/32 and
Qs. 1980 to
1987 and
Committee
File 1974/4

hand at the shipyard which was already involved in an extensive program of building large landing craft and Naval patrol vessels for the Australian Government. The fact that there was unemployment at the shipyard was stated to be another factor in its selection.

419. The departmental submission stated that the Minister had written to Walkers Engineering Ltd just before 19 July 1973 authorising the reconditioning of the trawlers. A copy of a reply from Walkers Limited to the Minister noting the receipt of the Minister's letter was supplied to the Department by the Minister's Office on 19 July and a copy of the Minister's letter to Walkers Ltd was received in the Department on 27 July 1973. On 2 August the Department advised Walkers Ltd not to regard the Minister's letter as a contract, pointing out that tenders would need to be called in the normal way for Government contracts. The departmental witness said that the Minister had not been advised beforehand because of the need for urgent action to prevent Walkers Ltd starting on the refit. The Minister was informed shortly afterwards of the action taken and the reasons for the action and he seemed to accept this advice at the time without objection.

Exhibit
162/1 and
Q. 1440

420. However, the Minister informed the Permanent Head of the Department by telegram on 8 August 1973 that he had advised Walkers to disregard the Department's letter and proceed with the refit. He also stated in the telegram that unless a way could be devised of refitting the trawler without the delay involved in calling tenders he would transfer ownership to the Torres Strait Co-operative and make the latter a grant to cover the cost of the refit.

Exhibit
162/1

421. The Permanent Head of the Department also wrote to Captain Benson on 2 August 1973 referring to the fact that he had seen a letter written by the Minister to Walkers Engineering Ltd which appeared to assume that a contract would be let to that firm for the refitting of the trawlers. The letter pointed out that the work would be subject to the "normal Treasury requirements" including the necessity to call public tenders and that the Secretary had written to Walkers advising them accordingly. The letter also requested Captain Benson to supply a specification of the work to be done on the vessel.

Exhibit
162/35

422. The Committee was told that on 10 August 1973 the Permanent Head of the Department of Aboriginal Affairs sent a minute to the Minister advising him of the provisions of Treasury Regulation 52 with regard to the calling of tenders for contracts; of the necessity to seek a Certificate of Inexpediency if tenders were not to be called; and of the need to obtain the Treasurer's approval if the trawler was to be given to the Co-operative. As a result of this minute and further discussions between the Minister and Mr Dexter, the Minister agreed on 14 August that the Department should seek a Certificate of Inexpediency from the Department of Supply. The Department subsequently advised Walkers Ltd that the Department of Supply would be seeking a quotation from them for the refitting of the Yung Yuan 21 and on 28 August the Department requested the Department of Supply to issue a Certificate of Inexpediency. The Department of Supply wrote to Walkers Ltd on 5 September 1973 inviting the submission of a quotation for refitting the Yung Yuan 21.

Exhibits
162/1 and
162/37

423. Included in Mr Dexter's minute to the Minister mentioned in the previous paragraph was the following statement:

Exhibit
162/1 and
Qs. 1318
to 1324

"It is a pity that I was not given the opportunity of discussing this matter with you before the boat was transferred to Maryborough as I understand that there are existing contracts with shipyards in Cairns and Townsville where the work could have been undertaken immediately without the need to call public tenders."

The departmental witnesses were questioned on this statement and asked whether, in fact, the shipyards in Cairns and Townsville were capable of carrying out the work required on the Yung Yuan 21. It was pointed out that at that stage the Department did not know what work was to be done on the trawler and that the statement was based on telephoned information from the Department of Supply. The Department maintained that it was not a definite statement that the work could be done at those particular shipyards but was merely pointing out that the contracts existed and that perhaps the whole question should have been considered before the vessel left Darwin.

424. Captain Benson informed the Committee that he "rang every shipyard in Australia except Western Australia" and had assessed each shipyard's capacity to carry out the work and ascertained their rate of charge. The Department included a statement

Exhibit
162/29 and
Qs. 1330, 1980
and 1985 and
Committee
File 1974/4

setting out the inquiries made by Captain Benson at the various shipyards in its letter to the Department of Supply requesting the issue of a Certificate of Inexpediency. The Department of Supply's reply of 11 September 1973 included the following:

"Your letter mentioned that Captain Benson had surveyed shipyards on the East Coast of Australia and advised that Walkers Ltd of Maryborough was the only suitable yard able to meet the timescale. In discussion with the Assistant Director of Contracts, Queensland, Captain Benson indicated that in respect of North Queensland Engineers and Agents Pty Ltd, Cairns, a possible alternative contractor, he had made discreet enquiries to establish the firm's ability and capacity and had formed an opinion that they were fully occupied on current commitments. No information was received as to any further enquiries he may have made as to capacity or capability of other shipyards.

As it is considered that there are other shipyards around the Queensland coast who might be interested and capable of doing the required work I should be grateful if you would provide as soon as practicable all the information that your Department has or can obtain, bearing on the propriety of this Department's restricting the business to Walkers', involving the Chairman of the Contract Board in certifying that invitation of public tenders is impracticable or inexpedient".

425. The Committee was told that on 17 September 1973, at the direction of the Minister's Office, the Department drafted an Executive Council Minute for the Minister's signature seeking approval to let a contract to Walkers Ltd under Treasury Regulation 52AA.(1.)(a). Approval to this action was given by the Executive Council on 18 September. However, in transmitting the draft Executive Council Minute to the Minister the Department advised that it considered the Executive Council Minute procedure inappropriate because the letting of the contract had already been referred to the Department of Supply for the issue of a Certificate of Inexpediency. The minute to the Minister also pointed out the advantage of working through the Department of Supply and also warned of the dangers involved in having already authorised Walkers to commence the work in anticipation of Executive Council approval and without a clear indication that funds were available.

Exhibit
162/1

426. The departmental witnesses indicated that apart from the fact that the Department of Supply had already been consulted regarding the contract, the Department did not favour the use of the Executive Council Minute procedure to authorise this type of expenditure. Inquiries had been made of the Department of Prime Minister and Cabinet at the time and departmental officers had been told that the procedure is only used for very special cases. The Treasury Observer (Mr Davidson) pointed out that the Executive Council Minute procedure had been commented upon in the Committee's Forty-second Report where it was recommended that the procedure should only be used for really important matters. He went on to say that if other procedures were available then the Treasury would feel that they should be used.

Qs. 1426
to 1428

427. A witness for the Department told the Committee that although Executive Council approval had been given for the contract to be let to Walkers Ltd no formal contract was ever negotiated. Walkers Ltd had not carried out any work on the Yung Yuan 21 other than to keep the trawler in satisfactory condition while at their shipyard and to examine the vessel and provide a quotation for the work at the invitation of the Department of Supply.

Qs. 1405
and 1422

428. The Committee asked the departmental witnesses whether any specific action had been taken to inform the Minister's Office of the requirements of the Audit Act and Treasury Regulations prior to sending the minute of 10 August to the Minister. The witnesses replied that no action had been taken to inform the Minister's Office of the statutory requirements because the necessity to do so would not have been apparent, as the type of executive work being carried out by the Minister's staff would normally be regarded as the Department's responsibility. It was also pointed out that the Minister's Senior Adviser (Mr King) was a public servant of many years standing who would have been well aware of the financial principles involved.

Qs. 1436
and 1437

429. Another instance given in the departmental submission where executive functions were carried out by the Minister's staff was where supplies were ordered directly from a supplier without the Department being given the opportunity to certify that funds were available or to consider whether quotes or tenders should be obtained. The example cited was an instance where the Minister's Private Secretary (Mrs King) had ordered engine parts for the trawler while it was at Walkers Ltd, Maryborough. A copy of a letter dated 19 July supporting this statement was provided to the Committee by the Department. This statement was challenged by Mr Bryant in his submission in which he illustrated that notice had been given on 6 July in a minute from his Private Secretary to the Department requesting that an order be relaxed to the supplier and indicating that funds were available from the Aboriginal Advancement Trust Account. A further minute was sent on 16 July asking for a written request for the spare parts and an order number to be sent to the supplier.

Exhibits
162/1,
162/25 and
162/26

430. The Permanent Head of the Department subsequently told the Committee that the existence of the minute of 6 July from the Minister's Private Secretary did not affect the statement made in the departmental submission or the evidence he had given in relation to this occurrence. He stated that in that minute no information was given regarding the cost of the parts which was essential to judge if tendering action was necessary. This information was supplied in the second minute of 16 July. He maintained that his point was still valid that the order for the parts was placed directly by the Minister's Private Secretary in her letter of 19 July to the supplier. In an attempt to regularise this action, the Department issued a covering purchase order on 5 September for the parts.

Exhibits
162/1,
162/25 and
162/26 and
Committee
File
1974/4

431. On 23 October 1973 the Department sought the approval of Senator Cavanagh, who was appointed Minister on 9 October, to the disposal of the Lan Yang 1 as had earlier been recommended to the former Minister by Captain Benson. Approval was also sought for

Exhibits
162/1 and
162/38

the establishment of an interdepartmental committee to investigate possible uses for the Yung Yuan 21 and their practicability and costs. The Minister approved of the two courses of action on 7 November 1973. Captain Benson ceased to be a consultant to the Minister as from 19 November 1973.

432. The Committee was told that the interdepartmental committee comprised representatives of the Departments of Aboriginal Affairs, Primary Industry and Transport. On 12 December 1973 this interdepartmental committee concluded that the Yung Yuan 21 could not be used successfully for a commercial enterprise in the fields of prawning, processing, carrying or line fishing; and that it was not designed to operate solo, but rather in tandem for trawling. The committee also called for further information to enable it to consider possible ways in which the vessel might, for social reasons, be used on a non-economical basis. In regard to the interdepartmental committee's conclusions Captain Benson stated that in his opinion the position had not been fully looked into as at the time of the hearing the vessel was actually prawning and trawling in the Torres Strait.

Exhibit
162/1 and
Q. 1419 and
Committee
File 1974/4

433. On 5 February 1974, the then Minister, Senator Cavanagh, was informed that it would cost a further \$13,000 in addition to the \$55,000 already expended to incline the vessel to determine basic stability data. On 7 February the Department recommended that the Yung Yuan 21 be disposed of along with other confiscated vessels including the Lan Yang 1. The Minister approved of this recommendation on 8 February 1974. The Department of Supply offered the trawlers for disposal on 28 February and the Yung Yuan 21 realised \$35,000.

Exhibit
162/1

434. It was indicated to the Committee that if the vessel had been retained the Department would have been required by Treasury procedures to pay from the Aboriginal Advancement Trust Account an amount equal to the market value (estimated at between \$150,000 and \$300,000) to the Department of Primary Industry. As the vessel

Qs. 1406
to 1412

was still the property of the Department of Primary Industry when it was sold, the proceeds were paid to that Department.

435. The Auditor-General had commented on page 24 of his report in relation to the expenditure incurred on the refitting and movement of the trawler:

"This transaction indicates an apparent lack of adequate investigation of the use to which the trawler could be put before incurring expenditure in excess of \$40,000 on refitting and moving it from Darwin to a shipyard in Maryborough, Queensland. It is understood that the vessel has been held at the shipyard at the cost of the Department pending a final decision whether further work was to be carried out on it."

Captain Benson disagreed with the Auditor-General's comment and contended that adequate investigation of the use to which the trawler was to be put had been carried out. He emphasised that work had been found for the trawler and in his opinion the trawler would have been suitable. He maintained that this has been borne out by the fact that at the time of the inquiry the vessel, then known as the "Northern Pearl", was prawning and trawling in the Torres Strait.

436. The Observer from the Auditor-General's Office (Mr Hinchy) pointed out that the comment in the Auditor-General's Report had been influenced to a large extent by the facts as stated in the last paragraph of page 23 of the report that:

"The trawler is currently held at the shipyard of Walkers Limited of Maryborough, Queensland having been moved there from Darwin with the intention of undergoing further refitting. On 14 February, the Department informed the Department of Supply of a decision by the Minister to declare the vessel for disposal. The Department stated it was no longer feasible to use the vessel in Torres Strait for the purpose originally intended."

P.P. 13 of 1974 and Qs. 1976, 2060 and 2038a.

P.P. 13 of 1974 and Q. 2099

Conclusions

437. It is the Committee's opinion that almost all of the problems encountered by the Department in relation to the trawler project were caused by the lack of communication between the Minister, the Minister's Office and the Ministerial consultant on the one hand and the Department on the other. It seems inconceivable to the Committee that full information on the proposal to acquire the trawlers was not communicated to the appropriate officers in the Department as the project developed to enable the Minister, his staff and consultant to be advised on the financial implications of their proposed actions and so avoid many of the problems that subsequently occurred.

438. A great deal of conflicting evidence was presented to the Committee on the question of who authorised the expenditure incurred on the purchase of additional foodstuffs, the freezers and the construction of toilets on the vessel. Because of this conflicting evidence, the Committee was unable to come to any firm conclusion on this question. However, it seems clear to the Committee that the expressed intention of the Minister to make the voyage and the nominated sailing date had a marked effect on the arrangements made in Darwin, in relation to both the officers of the Department and the firm carrying out the refit and caused additional expenditure to be incurred.

439. As regards the authority for the work carried out by Milner and Melbye on the vessel to meet the survey requirements of the Australian Navigation Act, the Committee believes that this work was authorised by Captain Benson when he issued the original instructions to that firm to take the necessary steps to ensure that the vessel could sail from Darwin on 23 July 1973.

440. After examining very carefully all the evidence presented in relation to the trawlers, the Committee is in no doubt that the sailing date of 23 July 1973 was decided in the Minister's Office to suit the convenience of the Minister, despite oral evidence given by Captain Benson to the contrary.