



Finance Minute on  
Report 181—  
Canberra Commercial  
Development Authority

Report

**214**

Joint Committee of  
Public Accounts

DEPARTMENT OF THE SENATE	
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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA



JOINT COMMITTEE OF PUBLIC ACCOUNTS

214TH REPORT

FINANCE MINUTE ON THE COMMITTEE'S 181ST REPORT -  
CANBERRA COMMERCIAL DEVELOPMENT AUTHORITY

Australian Government Publishing Service  
CANBERRA 1983

JOINT COMMITTEE OF PUBLIC ACCOUNTS

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#### DUTIES OF THE COMMITTEE

Section 8.(1) of the Public Accounts Committee Act 1951 reads as follows:

Subject to sub-section (2), the duties of the Committee are:

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth including the financial statements transmitted to the Auditor-General under sub-section (4) of section 50 of the Audit Act 1901;
- (aa) to examine the financial affairs of authorities of the Commonwealth to which this Act applies and of intergovernmental bodies to which this Act applies;
- (ab) to examine all reports of the Auditor-General (including reports of the results of efficiency audits) copies of which have been laid before the Houses of the Parliament;
- (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.

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## PREFACE

Following the creation of the Department of Finance in 1976, it was agreed that the 'Treasury Minute' arrangements for ensuring that appropriate action is taken in response to Committee recommendations, should continue. These procedures then became known as the 'Department of Finance Minute'.

Although these arrangements are periodically reviewed, they have been in operation, in more or less their current form, since 1952, when the Public Accounts Committee was re-established.

The Finance Minute procedures, as they now stand, are as follows:

As they now stand the procedures are:

1. The Report of the Committee is tabled in both Houses of Parliament and motions are moved in both places that the Report be printed as a Parliamentary Paper.
2. The Chairman of the Committee thereafter forwards a copy of the Report to the responsible Minister and to the Minister for Finance with a request that he give the Report his consideration and inform the Chairman of the action taken to deal with the Committee's conclusions.
3. The reply received, in the form of a Department of Finance Minute, is then examined by the Committee and, together with the conclusions of the Report to which it relates, is submitted as soon as possible as a report to the Parliament.
4. Should the Committee find during its examination of a Department of Finance Minute that certain recommendations are not fully dealt with or are subject to a further Minute, it holds an exploratory discussion with officers of the Department of Finance prior to the submission of the Minute to the Parliament.
5. In reporting a Minute to the Parliament, the Committee, except in special cases does not usually make any comment other than to note recommendations not fully dealt with or subject to a further Minute.


6. When the Committee next examines the Department concerned the Department of Finance Minute is considered by the Committee if applicable.
7. The Department of Finance furnishes the Committee with a half-yearly report on outstanding Minutes, indicating the progress made in dealing with the Committee's comments.

In accordance with the procedures outlined above, this report documents the Department of Finance Minute which was submitted in response to the Committee's 181st Report.

For and on behalf of the Committee.



Senator G. Georges  
Chairman



M.J. Talberg  
Secretary  
Joint Committee of Public Accounts  
Parliament House  
Canberra  
30 November 1983

(x)

## CHAPTER 1

### INTRODUCTION

1.1 This Department of Finance Minute, on the Committee's 181st Report on the Canberra Commercial Development Authority, is based upon information provided by the Department of Territories and Local Government and is the official response to the recommendations in the Committee's Report. The Minister for Finance forwarded the Minute (dated 14 April 1983) to the Chairman on 19 May 1983. Following examination by the Committee, further information was sought on 22 September 1983 and supplied by the Minister on 28 October 1983. That information has been inserted in the Minute, reproduced in Chapter 3 of this Report, as 'Further information received from the Department of Territories and Local Government'.

1.2 The Committee is pleased to note that the majority of its recommendations have been accepted. A nominee of the Permanent Head of the Department of Territories and Local Government has been appointed to the Authority; the Authority now advertises all positions; the Public Works Committee Act 1969 was amended in 1981 to incorporate most statutory authorities within its scope; and the requirement for all authorities to report within six months was incorporated in amendments to the Acts Interpretation Act 1901 by the Statute Law (Miscellaneous Provisions) (No. 1) 1981, assented to on 20 June 1983 and effective from 18 July 1983.

1.3 In this chapter, the Committee draws to the attention of Parliament aspects of the Finance Minute which relate to the reappointment of members of the Board, staff appointments and the security of tenders.

#### Reappointment of Board Members

1.4 This Committee continues to be concerned that there is little sanction available to Parliament against statutory authorities which have been the subject of continual criticism and adverse report and which are prepared to act contrary to legislation. While the Committee found no evidence of impropriety on the part of any member of the Board of the Canberra Commercial Development Authority, the Committee found many defects in the administration of the Authority which warranted the view that the whole Board of the Authority should accept collective responsibility. The Committee, however, believed that the Chairman, Mr J.E. Pead, M.B.E. and the former Executive Director, Mr H. Calderwood, should accept some measure of individual responsibility.

1.5 At paragraph 1.56 of the 181st Report the Committee said:

The Committee was conscious of the need of such a trading authority for independence from political control, but considers that the current members are not sufficiently conscious of the nature of the relationship between a publicly owned commercial operation and its Minister, and through him the Parliament. Furthermore, the Authority by its actions has shown an obvious lack of appreciation of roles of the Treasury, the Public Service Board, and the Department of the Capital Territory. The Committee recommends that:

- at the conclusion of the current period of office of members of the CCDA, the Minister should consider restructuring the Authority and those who were subject to criticism in this report not be reappointed; ...

1.6 A new board of the CCDA was appointed for a period of three years from 3 June 1983. They are:

Mr J.H. Pead, M.B.E., Chairperson  
Mr D.L. Elsworth  
Mr W.E. Lawrence  
Mr C.W. McDonald  
Mr D.J. Griffiths  
Ms K. O'Cleary

1.7 There were four persons mentioned in the report, the Chairman, Mr J.H. Pead; the Deputy Chairman, Mr D. Elsworth, a member of the Authority, Mr E. Byrne; and the former Executive Director, Mr H. Calderwood.

1.8 Mr Elsworth and Mr Byrne were excused by the Committee in the following terms:

1.51... It believes that no impropriety attaches to Mr Elsworth, Deputy Chairman of the Authority, or to the Authority as a result of the use of Mangaroo's consulting services by the Authority. However it considers that this action was unwise and open to misinterpretation while Mr Elsworth remained a member of the Authority...

10.12 The Committee noted that Section 9 of the Ordinance was observed and that Mr Elsworth declared his interest in Mangaroo and did not vote on its appointment. Mr Elsworth also informed the Minister and the Secretary for the Department of the Capital Territory of Mangaroo being retained and was advised in writing that there was no legal objection to Mangaroo's appointment.

10.13 On this basis, the Committee is satisfied that no impropriety attaches to the use of Mangaroo by the Authority.

10.16 ...the then Minister for the Capital Territory advised Mr Elsworth that the tender of E.A. Watts Pty Ltd for construction of the Mall would not be considered while Mr Elsworth remained on the Board of E.A. Watts. As a result, Mr Elsworth resigned from the Authority and retained his position on E.A. Watts' Board. Mr Elsworth was reappointed to the Authority after E.A. Watts' tender was rejected.

In relation to Mr Byrne the Committee was told that:

10.5 ...Mr Byrne was originally appointed as an alternative member of the Authority during the absence overseas of Mr Keehn. When Mr Keehn returned from overseas there were certain unfinished programs... and it was agreed by the Authority that in the interests of concluding that unfinished work Mr Byrne would be engaged on a consulting basis...

The Committee concluded that:

10.6 ...this is a reasonable basis for payment to Mr Byrne for his services while he was not a member (of the Authority)...

1.9 The additional information provided for the Finance Minute refers in the following terms to the reappointments:

- With regard to the Committee's recommendation that Mr Pead and Mr Elsworth not be reappointed, the Government considered the views of the Committee very carefully. The Government also sought advice from the Department of Territories and Local Government and a number of other sources concerning Mr Pead and Mr Elsworth.

- The Government also placed particular weight on the advice of the former Attorney-General to the Public Accounts Committee in January 1982 that, on the evidence available to him, neither the Chairman of the Authority nor a contractor to the Authority had been involved in committing any illegal or unlawful act in relation to matters raised by the Public Accounts Committee, and that evidence alleging impropriety consisted of 'unsubstantiated allegations' and 'hearsay'.



- . The Government considered it essential that there be some continuity of management and commercial expertise to enable the Authority to effectively plan for the future, and concluded that Mr Pead and Mr Elsworth could best provide the CCDA with the necessary experience and expertise in large scale property development.

1.10 The Board's attitude and that of its Chairman was evidenced when, on successive occasions before the Committee, the lack of compliance with the accountability sections of the legislation was justified in terms such as:

If we have to rush to government departments continually to get approval we will be hamstrung.

If we are bound hand and foot with a huge bible of terms and conditions of employment where people believe that once they are a member of an authority or government department they are there for life, then we cannot work in that area.

1.11 The Committee believed that Mr Pead and Mr Calderwood demonstrated little willingness to work within the established procedures required of all public authorities.

1.12 The 13th Committee believed that there were sufficient grounds for concluding that the administration of the CCDA has been below the standard expected of a public authority. Those grounds were detailed in full in Chapter 1 of the 181st Report. Also the subsequent criticisms by the Auditor General in successive reports and the Senate Standing Committee on Finance and Government Operations, outlined in Appendix D give further weight to the Committee's belief.

1.13 As the chronology of events (Appendix C) since the 181st Report was tabled in September 1980 shows, the Committee has been most concerned about the continuing reappointments. The Committee accepted the matter as the then government had taken a decision to sell the Belconnen Mall. However, the present government reversed that decision.

1.14 The Committee accepts the need for 'continuity of management and commercial expertise' as provided by the Chairperson (and Mr Elsworth), but doubts the notion that they are the only persons who could have provided these qualities.

1.15 In the response to the report the Committee was informed that the Government placed particular weight on the advice of the Attorney-General of 6 January 1982. The Committee is firmly of the belief that notwithstanding the allegations, it would have reached the same conclusions relating to the

reappointment of the Board of the Authority. The Committee was well aware of the nature of the allegations that had been made. However, the Committee believed it had adopted the appropriate ethical stance in referring the matter to the Attorney-General for investigation. This matter is discussed later in this report.

1.15 This Committee remains gravely concerned at the lack of adequate machinery and sanctions available to control such Statutory authorities. The Committee was very conscious of this when it concluded in its 181st Report:

9.12 The Committee's experience with the Canberra Commercial Development Authority clearly demonstrates there are major difficulties for Ministers and Departments in monitoring authorities' practices and ensuring they adhere to government policies and their enabling legislation.

1.17 Also in the Report the Committee was most critical of the Department of Capital Territory:

9.13 'The Committee considers that, as the Ministers' principal advisor on matters pertaining to his portfolio the Department of Capital Territory adopted a less than responsible attitude in not keeping itself well informed of the affairs of the Authority. The Authority was established by Ordinance and receives limited scrutiny by Parliament; it was an experiment, a pioneering effort in a specialised field; it was, and is very controversial; and it has been the subject of continued unfavourable comment by its appointed auditor, the Auditor-General. All of these factors should have made the Department aware of potential difficulties. Instead it chose to stand back from providing hard advice to the Minister and in so doing condoned the Authority's actions.

1.18 On 14 June 1983 the Committee met separately with the Chairman and officers of the Public Service Board; the Auditor-General and his officers; and officers of the Department of Finance. Except for the outstanding issue of buildings depreciation, the Committee was assured that all matters outstanding with the Authority had been satisfactorily resolved. The Committee was later informed that the issue of depreciation had been resolved and the unqualified accounts of the Authority for 1981/82 were tabled on 14 November 1983.

1.19 At a meeting with the Committee on 25 August 1983 the Minister gave the Committee assurances that he had received an undertaking from the Chairperson that all proper procedures would be observed. He also gave an undertaking to keep the Canberra

Commercial Development Authority under close Ministerial scrutiny. The Committee welcomes the Minister's assurances but remains concerned that a major recommendation of a Committee of the Parliament has been ignored. The Committee will remain interested in the affairs of this Authority.

#### Staff Appointments

1.20 At paragraph 1.58 of the 181st Report the Committee said that it believed the Authority had left itself open to accusations of patronage in selecting its employees. Consequently the Committee recommended that:

- The Authority adopt a policy of advertising for each staff position.

1.21 The additional comments included in the Finance Minute state:

- Claims that there were problems with the staffing of the Authority were made during in-camera evidence of former employees of the Authority who had been released from their employment contracts early.
- No evidence of inappropriate staffing procedures has been found. The Authority now advertises all positions and employs selection criteria appropriate to a public body.

1.22 The Committee believes that the Department has given an inappropriate response and points out that the evidence before it on this matter led to the conclusions that:

1.14 It is not clear to the Committee who decided the individual appointments to operational positions...

1.15 Although it is plain that the opportunity for patronage existed, the Committee has no evidence to conclude that this occurred...

1.16 Notwithstanding, the Committee believes that the Authority, the custodian of a large public enterprise, would have been wiser to advertise for each position...

1.23 The Committee is pleased to note that the Authority now advertises all positions and employs selection criteria appropriate to a public body.

#### Security of Tenders

1.24 At paragraph 7.37 of the 181st Report the Committee concluded that tender documents were not held securely. On that basis, and also in view of apparent discrepancies in evidence, the Committee recommended that the Attorney-General initiate a full investigation of this matter, examining the evidence given to this Committee, the witnesses, and any other persons or necessary documents to clarify and determine the truth of this allegation.

1.25 In response, the Finance Minute states:

- The former Attorney-General in a letter to the Committee concluded that no evidence has been presented that would support the allegations made in evidence before the Committee.
- In view of this advice the question of any further action to be taken rests with the Committee.

1.26 This matter was given additional prominence by the Department of Territories and Local Government in the further information supplied on 28 October 1983 by referring to the advice given by the former Attorney-General in relation to the reappointments discussed above.<sup>1</sup>

1.27 The Committee stated in the Report that on 29 May 1979, two former employees of the Authority who had made a joint submission gave evidence in camera citing instances of what they regarded as poor management and political expediency, and drew the Committee's attention to rumoured irregularities in the Authority's operations. The Committee decided to conduct an in camera hearing as their submission contained allegations which reflected on the integrity of some Authority members and staff. As these allegations were unsubstantiated, the Committee did not wish to attract unnecessary public speculation nor did it wish to cast these witnesses or the Authority as adversaries.

1.28 It was reported that some tenders received by the Authority were removed from the site office of the Construction Manager, and later replaced. A further tender was subsequently received which, being lowest, was accepted by the Authority.

1.29 The Committee believed this to be a serious allegation which, if substantiated would be a gross impropriety. The Committee examined the Authority on measures taken at that time for the letting and security of tenders, to ascertain whether conditions existed in which such a situation could have occurred.

<sup>1</sup> Copies of the Chairman's letter on this matter to the Attorney-General of 27 May 1981 and the full text of the Attorney's 6 January 1982 reply are at Appendices A and B respectively.

1.30 The Committee said, in noting the comments of the Auditor-General that there were no formalised written tender procedures and a tender box was not always in use, that there appeared to be a discrepancy in the evidence given to the Committee.

1.31 The Committee concluded that tender documents were not held securely. On that basis, and also in view of apparent discrepancies in evidence, the Committee recommended that the Attorney-General initiate a full investigation of this matter, examining the evidence given to the Committee, the witnesses, and any other persons or necessary documents to clarify and determine the truth of this allegation. This investigation did not take place.

1.32 As will be observed from the chronology of events (Appendix C) the Committee had extensive correspondence with Ministers and Departments seeking to ensure its recommendations were adequately addressed. Over a period of sixteen months the Attorney-General's Department failed to respond to nine requests for advice from two Departments and a request from the Public Accounts Committee. The Committee believes that it was the inability of the Attorney-General's Department to provide timely advice which complicated any further action that might have been taken regarding the recommendation in the Committee's Report 181.

1.33 On receipt of the Attorney's letter, the Committee called the Crown Solicitor before the Committee. The then Department of the Capital Territory was represented at that meeting. At the time the Committee regarded it as essential that notwithstanding the government's direction that the Belconnen Mall be sold any legal infractions which may have been suggested be investigated to the fullest extent possible. The Committee believed that the delay by the Attorney-General's Department could have placed the issue beyond retrieval.

1.34 The then Chairman, Mr David Connolly, M.P., in asking to what depth the Attorney-General's Department had carried out the analysis upon which the Attorney's letter was based, outlined the Committee's position to the Crown Solicitor at the hearing in the following terms:

- In terms of legal propriety the inordinate delay of 16 months from the time this document was tabled in the Parliament to the time of the receipt of the Attorney's letter could not be justified.

- The Committee is not equipped to be, nor has it ever been placed in the position of, a court of law. The Committee believes that it is not the role of a Committee of the Parliament to pursue a matter of criminal misconduct.

- The Committee took the action which it thought was correct, namely to refer the matter to the Attorney-General for further analysis. The Committee was not satisfied in the way this matter was handled.

1.35 The Crown Solicitor responded that the examination was confined to the evidence before the Committee and did not go beyond except for certain material that was already on the files. His evidence, given in camera, explained, amongst other matters, that the Attorney-General's Department was not equipped as an investigative department and did not engage in its own investigations.

1.36 Nevertheless, the Committee was critical of the Crown Solicitor for placing the Committee in a difficult position in relation to external parties, some of whom were witnesses before the Committee. The Committee did not accept that the delay was justified. Early advice that the Attorney-General's Department was not equipped to carry out the investigation would have allowed a reference to a more appropriate investigation authority, especially since witnesses were prepared to release their in camera evidence to any police inquiry. The Committee believed that Parliament itself should be served by its own legal office to provide timely and accurate advice. The Committee will be pursuing this matter.

1.37 The Committee then determined, after hearing the Crown Solicitor, that it had no evidence before it which would suggest that any members of the Authority's Board had acted in an illegal manner. Consequently the Committee decided that there would be no further investigation into any of the matters raised by persons appearing before the Public Accounts Committee inquiry into the Canberra Commercial Development Authority.

1.38 That Committee also determined that its views on the reappointment of those responsible for the maladministration of the Belconnen Mall should stand. The Committee accepted, under the circumstances of the pending sale, the reappointment for a further six months, provided that should the sale not proceed, then its recommendations should be implemented.

1.39 This, the 14th Committee acknowledges the assurances given by the Minister, the Public Service Board, the Auditor-General and the Department of Finance. The Committee will continue to remain interested in the affairs of this Authority, especially since it appears that the Authority will be given new responsibilities.

CHAPTER 2  
SUMMARY OF REPORT 181

**Background**

2.1 The Committee's 181st Report on the Canberra Commercial Development Authority, operators of the Belconnen Mall Shopping Centre, was tabled in the Parliament on 16 September 1980. The Finance Minute and supplementary information were sent to the Committee on 19 May 1983 and 28 October 1983 respectively.

2.2 The inquiry into the Canberra Commercial Development Authority arose out of comments made by the Auditor-General in his Supplementary Report to Parliament for 1977-78. The Auditor-General commented upon aspects of the accounts of the Authority for the year 1976-77 in the following terms:

**Investment in Bank Bills**

The Authority invested in bank bills in 1976-77 without the approval of the Treasurer as required under Section 22(2)(c) of the Ordinance. The Treasurer's approval was obtained on 16 March 1978 to invest in bank bills.

**Terms and Conditions of Employment**

Salaries and allowances were paid under Section 22(1)(b) of the Ordinance without the approval of the Public Service Board as to the terms and conditions of employment as required by Section 17(2).

**Public Loan - Underwriting Fees**

The Authority's \$10 million public loan was over-subscribed by \$2.75 million. An audit of the borrowing arrangements revealed a number of unusual features which were referred to the Authority. One such feature was the payment of under-writing fees of \$27,500 in respect of the \$2.75 million over-subscribed. My Office considered this contrary to:

- . usual commercial practice;
- . established Loan Council practice; and
- . section 16 of the Ordinance.

In response the Authority stated its belief that the underwriting fees were in accordance with the terms of the Loan Council's "Gentlemen's Agreement" at that date and that its action on additional brokerage and

underwriting fees was sound commercial practice and consistent with the public interest.

The "Gentlemen's Agreement" was amended in July, 1977 specifically prohibiting payment of underwriting changes on over-subscriptions. The Authority has assured the Minister that any breach of the Agreement was completely unintentional.

2.3 The Canberra Commercial Development Authority (CCDA) was established on 1 October 1974 by Australian Capital Territory Ordinance No. 40 of 1974, under the Seat of Government (Administration) Act 1910. The Belconnen Mall was constructed by the CCDA to aid and assist development to the north of Canberra so that the community could receive the benefits of wider retail choice, greater competition and better community facilities. Opinion at the time was that private enterprise would not have sought to achieve this. Continued criticism and controversy surrounded the Mall from its inception.

#### The Inquiry

2.4 The inquiry revealed a number of serious shortcomings in the administration of the Authority. It was the Committee's opinion that the Authority regarded its public status and obligations as major problems facing the Mall's successful operation. The Committee appreciated the difficulties that could arise by wedding a commercial trading venture with a government imposed public structure. The Authority seemed determined to prove it could operate in a similar manner to a private company. The Committee believed in many respects it could, but with two significant exceptions which were neglected. The first was the joint one of accountability and communication and the second related to legal observance.

#### Accountability and Communication

2.5 The Authority's status as a public corporation had encouraged dissatisfied clients or contractors to voice complaints of perceived injustices because of their expectation of redress through the various government processes. Its need to communicate with tenants and maintain goodwill would be dictated only by the continued profitability of the development and any plans for future developments. The Authority's situation was similar, with the added consideration of accountability to government which in turn is accountable to the electorate. Although it is accepted by governments that a public corporation, by its establishment, should retain a measure of independence, the distinction is rarely apparent to the public. In practice, a public corporation is seen as an arm of government and faces pressures to maintain the same high principles expected of departments of state.

#### Legal Observance

2.6 The Canberra Commercial Development Authority Ordinance 1974 provides the legal basis of the existence of the Authority. It was clear to the Committee that the Authority ignored the Parliament by its disregard of the provisions of the Ordinance. There were sections of the Ordinance which the Authority felt might inhibit its commercial operations. It appeared to the Committee that these were, on most occasions, ignored or evaded. The Committee believed from the evidence that the Authority's managers had never been able to comprehend, much less accept the responsibilities attaching to a public authority. The sections of the Ordinance which placed some restriction on the independence of the Authority are common to most statutory authorities, and are fairly basic if some measure of public control is to be retained.

#### Approval of the Minister for the Capital Territory

2.7 Under the ordinance, the Minister's responsibilities are:

- approval of other undertakings related to the shopping centre (Section 14(b));
- approval to carry out or join in carrying out works on land of which the Authority is not lessee (Section 15(2));
- determination of payments to Australia (Section 19);
- certification of borrowings (Section 20);
- determination of application of profits (Section 27(2));
- require information from the Authority (Section 29(b)); and
- make regulations (Section 30).

2.8 Under Section 24(1), the Authority is required to submit to the Minister an annual report of its operation together with financial statements in a form approved by the Minister for Finance. Under Section 24(2), the Auditor, appointed by the Minister for Finance, is required to report upon certain matters to the Minister. In addition, the Minister advises the Governor-General in relation to appointments to the Authority.

2.9 The Committee concluded in Chapter 9 of the Report that more effective control by the Minister over the Authority's affairs could be effected by amending its ordinance to permit the appointment of the Permanent Head of the

Department of the Capital Territory, or his departmental nominee, as a permanent member of the Authority.

#### Approval of the Treasurer

2.10 The Committee was of the view that the sections of the Ordinance which required approval for borrowings and types of investment were the minimum restriction that could be applied. The Authority did not show that it had to seek continual approval. Once the Authority had stated its requirements the Treasurer approved a wider range of secure investment and bankers than the Authority requested.

#### Approval by Public Service Board

2.11 The Committee believed that the Authority has never seriously attempted to work in co-operation with the Public Service Board in observing Section 17 of its Ordinance, and that consequently, the Board had particular difficulty in fulfilling its obligations. It was acknowledged by the Authority that the Board had acted in a co-operative and constructive manner. The Authority, on the other hand, appeared to have an unacceptable record of delay.

2.12 The Committee concluded in Chapter 6 that action to employ personnel, prior to Board approval for conditions of service, ran the risk that Board approval may be withheld and any payments to such employee may need to be recovered. It was the responsibility of the Authority to ensure that any offer of employment which it made was legal, and its employees were not placed in a position whereby they may possibly have to repay moneys earned.

#### Approval for Financial Statement

2.13 The Committee found that the Authority had not published a financial statement for the year 1978/79 despite having received approval for the form of its statement on 9 November 1979. The Committee rejected the view that until approval was given for the capitalisation of all expenditure net of income for the period 1 July to 9 November 1978 that it was not in CCDA's commercial interests to publish.

2.14 The Committee concluded in Chapter 11 of the Report that the Authority's accounts should clearly show total revenue for the accounting period 1978-79. This was not inconsistent with Section 23 of its Ordinance.

#### Legislation

2.15 The Committee was concerned at the lack of adequate machinery and sanctions available to investigate and control an authority which had been prepared to act contrary to its legislation.

2.16 The Committee found that the Authority had attributed the breaches of its Ordinance to a misunderstanding of government requirements (e.g. underwriting of the public loan) or to a difference in interpretation of the provisions of its Ordinance (e.g. investment in bank bills and terms and conditions of employment). Also, the Authority had contributed to such misunderstandings by being slow in seeking clarification or by supplying insufficient or incorrect details (e.g. indemnity of public loans). Its claims about differences in interpreting the Ordinance did not bear close examination, as it had either refrained from seeking proper opinion (e.g. investment in bank bills) or deliberately applied a selectivity to the opinions it did receive.

2.17 The Chairman of the Authority said that he did not believe that the Ordinance provided a satisfactory framework in which the Authority could function. The Committee did not agree and considered that with greater goodwill the Authority could have found that the Ordinance provided a satisfactory framework. Furthermore, if the Authority found the ordinance to be unsatisfactory then the Authority could have sought to make appropriate changes to it. It advised the Committee that it had not done so.

2.18 The Committee did not consider the Authority's Ordinance to be onerous nor did it engage staff in time wasting and bureaucratic activities. The legislation governing the Authority's financial and employment activities was enacted to ensure compliance with tested procedures designed to protect public funds. The Authority's continuous practice of ignoring Sections of its Ordinance raised serious doubts as to the competence of the members of the Authority.

#### Other Matters

2.19 The Committee believed that there were sufficient grounds for concluding that the administration of the C.C.D.A. has been below the standard expected of a public authority. While it is a trading authority, its responsibilities as a public organisation were not reduced nor could it be absolved from observing those sections of its Ordinance which were non-commercial in nature. The behaviour and actions of the Authority must be able to withstand greater public scrutiny than applies to a private company.

2.20 The Committee stated in the Report that the Board of the Authority must take collective responsibility for the criticisms made in the Report. While the Committee found no evidence of impropriety on the part of any member of the board or the staff of the Canberra Commercial Development Authority, the Committee considered that some measure of individual responsibility for the Authority's actions attached to two of its members most actively concerned in the Authority's affairs since its inception, namely the Chairman, Mr J. Pead M.B.E., M.H.A., and former Executive Director, Mr H. Calderwood.

2.21 Mr. Pead had been the only Chairman of the Authority and seemed to the Committee to have been the dominating force on the Authority's board. Mr. Calderwood was the Executive Director of the Authority until June 1979, and was primarily engaged in oversighting the construction and establishment of the Mall.

2.22 In its 181st Report the Committee hoped that its criticism would not obscure the benefits the community has derived through the Authority. Whatever the justice of criticism of its cost it was a daring commitment to the future and exceptional in that it was constructed quickly, to schedule and close to budget. As such it is a commentary on the enthusiasm and ability of those involved in its establishment.

2.23 This enthusiasm was particularly apparent in the efforts of the Chairman of the Canberra Commercial Development Authority, Mr Pead. He was one of the prime movers for the establishment of the Authority and, though technically a part-time Chairman, was closely involved in the construction and operations of the Mall. He maintained a strong personal commitment to the project despite initial opposition to its establishment and controversy and problems during its early stages.

2.24 Mr Calderwood was the Authority's Executive Director from 1975 to June 1979, and shared the credit with Mr Pead for the Authority's achievement in constructing and setting up the Mall.

2.25 In the Report, the Committee expressed regret that the report could not be concluded only with due credit but pointed out that where credit was taken, so must the responsibility for the many defects the Committee found in the administration of the Mall and the conduct of the Authority.

2.26 The Committee was conscious of the need of such a trading authority for independence from political control, but considered that the then current members of the Authority were not sufficiently conscious of the nature of the relationship between a publicly owned commercial operation and its Minister, and through him the Parliament. Furthermore, the Authority by its actions had shown an obvious lack of appreciation of the roles of the Treasury, the Public Service Board, and the Department of the Capital Territory. The Committee recommended that:

- at the conclusion of the current period of office of members of the CCDA, the Minister should consider restructuring the Authority and those who were subject to criticism in this report not be reappointed; and

- the Ordinance be reviewed to provide for the appointment of the Permanent Head of the Department of the Capital Territory, or his Departmental nominee, as a member of the Authority.

2.27 The Committee believed that the Authority left itself open to accusations of patronage in selecting its employees. Consequently the Committee recommended that:

- the Authority adopt a policy of advertising for each staff position.

2.28 The Committee was not satisfied that conditions for security of tenders were adequate during the period of the Mall's construction. It believed that the allegations which were made should be resolved in the interests of the witnesses and the reputations of Authority members and recommended that:

- the Attorney-General initiate a full inquiry into this matter.

2.29 A strong case exists for giving Parliament control and review powers over statutory authorities. This Committee shared the concern of the Parliamentary Standing Committee on Public Works that no action has been taken to implement an Interdepartmental Committee Report which recommended, *inter alia*, that the powers of the Public Works Committee be extended. The Committee recommended that:

- The Public Works Committee Act be amended to bring all Statutory Authorities within its ambit.

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1. The Committee, in Chapter 7 of its 181st Report concluded:

The Committee believes that tender documents were not held securely, on that basis, and also in view of apparent discrepancies in evidence, the Committee recommends that the Attorney-General initiate a full investigation of this matter, examining the evidence given to this Committee, the witnesses, and any other persons or necessary documents to clarify and determine the truth of this allegation.

2.30 The Committee supported the conclusions of the Senate Standing Committee on Finance and Government operations that major and comprehensive changes to the system of annual reporting is required, particularly in relation to the preparation of the accounts of authorities. The Committee noted the Report of the Joint Working Party on Financial Statements of Commonwealth Undertakings and recommended that:

- changes in the system of annual reporting be effected through an Annual Reports Act, which would apply automatically to all authorities, as proposed by the Senate Standing Committee on Finance and Government Operations in its Third Report on Statutory Authorities.

## CHAPTER 3

### DEPARTMENT OF FINANCE MINUTE

3.1 This Finance Minute in response to the Committee's recommendations includes 'Further Information received from the Department of Territories and Local Government' at paragraphs 3.7 to 3.16 inclusive'.

#### RECOMMENDATION 1.56 AND 1.58

The Committee was conscious of the need of such a trading authority for independence from political control, but considers that the current members are not sufficiently conscious of the nature of the relationship between a publicly owned commercial operation and its Minister, and through him the Parliament. Furthermore, the Authority by its actions has shown an obvious lack of appreciation of the roles of the Treasury, the Public Service Board, and the Department of the Capital Territory. The Committee recommends that:

- at the conclusion of the current period of office of members of the CCDA, the Minister should consider restructuring the Authority and those who were subject to criticism in this report not be reappointed; and
- the Ordinance be reviewed to provide for the appointment of the Permanent Head of the Department of the Capital Territory, or his Departmental nominee, as a member of the Authority.

The Committee believes the Authority has left itself open to accusations of patronage in selecting its employees. Consequently the Committee recommends that:

- The Authority adopt a policy of advertising for each staff position.

#### Response

3.2 Subsequent to the tabling of the Report on 16 September 1980, the then Government announced on 23 April 1981 that the Belconnen Mall was to be sold and the Canberra Commercial Development Authority wound up.



3.3 This decision impacts on these recommendations.

3.4 In the case of Recommendation 1.56 the then Government decided, following consultation with the Chairman of the Committee, that some existing members of the Authority should be re-appointed in order to maintain a degree of continuity of membership during the period of the sale of the Mall.

3.5 In view of the decision to wind up the Authority it was not considered that a review of the Canberra Commercial Development Authority Ordinance 1974 was justified. Division 3 of Part II of the Commonwealth Functions (Statutes Review) Act 1981 incorporates necessary legislative provisions to enable the Mall to be sold.

3.6 The matter of advertising individual positions is of course one for determination by the Authority in consultation with the Public Service Board. It is understood that as a matter of general policy the Authority does advertise for positions and certainly does so for the executive and all administrative positions.

#### Further Information Received from the Department of Territories and Local Government

3.7 As a consequence of a Government decision not to sell the Belconnen Mall, the following revised comments on paragraphs 1.56 and 1.58 of the Committee's 181st Report - Canberra Commercial Development Authority - were submitted by the Department of Territories and Local Government.

3.8 With regard to recommendation 1.56 the Government has accepted the Committee's recommendations that the Authority be restructured and that a nominee of the Permanent Head of the Department of the Capital Territory (now Territories and Local Government) be appointed as a member of the Authority.

3.9 The restructured Authority contains four new members including Mr C. McDonald (Secretary of the ACT Trades and Labour Council), Ms K. O'Clery (Proprietor of the Cuppacumbalong Art and Craft Centre), Mr D. Griffiths (an officer of the Department of Industry and Commerce and a Director of Civic Permanent Building Society), and Mr W.E. Lawrence (a senior officer of the Department of Territories and Local Government).

3.10 It was not necessary to amend the Authority's Ordinance to enable the appointment of a departmental nominee, and the Government considered that the appointment of the four new members would provide for a broader range of views and attitudes to be brought to bear in relation to the operations of the Authority.

3.11 With regard to the Committee's recommendation that Mr Pead and Mr Elsworth not be reappointed, the Government considered the views of the Committee very carefully. The Government also sought advice from the Department of Territories and Local Government and a number of other sources concerning Mr Pead and Mr Elsworth.

3.12 The Government also placed particular weight on the advice of the former Attorney-General to the Public Accounts Committee in January 1982 that, on the evidence available to him, neither the Chairman of the Authority nor a contractor to the Authority had been involved in committing any illegal or unlawful act in relation to matters raised by the Public Accounts Committee, and that evidence alleging impropriety consisted of 'unsubstantiated allegations' and 'hearsay'.

3.13 The Government considered it essential that there be some continuity of management and commercial expertise to enable the Authority to effectively plan for the future, and concluded that Mr Pead and Mr Elsworth could best provide the CCDA with the necessary experience and expertise in large scale property development.

3.14 After considering all of the above, the Executive Council approved the reappointment of Mr Pead and Mr Elsworth in June 1983 for a period of three years.

3.15 Claims that there were problems with the staffing of the Authority were made during in camera evidence of former employees of the Authority who had been released from their employment contracts early.

3.16 No evidence of inappropriate staffing procedures has been found. The Authority now advertises all positions and employs selection criteria appropriate to a public body.

#### RECOMMENDATION 1.59

The Committee is not satisfied that conditions for security of tenders were adequate during the period of the Mall's construction. It believes that the allegations which have been made should be resolved in the interests of the witnesses and the reputations of Authority members and recommends that:

- the Attorney-General initiate a full inquiry into this matter.<sup>1</sup>

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1 The Committee, in Chapter 7 of its 181st Report, concluded: The Committee believes that tender documents were not held securely. On that basis, and also in view of apparent discrepancies in evidence, the Committee recommends that the Attorney-General initiate a full investigation of this matter, examining the evidence given to this Committee, the witnesses, and any other persons or necessary documents to clarify and determine the truth of this allegation.

#### Response

3.17 The former Attorney-General in a letter to the Committee concluded that no evidence has been presented that would support the allegations made in evidence before the Committee.

3.18 In view of this advice the question of any further action to be taken rests with the Committee.

#### RECOMMENDATION 1.60

A strong case exists for giving Parliament control and review powers over statutory authorities. This Committee shares the concern of the Parliamentary Standing Committee on Public Works that no action has been taken to implement an Interdepartmental Committee Report which recommended, inter alia, that the powers of the Public Works Committee be extended. The Committee recommends that:

- The Public Works Committee Act be amended to bring all Statutory Authorities within its ambit.

#### Response

3.19 The Public Works Committee Act was amended on 9 April 1981, effective from 22 April 1982 to incorporate most statutory authorities. The then Government decided however that the following authorities would continue to be outside the jurisdiction of the Public Works Committee Act:-

Australian Industries Development Corporation  
Australian National Airlines Commission  
Australian National Railways Commission  
Australian Overseas Projects Corporation  
Australian Shipping Commission  
Commonwealth Banking Corporation  
Commonwealth Serum Laboratories  
Health Insurance Commission  
QANTAS

#### RECOMMENDATION 1.61

The Committee supports the conclusions of the Senate Standing Committee on Finance and Government Operations that major and comprehensive changes to the system of annual reporting is required, particularly in relation to the preparation of the accounts of authorities. The Committee notes the Report of the Joint Working Party on Financial Statements of Commonwealth Undertakings and recommends that:

• changes in the system of annual reporting be effected through an Annual Reports Act, which would apply automatically to all authorities, as proposed by the Senate Standing Committee on Finance and Government Operations in its Third Report on Statutory Authorities.

#### Response

3.20 The former Government agreed that the Acts Interpretation Act be amended to provide a six month deadline on the production of authorities' annual reports (unless a shorter deadline is provided for in enabling legislation). The enabling Acts of authorities not currently required by statute to make an annual report was also to be amended as part of the next Statute Law (Miscellaneous Amendments) Bill to impose the requirement.

3.21 The statement by the then Leader of the Government in the Senate conveying this decision to the Parliament is in the Senate Hansard of 11 November 1982 (pp. 2258-2261)

3.22 However as this amending legislation was not enacted before the Parliament was dissolved, its future will have to be decided by the new Government.



COMMONWEALTH OF AUSTRALIA  
JOINT PARLIAMENTARY COMMITTEE OF PUBLIC ACCOUNTS

APPENDIX A

PARLIAMENT HOUSE  
CANBERRA, A.C.T.  
TEL. 72 7455

COPY

27 May, 1981

Senator the Hon P.D. Durack, Q.C.,  
Attorney-General  
Parliament House  
CANBERRA, A.C.T. 2600

My dear Attorney-General

You will recall that the Public Accounts Committee in its 181st Report on the Canberra Commercial Development Authority (Belconnen Mall) recommended to the Government that we were not satisfied that conditions for security of tenders were adequate from the period of the Mall's construction. We believe that the allegations which had been made against personnel employed by C.C.D.A., including Board members, should be resolved in the interests of the witnesses and the reputation of members of the Authority. Accordingly, we recommended that the Attorney-General should initiate a full inquiry into this matter.

On a number of occasions I have sought the advice of your staff as to what action has been taken in this regard and to date I have received no advice whatsoever. In view of the Government's decision to wind up the C.C.D.A. and sell Belconnen Mall, there may be the view that further investigation is no longer warranted. I would just like to place on record that where legal matters are concerned, especially in cases such as tenancy procedures, the Public Accounts Committee does not believe that subsequent Government decisions should be an excuse for not carrying out adequate investigations of the matters we have raised.

I would appreciate it if you could advise me as to what action the Government proposes on this matter. The Committee's records which includes the taking of evidence in camera, will of course be available to your officers in their investigation of the matters we have raised.

Yours sincerely

(signed)

David M. Connolly  
M.P. (Bradfield)

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APPENDIX B

Attorney-General  
Parliament House  
CANBERRA ACT 2600

6 January 1982

Dear Mr Connolly,

I refer to your letter dated 27 May 1981 and regret the delay in responding to this matter.

The Committee in its 181st report has recommended that I initiate a full investigation into an allegation that tender documents relating to contracts for the construction of the Belconnen Mall were not held securely.

Officers of my Department have completed an examination of the minutes of evidence of the Committee including evidence given in camera by Messrs Parker and Parsons, who were former employees of the Canberra Commercial Development Authority, and a joint submission by these former employees.

The evidence before the Committee in relation to the question of security of tenders might be summarised as follows. In a joint submission prepared by Messrs Parker and Parsons and dated 29 May 1979, it was alleged that there was no 'lockable' tender box used by the Authority. The employees submitted that this lack of security led to 'accusations' of 'non-standard practices'. In evidence before a hearing in camera of the Public Accounts Committee on the same date, further allegations were made by Messrs Parker and Parsons. Mr Parker said (page 175 of in camera transcript) that he and Mr Parsons were informed by the Executive Director of the Authority (Mr Calderwood) that he 'had a suspicion that the Chairman (of the Authority) had removed a tender document from the offices of the Authority's architects. Mr Parker said that he (the Chairman) had removed it overnight and returned it the next day. He further said that he and Mr Parsons believed the tender was in relation to a company supplying concrete to the Centre. In further evidence (pages 213-215) Mr Parker said that he and Mr Parsons were concerned generally about the procedures and the security of tender documents. Mr Parker said that he believed that the Chairman of the Authority had 'some connection with the company supplying concrete to the site'. A search of the Corporate Affairs Registry does not indicate that Mr Pead has or had at the relevant time any shareholding or directorship in the company which is said to have been awarded the contract for the supply of concrete to the Centre.

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Mr Parsons said in response to a further question from Mr Bradfield that he believed the successful contractor to have been Monaro Mix, but that he and Mr Parsons 'certainly have no evidence to that effect'. In relation to a further question from yourself in relation to which tenderer was the successful one, Mr Parker indicated that he and Mr Parsons had no proof that the final tenderer won the contract. He said that they were told that this was so by the Executive Director (Mr Calderwood).

Mr Calderwood was subsequently examined by the Committee on this matter on 30 January 1980. He said in evidence that the Centre was contracted on a construction management basis - the construction manager being a joint venture of T.H. O'Connor Pty Ltd and Costain Australia Limited. The construction management team was apparently responsible for the calling and security of tenders. Tenders were considered in the first instance by the construction manager and a firm of quantity surveyors and then by the project co-ordinator (an employee of the Authority) who was responsible to the Executive Director. The tenders were approved by the Authority. Mr Calderwood in further evidence said that he was 'happy with the procedures for tendering'. He said that he had not heard of any tenderers who were unhappy with the process. The allegations made by Messrs Parker and Parsons in relation to tendering procedures were not put to Mr Calderwood directly. The Chairman of the Authority does not appear to have been examined at all in relation to the matter.

After a careful examination of the evidence before the Committee, my officers have come to the conclusion that there is no evidence at this time establishing that the Chairman of the Authority or a contractor was involved in any illegal or unlawful act. The evidence given by Messrs Parker and Parsons consists of unsubstantiated allegations said to have been made by the Executive Director. Their evidence is hearsay. The subsequent evidence of the Executive Director was directly inconsistent with these allegations. On the evidence of Mr Parker, the allegations said to have been made by the Executive Director were not more than his 'suspicions'.

The only possible offence on the available evidence which could have been committed by the Chairman of the Authority would appear to be a breach of the Secret Commissions Act 1905. The Chairman of the Authority and the successful contractor could possibly have contravened this Act if there was evidence of the following:

- (1) the Chairman of the Authority removing the tender file relating to the concrete work for the Centre before tenders closed;

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- (ii) the Chairman providing information in relation to tenders to a prospective contractor who subsequently submitted a tender on the basis of the information provided; and
- (iii) the contractor giving or agreeing to give the Chairman of the Authority a gift or consideration as an inducement or reward for obtaining the information or a contract for the concrete work.

I stress that there is no available evidence at this time that any of the above events has occurred. If, however, your Committee desires to pursue this avenue of investigation, I suggest that the matter be taken up with the Minister for Administrative Services who can direct the Australian Federal Police to conduct a police inquiry into the matter. I would not, however, at this time recommend that a comprehensive inquiry be conducted. I think it would be sufficient for present purposes if interviews were conducted with the Executive Director, the Chairman of the Authority, the successful contractor and possibly Messrs Parker and Parsons. You would, of course, need to authorise the release to the police of the in camera evidence given by Messrs Parker and Parsons for the purposes of the investigation.

The question whether sound administrative procedures were observed in relation to tender procedures applying to the construction of the Centre is really outside my Ministerial responsibilities.

Yours sincerely,

(sgd) P. Durack

(PETER DURACK)

Mr D.M. Connolly, M.P.,  
Chairman,  
Joint Parliamentary Committee  
of Public Accounts,  
Parliament House  
CANBERRA. A.C.T. 2600

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APPENDIX C

PAC REPORT NO. 181 : CANBERRA COMMERCIAL DEVELOPMENT AUTHORITY

Chronology of Events Since Report was Tabled in Parliament on  
16 September 1980

16 September 1980: Report ordered to be brought up and printed.  
19 September 1980: Minister for Capital Territory wrote to Attorney-General drawing his attention to PAC recommendation that the AG initiate a full inquiry.  
23 September 1980: Finance wrote to AG's and DCT seeking a response to the Report.  
2 January 1981: PAC drew AG's Department attention to Chapter 9 of the Report and provided the Department with a copy of the Report.  
20 February 1981: DCT wrote to AG's Department requesting advice so that the Department's response to the PAC Report - as requested by the Department of Finance - could be finalised. Advice on the position of the investigation assumed to have been undertaken by the AG's Department was requested.  
14 April 1981: Follow-up request to AG's Department by DCT.  
27 May 1981: Chairman PAC, wrote to the AG complaining about the delay and asking for advice.  
9 June 1981: AG acknowledged Chairman's letter.  
13 July 1981: Follow-up request to Attorney-General's Department by DCT.  
29 October 1981: Chairman had discussions with PM.  
12 November 1981: Chairman wrote to PM expressing reservations over the reappointment of members of the board of the CCDA.  
12 November 1981: Chairman wrote to Minister for the Capital Territory expressing PAC concern over reappointments.  
24 November 1981: Minister for Capital Territory replied that members had been reappointed. He referred to an earlier but undated conversation with the Chairman.  
2 December 1981: DCT gave their response to the Department of Finance without including advice from AG's Department as that advice still had not been made available.  
10 December 1981: Finance sent a strongly worded request to AGs.  
18 December 1981: The PM acknowledged the Chairman's letter and said the four Board members had been reappointed until 16 April 1982.

6 January 1982: The Attorney-General replied to the Chairman's letter of 27 May 1981.  
6 January 1982: The Attorney-General apparently wrote to the Minister for Capital Territory providing a copy of his reply of 6 January to the PAC. DCT did not receive a copy of this letter.  
16 February 1982: PAC noted the Attorney-General's letter.  
16 February 1982: Finance sent follow-up request to AG's Department.  
12 March 1982: Minister for the Capital Territory wrote to the Chairman advising that it had not been possible to follow-up the investigation and stated that the members would be reappointed for a further 12 months. The Minister sought the Committee's views.  
16 March 1982: The PAC noted the Minister's views and agreed that the Chairman meet with the Minister before a formal reply was endorsed.  
19 March 1982: Chairman replied to the Minister for Capital Territory stating that it was not possible for PAC to consider further reappointments before 23 March and informing him of the Attorney-General's advice of 6 Jan 1982.  
23 March 1982: PAC agreed that there was insufficient information to justify a police inquiry and reaffirmed its opinion that the Chairman of the CCDA should not be reappointed.  
23 March 1982: Copy of Attorney-General's letter received by DCT following discussion between the Chairman and Minister on 19 March.  
24 March 1982: Meeting between Minister and members, including former members, of PAC.  
25 March 1982: PAC agreed to call the Crown Solicitor before it and accepted the proposal that the Chairman and Directors of the Board be re-appointed, but only for a further 6 months.  
25 March 1982: PAC reopened the CCDA Inquiry to take evidence in camera from Mr B.J. O'Donovan, the Crown Solicitor.  
26 March 1982: Chairman wrote to the Minister for the Capital Territory informing him that the Committee's views had not changed but it agreed, in the circumstances, to the Board's reappointment for a further 6 months. The Minister was informed that in view of the Crown Solicitor's evidence, that it had no evidence before it which suggested that any members of the CCDA Board acted in an illegal manner, there would be no further investigation "into any of the matters raised by persons appearing before the PAC inquiry into the CCDA."  
26 March 1982: DCT noted that no reply had been received from AG's request of 19 September 1980; 20 February, 14 April, 13 July and 2 December 1981.

2 April 1982: DCT requested copy of the transcript of Mr O'Donovan's evidence. Letter notated that the transcript was sent.

25 August 1982: Chairman spoke to Minister following advice from Secretariat regarding Finance's problem in preparing the Finance Minute on the PAC's Report on the CCDA.

25 August 1982: Chairman wrote to the Minister summarising newspaper accounts of the progress in the Government's attempt to sell the Mall and stating that if it is not possible to dispose of the Mall then the PAC would wish to see the recommendations of its 181st Report implemented. The letter stated that any further reappointment of Board members due in October should not be for a period longer than 6 months.

30 August 1982: Department of Finance advised on the current situation regarding the preparation of the Finance Minute and detailed its earlier attempts to elicit advice from the Attorney-General's Department.

8 October 1982: Minister replied to Chairman's letter of 25 August advising that the Committee's views would be taken into account in considering the reappointment of members of the CCDA beyond October 1982 and that the Department had completed action on the follow-up to the Committee's 181st Report.

14 October 1982: Chairman wrote to Prime Minister outlining the difficulties the Committee had been experiencing with the Attorney-General's Department and in particular the Crown Solicitor's office.

9 November 1982: Acknowledgement by the Prime Minister promising a reply.

19 May 1983: Minister for Finance forwards Finance Minute (dated 14 April 1983) on 181st Report to Chairman.

14 June 1983: Committee meets with the Chairman and officers of PSB, Auditor-General and his officers and officers of the Department of Finance. The Committee was advised that the outstanding issue of depreciation was yet to be finalised.

17 June 1983: Board advises that problems previously experienced with the Authority have been overcome and the statutory relationship is now operating satisfactorily.

25 August 1983: Committee meets with the Minister for Territories and Local Government and discusses the reappointment of members of the CCDA. The Minister assured the Committee that he was well aware of the past difficulties and he had instructed the Chairman, Mr Pead, that he and

the Parliament expected the Authority to abide by established procedures and that he had received assurances and taken measures to ensure that this would be so.

6 September 1983: Committee noted that they were generally satisfied that the reappointments to the Board of the CCDA were made with the Minister being fully aware of the past history of the Authority and its members.

22 September 1983: Chairman wrote to Minister for Finance requesting further comments on Finance Minute in light of decision not to sell Belconnen Mall.

28 October 1983: Minister for Finance sent to Chairman further comments on Finance Minute provided by the Department of Territories and Local Government.

#### APPENDIX D

##### FURTHER REFERENCES TO THE CCDA

###### Auditor-General's Reports

###### Report April 1980

The Committee's 181st Report was based on comments made by the Auditor-General on the 1976-77 accounts of the CCDA in his Supplementary Report for 1977-78 and tabled in the Parliament on 23 November 1978. Subsequent to the Committee's inquiry and prior to the completion of the 181st Report, the Auditor-General commented on aspects of the 1977-78 accounts of the CCDA in his Report tabled on 29 April 1980, in the following terms:

###### . Terms and Conditions of Employment:

Salaries and allowances for certain staff had been paid without the approval of, or in excess of terms and conditions approved by, the Public Service Board under section 17(2) of the Ordinance

###### . Bank Accounts:

The Authority's bank accounts were overdrawn during 1977-78 on a number of occasions without the approval of the Treasurer required by section 20(a) of the Ordinance

###### . Approved Form of Finance Statements:

The Authority has not disclosed details of operating and administrative expenses in the notes to the statements as required by the determination of the Minister for Finance

###### . Authority's Accounting Policy:

In outlining the accounting policies adopted, the Authority stated that until the construction stage was completed, a statement of receipts and payments was the more appropriate format to reflect correctly the development expenditure and that it had adopted the principle of capitalising all expenditure net of any income up to 8 November 1978. The effect of the above accounting policy is that the financial statements do not:

- distinguish between capital and revenue transactions

- match income with related expenses
- disclose the profit or loss derived during the year though a significant area of the Belconnen Mall was opened on 28 February 1978; nor
- disclose the true cost of construction to the extent that the difference between income and related operating expenditure has been capitalised.

The Committee, in Chapter 12 of its 181st Report, noted with concern that matters raised in the Auditor-General's report on the Authority's 1976-77 accounts appeared to have been repeated in 1977-78. The Committee noted the Auditor-General's comments that salaries and allowances had been paid without the approval of, or in excess of terms and conditions approved by, the Public Service Board under Section 17(2) of its Ordinance. The Committee was most disturbed that despite the fact that the Authority's attention was drawn to this non-compliance in the 1976-77 Auditor-General's report, it should continue the same policies.

###### Report March 1981

The Auditor-General commented on the financial statements for 1978-79 in the following terms:

###### . Approved form of financial statements

The Minister for Finance approved a form of financial statements for the Authority for 1978-79 and subsequent years in which a clear distinction could be drawn between the Authority's trading and remaining construction activities as well as providing for the full disclosure of trading results from 1 July 1978. A significant area of the Mall was occupied and trading by 1 July 1978, but the results were capitalised until 8 November 1978.

###### . Accounting Policy

In outlining the accounting policies adopted the Authority stated that, in accordance with generally accepted accounting principles in the construction and development of rental properties industry, the determination of periodical results commences after the property is substantially completed and ready for rental operations. The Authority was of the view that the Belconnen Mall reached such a stage of substantial completion on 8 November 1978.

In consequence of this policy the operating loss as disclosed in the Profit and Loss Statement did not reflect the full trading results for the year from 1 July 1978.

The full trading results for the year were shown in the Notes to the Accounts as follows:

- . total revenue - \$5 792 938
- . total expenses - \$6 508 202
- . operating loss before income tax - \$715 264.

The Authority included in the above result all revenue and expenditure some of which was of a capital nature related to areas of the Mall which were still being constructed during the period 1 July 1978 to 8 November 1978

. Departures from Accounting Standards

The following departures from the accounting standards issued by the Australian Society of Accountants and the Institute of Chartered Accountants in Australia were mentioned:

- .. Tax effect accounting - as mentioned in the Notes to the Accounts the Authority had not adopted tax effect accounting.

Audit opinion was that any future income tax benefit expected to arise from recoupment of tax losses against future assessable income should be quantified and shown in the Notes to the Accounts.

- .. Depreciation - As mentioned in the Notes to the Accounts the Authority has not provided for depreciation on the Mall Buildings.

Audit opinion was that leasehold improvements should be written off in accordance with accounting standards, to absorb the cost as a charge against revenue over their estimated useful lives or the unexpired period of the lease, whichever is the shorter. The Authority had not calculated the financial effect of this departure from the Accounting Standard.

Accounting records of the Mall buildings excluding Mall plant, equipment and fittings showed a cost of \$26.67 million at 1 July 1978.

If depreciation had been calculated on the basis of this cost over either a 40 year life or the unexpired period of the lease of 97 years the estimated minimum charges against revenue would have been in the order of \$666,000 or \$274,000 for the full year.

. Audit conclusion

Audit did not agree with the capitalisation of the net operating administrative and financial costs from 1 July 1978 to 8 November 1978.

Although an estimate of \$715,264 operating loss for the full trading year was disclosed in the Notes, it included revenue and expenditure which in the opinion of Audit was of a capital nature.

Nor did Audit agree with the omission of depreciation on the Mall buildings, estimated above at either \$666,000 or \$274,000 for the full year.

If the Profit and Loss Statement had been prepared to show the trading activities from 1 July 1978, and the depreciation of Mall buildings had been included in the accounts in accordance with generally accepted accounting principles and Accounting Standards, then a loss in the order of \$1 382 000 or \$989 000 would have been disclosed, depending upon which basis of depreciation for the Mall buildings had been selected.

Accordingly, Audit was of the opinion that the loss disclosed in the Accounts, \$283 573, was a significant understatement of the Authority's trading results for the year ended 30 June 1979.

. Statutory report on 1978-79 financial statements

As required by section 24(2) of the Ordinance the Auditor-General reported that the financial statements were in agreement with the accounts and records of the Authority and in the Auditor-General's opinion:

- .. the statements were based on proper accounts and records;



- .. the departures from standards and treatment mentioned above resulted in the statements not showing fairly the loss incurred during the year and state of affairs of the Authority;
- .. the receipt, expenditure and investment of moneys and the acquisition and disposal of assets had been in accordance with the Ordinance except that:
  - salaries and allowances for certain staff had been paid without the approval of or in excess of terms and conditions approved by the Public Service Board, under section 17(2) of the Ordinance; and
  - one of the Authority's bank accounts had been overdrawn during 1978-79 on several occasions without the approval of the Treasurer as required by section 20(1) of the Ordinance.

The Annual Report for 1978-79 was presented to Parliament on 24 February 1982.

Report March 1982

The Auditor-General commented on the accounts and records of the financial transactions and affairs of the Authority and the records relating to assets of, or in the custody of, the Authority for the year ended 30 June 1980. The annual report of the Authority for the year ended 30 June 1980, incorporating the abovementioned financial statements and the audit report thereon, was presented to Parliament on 23 March 1982.

The Auditor-General's comments were as follows:

. Depreciation

The audit report on the financial statements expressed the opinion that the Authority's treatment of depreciation resulted in the statements not showing fairly the financial transactions during the year and state of affairs of the Authority.

A note to the 1979-80 financial statements mentioned that the Authority did not provide for depreciation on Mall buildings. This is a departure from a Statement of Accounting Standards issued by the Institute of Chartered Accountants in Australia and the Australian Society of Accountants.

This Office is of the opinion that leasehold improvements should be written off in accordance with Accounting Standard AAS4 to absorb the cost as a charge against revenue over their estimated useful lives or the unexpired period of the lease, whichever is the shorter. If the useful life of the Mall buildings is less than the remaining term of the lease, the depreciation charge would be greater than that shown by the Authority in its note.

If the depreciation of Mall Buildings had been included in the accounts in accordance with generally accepted accounting principles and Accounting Standards, then, based on the Authority's calculation of depreciation and after allowing for adjustments for prior periods, an operating profit of \$121 747 would have been disclosed. Accordingly, this Office considered that the operating profit after prior period adjustment disclosed in the Accounts, \$654 977, is an overstatement of the Authority's trading results for the year ended 30 June 1980.

. Accounting policy

In the Report of 31 March 1981 on the 1978-79 financial statements reference was made to the Authority's decision to capitalise operating expenditure, net of income, up to 8 November 1978, the date on which the Authority considered the Mall had reached a stage of substantial completion ready for occupation. The Authority has now reversed its earlier decision and explained the effects in a note to the 1979-80 statements.

. Terms and conditions of employment

Public Service Board approval to the terms and conditions of employment of certain staff had still not been obtained. The Authority was negotiating with the Board on the general terms and conditions.

Report May 1983

The Auditor-General commented on the accounts and records of the financial transactions and affairs of the Authority and the records relating to assets of, or in the custody of, the Authority for the year ended 30 June 1981. The annual report of the Authority for the year ended 30 June 1981, incorporating the abovementioned financial statements and the audit report thereon was presented to the Parliament on 14 December 1982.

The Auditor-General commented on the financial statements of CCDA in the following terms:

. Depreciation

Paragraph 35 of the March 1982 Report mentioned in relation to financial statements for the period ended 30 June 1980 that the Authority had not provided for depreciation on Mall buildings. This practice, which is a departure from a Statement of Accounting Standards issued by the Institute of Chartered Accountants in Australia and the Australian Society of Accountants, was continued in the financial statements for the year ended 30 June 1981.

This Office holds to the opinion that leasehold improvements should be written off in accordance with Accounting Standard AAS4 to absorb the revalued amount as a charge against revenue over their estimated useful lives or the unexpired period of the lease, whichever is the shorter. If the useful life of the Mall buildings is less than the remaining term of the lease, the depreciation charge would be greater than that shown by the Authority in its note.

If the depreciation of Mall buildings had been included in the accounts in accordance with generally accepted accounting principles and accounting standards, then an operating profit after prior period adjustment of \$115 537 would have been disclosed, based on the Authority's calculation of depreciation. Accordingly, this Office considered that the operating profit after prior period adjustment disclosed in the accounts, \$615,295, is an overstatement of the Authority's trading results for the year ended 30 June 1981.

Because of this departure from accounting standards I reported that the financial statements for the year ended 30 June 1981 did not show fairly the financial transactions during the year and the state of affairs of the Authority.

Report September 1983

The Auditor-General noted in his Report that the Canberra Commercial Development Authority had not submitted its 1981-82 Financial Statements in final form at 30 June 1983. The Authority's Annual Report for 1981-82 was presented to Parliament on 10 November 1983 with an unqualified certificate from the Auditor-General.

The Annual Report of the CCDA included a comment by the Authority as follows:

Delay in presentation of report

The Authority's financial statements were submitted to the Auditor-General on 4 November 1982.

The report of the Auditor-General, necessary prior to presentation of the report, was received on 23 August 1983.

In accordance with the Annual Reports Act (sic) the delay in presentation of this report, and reasons for the delay, have been reported to the Minister.

Senate Standing Committee on Finance and Government Operations

6th Report on Statutory Authorities

In March 1982, the Senate referred the Annual Report of the CCDA for 1978/79 and 1979/80 to the Senate Standing Committee on Finance and Government Operations for investigation and report as to the reasons for the delay in their presentation and the matters associated with the qualifications given by the Auditor-General in the certificate which he gave in relation to the financial statements of that Authority.

The qualifications given by the Auditor-General are contained in extracts from his Reports for March 1981 and March 1982 above.

The Senate Committee was of the view that against the background of the information provided by CCDA; information contained in the Auditor-General's reports; the Report of the investigation conducted by the Joint Committee of Public Accounts (PAC) on the CCDA; the Review of Commonwealth Functions decision to sell the Belconnen Mall and abolish the CCDA; and information provided by the Department of Finance, the Department of Capital Territory and the Auditor-General; that it was not necessary to seek further information through public hearings to avoid duplication of earlier report studies.

The Senate Committee discussed the issues in its Sixth Report on Statutory Authorities of the Commonwealth tabled in Parliament on 16 September 1982 and the report concluded with:

- . Strong disapproval of the apparent disregard by the CCDA Board of its clear responsibilities;
- . the question of appropriate sanctions which should apply in respect of such behaviour; and
- . there would be little likelihood of any government again giving similar responsibilities to the people involved.

A Report on Certain Annual Reports - June 1983

The annual report of the Canberra Commercial Development Authority for 1980-81 was referred to the Senate Standing Committee on Finance and Government Operations on 16 December 1982 for investigation and report as to the reasons for the delay in its presentation and for qualifications by the Auditor-General. The Committee decided not to pursue a detailed inquiry into this report as the matters raised were dealt with in the Committee's Sixth Report on Statutory Authorities.

The Committee found in its Report on certain Annual Reports tabled in the Senate on 6 June 1983, that the delay in resolution of the treatment of depreciation in its accounts was totally unacceptable and recommended that the Minister for Finance give immediate consideration to this annual report and to directing the CCDA as to the form of its financial statements so those statements reflected the opinion of the Department of Finance and the Auditor-General as to how depreciation of the Authority's assets is to be dealt with in the accounts.

The Annual Report of the CCDA for 1981-82 was presented to Parliament on 10 November 1983 with an unqualified certificate from the Auditor-General.