

**Public Accounts
Committee**
Parliament of New South Wales



**Report on the
Film Corporation of
New South Wales**

The New South Wales Public Accounts Committee is composed of five members of the Legislative Assembly of the New South Wales Parliament. Its functions and powers are defined in the Public Finance and Audit Act and its role generally is to serve as a Parliamentary watchdog of government expenditure to ensure that government organisations are implementing government policy as efficiently and effectively as possible.

**1986-87
Parliament of New South Wales**

**Public Accounts Committee
of the
Forty-eighth Parliament**

Thirty-first Report

Inquiry pursuant to Section 57 (1) of the Public Finance and Audit Act, 1983, concerning the Film Corporation of New South Wales.

(Transcripts of Evidence tabled together with this Report.)

June 1987

MEMBERS OF THE PUBLIC ACCOUNTS COMMITTEE

The members of the Public Accounts Committee are:

Mr John Murray, M.P., Chairman

John Murray, formerly a teacher, was elected Member for Drummoyne in April, 1982. An Alderman on Drummoyne Council for three terms, John Murray was Mayor of the Council for five years and served four years as Councillor on Sydney County Council. He is currently a member of the House Committee.

Dr Andrew Refshauge, M.P., Vice-Chairman

Andrew Refshauge was elected as Member for Marrickville in October, 1983. He previously practised as a medical practitioner with the Aboriginal Medical Service and was a past President of the Doctors' Reform Society. He is currently a fellow of the Senate of the University of Sydney.

Mr Colin Fisher, M.P.

Colin Fisher was elected Member for Upper Hunter in February, 1970. Former Minister for Local Government (1975) and Minister for Lands and Forests (1976), in opposition Colin Fisher has served as National Party Spokesman on Local Government, on Planning and Environment, and on Energy.

Mr Phillip Smiles, M.P.

Phillip Smiles was elected Member for Mosman in March, 1984. A management and marketing consultant since 1974, Phillip Smiles has been involved with entrepreneurial business activities since his teens. Since entering Parliament he has been actively interested in the areas of small business, emergency services, welfare and financial analysis.

Mr Allan Walsh, M.P.

Allan Walsh was elected Member for Maitland in September, 1981. Following eight years as a Mirage Fighter pilot with the RAAF, he was involved in business management. Allan Walsh has also taught industrial relations, management and history at technical colleges.



Committee Members. From left: Andrew Refshauge (Vice-Chairman), Phillip Smiles, Colin Fisher, John Murray (Chairman), Allan Walsh

Secretariat

John Horder, LL.B., AASA CPA, Clerk to the Committee

Sue Chapple, B.A.(Hons.), Senior Project Officer

Tony Boulton, B.Ec.(Syd), AASA, Adviser on secondment from the
Auditor-General's Department

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CHAIRMAN'S FOREWORD

The Film Corporation of New South Wales has been established now for just over a decade. In that time, the Corporation has played a vital role in the revival and development of the Australian Film industry. Times are changing and the film industry in this country must adapt for the future. The Committee believes that the time is opportune for a reassessment of the direction and priorities of the Corporation, with an emphasis on the strengthening of accountability and financial controls.

Throughout this inquiry Committee members were cognisant of the conflicts which arise when an entrepreneurial organisation operates in the public sector. The Committee believes that the Corporation's current freedom of action over creative decisions is essential. The Corporation is however funded from the public purse. In this situation, the Committee considers that the Corporation must be strictly accountable for expenditure and must exercise due economy with public funds. This report contains a number of recommendations which I believe will enhance the accountability of the Film Corporation.

I have no doubt that the majority of films made in Australia in the last ten years would not have been made without the financial assistance of Government film bodies. The New South Wales Film Corporation for its part has been associated with films such as "My Brilliant Career", "Newsfront", "Careful He Might Hear You" and "Bliss" which have received international recognition.

During the inquiry, the Committee was made aware of the important role the Film Corporation plays in fostering and developing young scriptwriters, producers, directors and technical personnel, as well as indirectly providing a medium to encourage the growth of tourism in Australia.

The Public Accounts Committee is centrally concerned with the accountability of statutory authorities and departments to parliament, government and the public. The Committee's Seventh Report "Accountability of Statutory Authorities" examined this issue in a general sense.

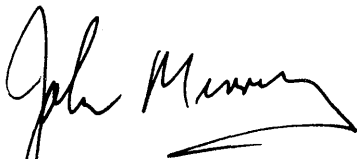
Previous Committee inquiries have also examined accountability in relation to specific organisations, such as the Builders Licensing Board, the Grain Sorghum Marketing Board and public hospitals.

A common thread running through these inquiries had been the need for changes in corporate structure and for clearer definition of the respective roles of the Minister, Board and management.

These issues have received priority in this report. The problems identified with the structure and operations of the Film Corporation are common to many statutory authorities. The Committee urges all statutory authorities to undertake regular reappraisal of the appropriateness and effectiveness of their programs and structure.

I firmly believe that implementation of the recommendations contained in this report will assist the Film Corporation of New South Wales to reassess its direction and priorities and face its second decade with renewed confidence.

I wish to extend the Committee's thanks to the Secretariat of the Public Accounts Committee for their work during this inquiry. In particular, I pay tribute to Sue Chapple, the Committee's Senior Project Officer, for her input into this report.

A handwritten signature in black ink, appearing to read "John Murray", with a long horizontal flourish extending to the right.

JOHN MURRAY, M.P.
CHAIRMAN.

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1. SUMMARY AND RECOMMENDATIONS

- 1.1. The Film Corporation of New South Wales was established in 1977. The Corporation's broad charter was to provide government support to assist in developing a viable film industry in New South Wales.
- 1.2. The Public Accounts Committee considers that after a decade of operation it is appropriate for the objectives and operations of the Corporation to be reviewed and redefined.
- 1.3. In summary this Report recommends that objectives, policies and strategies be more clearly defined and articulated by the Corporation; changes to the corporate structure to enable clear lines of responsibility and accountability; and more stringent financial controls over funds administered by the Corporation.
- 1.4. The Committee believes that implementation of its recommendations will result in greater accountability and enhance the effectiveness and efficiency of the Corporation.

Role and Objectives

- 1.5. The Corporation has established the following broad objective, as published in its 1985-86 Annual Report:

"To help foster the development of the Australian film industry as a source of motion pictures of high quality and commercial appeal."

The Corporation's Annual Report also states that the Corporation "is committed to the eventual creation of a commercially viable industry". (Refer to Section 4.2).

- 1.6. Due to the broadness of this statement and the lack of any more definitive objectives, the Committee had difficulty in assessing the effectiveness of the Film Corporation. For example, while the twin goals of "high quality" and

"commercial appeal" may in some instances be compatible, this will not always be the case. The film industry has provided numerous examples of films which have received critical acclaim but have not succeeded at the box office. (Refer to Section 4.3).

- 1.7. The Committee does not wish to canvass the merits of the respective goals but does consider that the Corporation's goals should be clarified in regard to the type of films it supports and the relative priority it gives to the attributes of high quality and commercial appeal. (Refer to Section 4.4).
- 1.8. The Committee believes that the Corporation also has other objectives which are not formally stated. These objectives relate to areas such as encouragement of young script-writers; development of new directors, actors and producers; and fostering private investment in films. The Committee recommends that the Corporation clarify and formalise such objectives. (Refer to Section 4.5).
- 1.9. The Committee endeavoured to ascertain the Film Corporation's policies in areas such as investment in television, terms and conditions of grants and loans, employment of overseas actors and buy-out of script development grants. The Committee found that while individual members of the Corporation had a view on each of the matters raised, the Corporation had not clearly defined nor formally considered the policies discussed. (Refer to Section 4.12).
- 1.10. The Committee considers that the Film Corporation currently lacks an operating framework. It recommends that the Corporation develop a Corporate Plan, aimed at examining the strategic role and objectives of the Corporation and at articulating short-term policies and strategies. This plan

should be updated on an annual basis and become an integral part of the Corporation's management activities. (Refer to Section 4.15).

- 1.11. The Committee has formed the view that after 10 years of operation, it would be appropriate for the overall objectives of the Film Corporation to be reviewed and more clearly defined. Corporation objectives should be published in the Annual Report. (Refer to Section 4.17).

Corporate Structure and Staffing

- 1.12. The Corporation Board is composed of three members: the Chairman, the General Manager and one outside appointee. While the legislation allows for the appointment of a Chief Executive Officer, the position has never been filled. The functions of the Chief Executive Officer are carried out by the Chairman.
- 1.13. The Chairman of the Corporation has day-to-day responsibility for marketing and sales, finance and accounting, legal department, investment and the Government Documentary Division. In addition, the General Manager also reports to the Chairman. (Refer to Section 5.4).
- 1.14. The Committee is somewhat perplexed by this situation, particularly in light of the fact that the Chairman, who also carries out the duties of Chief Executive Officer, receives a lower salary than the General Manager. (Refer to Section 5.3).
- 1.15. The Committee considers that there is some confusion concerning the respective roles of the Board and the Chairman, arising from the dual roles of the Chairman, as Chairman of the Board and carrying out the functions of Chief Executive Officer. Questioning during public hearings revealed a number of occasions where this conflict was evident. (Refer to Section 5.6).

- 1.16. The Committee also endeavoured to ascertain the role of the Board in decision-making and authorisation of major expenditure. The Committee is critical of the lack of effective financial controls over this area of the Corporation's operations. It recommends that a system of procedures and controls be established to ensure that the Board formally exercises its responsibility in regard to authorisation of expenditure and that no funds are transferred, expended or committed without appropriate authorisation from the Board. (Refer to Section 5.17).
- 1.17. The Committee extends this recommendation to other forms of financial assistance provided by the Corporation, such as equity investment, production loans and script development grants, which due to time constraints were not subject to detailed scrutiny by the Committee. (Refer to Section 5 18).
- 1.18. The Committee, in reviewing decisions taken prior to authorisation by the Board, is not criticising the decisions themselves. The Committee is concerned, however, that the Board of the Film Corporation is not properly exercising its authority. This may be due in part to the composition of the Board, with two out of three members also having full-time management responsibilities for the day-to-day running of the Corporation. The process whereby the Board reviews and authorises major expenditure items is a necessary safeguard in any statutory authority. Statutory authorities established by the Government are given much greater freedom in the policy making and management areas than departments. The authority and control which in departments is normally exercised by the Minister, usually resides, in a statutory authority, in the Corporation or Board. It is, therefore, essential that the Corporation or Board exercises its authority in the proper manner, on behalf of the Government. (Refer to Section 5.20).

- 1.19. Only where this control and authority is exercised can the Government, Parliament and the public be assured that public funds are being spent for the purposes intended and with due economy. (Refer to Section 5.21).
- 1.20. The Committee recommends that the membership of the Corporation be reviewed to enable it to carry out its intended role. In particular, the Committee recommends:
- . The legislation be amended to provide for the appointment of three part-time directors to the Corporation. Employees of the Corporation should not be eligible for appointment as directors.
 - . The position of Chairman be filled from amongst the three part-time positions. The Chairman should not carry out executive functions of the Corporation.
 - . A full-time Chief Executive Officer be appointed by the Corporation. The Chief Executive Officer should be an ex-officio member of the Board, with no voting rights.
 - . The Committee suggests that directors of Corporation be selected with a view to providing appropriate financial expertise. It may also be appropriate for a senior government officer to be appointed as one of the directors. (Refer to Section 5.22).
- 1.21. The Committee believes that the changes in the structure of the Board recommended above will result in greater accountability and will also improve the effectiveness and efficiency of the Corporation. (Refer to Section 5.23).
- 1.22. The Committee is concerned at the potential for conflict of interest situations and recommends that directors of the Corporation be barred from having any financial interest, direct or indirect, in projects receiving financial benefit from the Film Corporation. (Refer to Section 5.29).

- 1.23. To avoid possible conflict of interest situations, the Committee also recommends that Corporation employees should not be eligible to receive direct or indirect financial assistance for film projects from the Corporation. (Refer to Section 5.32).

Financial Support for Films

- 1.24. The Film Corporation provides direct financial support for the film industry through equity investment in film projects, the provision of loans to producers to develop, produce and market films, grants for script development and the provision of advance distribution guarantees to private investors in films. Where the Film Corporation is the major investor, the Corporation takes on the role of co-producer, mobilising investment, overseeing the production, marketing the film in Australia and overseas and distributing returns. (Refer to Section 6.1).
- 1.25. The Committee recommends that the Film Corporation take greater account of the viability of film projects when considering script development applications. Problems associated with overseas locations and technological requirements should also be assessed. (Refer to Section 6.9).
- 1.26. The Committee recommends that guidelines be established setting an upper limit on the amount of funds which will be provided for script development for an individual project. (Refer to Section 6.11).
- 1.27. The Committee recommends that the Corporation publish written guidelines for buy-out of script development costs. (Refer to Section 6.14).
- 1.28. Of the 31 films invested in by the New South Wales Film Corporation, seven have returned the sum invested or more than the sum invested. The remainder have provided nil

return or less than the sum invested. On equity investment funds of \$10.3 million returns to the Film Corporation at 30 June 1986, had been \$2.8 million. (Refer to Section 6.18).

- 1.29. The Committee believes that in the Corporation's first 10 years it has played an important role in assisting the developing film industry. It is unrealistic to expect the Corporation to have been self-funding through returns on investments during this time. (Refer to Section 6.23).
- 1.30. The Committee notes, however, that the Corporation is committed to the "eventual creation of a commercially viable industry" and considers that the Corporation should develop a five-year strategy aimed at achieving this objective. In each of those five years performance standards should be set and monitored. (Refer to Section 6.24).
- 1.31. The Committee questioned the Corporation concerning accountability for marketing loans, which operate through individual marketing accounts for each film.
- 1.32. The Committee sought explanations from the Corporation as to why transfers of funds to the Marketing Accounts in June 1986 amounted to 52% of the year's marketing allocations. In June 1986, \$357,215 was transferred into the various marketing accounts, while the total transferred for the year was \$687,369. (Refer to Section 6.31).
- 1.33. The Committee found the explanations provided by the Film Corporation as to why over 50% of transfers to marketing accounts had occurred in June 1985 and June 1986, difficult to reconcile with financial documentation. (Refer to Section 6.32).

- 1.34. In the Committee's view the information shows that in June 1986 funds were clearly not transferred to meet immediate expenditure commitments. The Committee has formed the view that the transfer of funds in June 1986, into non-interest bearing accounts, was a method of inflating expenditure figures in order to impact on the subsequent year's allocation from Treasury. In the Committee's opinion, this is no different to the year-end spend-up syndrome discussed in the Committee's "Report on Year-End Spending in Government Departments and Selected Authorities" (March 1986). (Refer to Section 6.35).
- 1.35. The Committee recommends that the Film Corporation be required to publish the balances of its marketing accounts in its annual financial statements. This could be done by way of a note to the Accounts as is normal commercial practice. (Refer to Section 6.38).
- 1.36. The Committee further recommends that the marketing accounts be subject to audit by the Auditor-General. From evidence given, it appears that these accounts are not subject to audit either by the Auditor-General or by the production company's auditors. As the accounts and all marketing functions are under the control of the Corporation, the Committee believes that the Auditor-General's Office is the appropriate body to audit these funds. (Refer to Section 6.39).
- 1.37. The Committee considers no funds, marketing or otherwise, under the control of the Corporation, should be held in non-interest bearing bank accounts. It is recommended that the Corporation establish a procedure which allows funds to remain in interest bearing accounts until payments are made. (Refer to Section 6.40).

Operating Expenditure

- 1.38. The Committee appreciates that the film industry may require more expenditure on promotional activities and entertainment than would normally be acceptable from Government authorities. The Committee believes, however, that such expenditure needs to be justified in terms of value for money and achievement of the objectives of the Corporation. Regard should also be paid to the fact that public moneys are involved and due economy should be exercised. (Refer to Section 7.2).
- 1.39. The Committee inquired into a number of individual expense items and considers that the level of expenditure in some areas, particularly entertainment, may not be appropriate for a publicly funded organisation. (Refer to Section 7.4).

Auditor-General's 1985-86 Report

- 2.3. In his 1985-86 Report, the Auditor-General again raised the issues mentioned in his earlier Report. In addition, he commented that the Film Corporation's income was not sufficient to cover interest payments on outstanding borrowings, which in turn were covered by Government guarantee.
- 2.4. As part of its examination of the Auditor-General's 1985-86 Report, the Committee resolved in December 1986 to reactivate its inquiry into the New South Wales Film Corporation, and sought written submissions from the Corporation on the issues raised.

Scope of Inquiry

- 2.5. The Committee concentrated in this inquiry on the Corporation's feature film activities. Accordingly the Committee did not investigate other activities, such as the Government Documentary Division. A submission from the Corporation on the Government Documentary Division and other activities not covered by the inquiry, is attached, Appendix 1.
- 2.6. As part of its inquiry the Committee researched the roles and operations of the Australian Film Commission and government film bodies in other States. A summary of other government film organisations is attached, Appendix 2.
- 2.7. Public Hearings were held on 27 March, and 15 April, 1987 at which the Chairman and senior officers of the Corporation gave evidence. Transcripts of evidence given at the hearings is attached, Appendix 3.

3. BACKGROUND TO THE FILM CORPORATION OF NEW SOUTH WALES

- 3.1. The first Australian Government film body was the South Australian Film Corporation, established in 1972. The Australian Film Commission followed in 1975 and the Victorian Film Corporation in 1976. Government film bodies were established in Tasmania, Queensland and New South Wales in 1977 and in Western Australia in 1978. A summary on the operations of other Australian Film bodies is contained in Appendix 2.
- 3.2. The New South Wales Film Corporation was constituted by the New South Wales Film Corporation Act, 1977. The Corporation's broad charter was to provide Government support to assist in developing a viable film industry in New South Wales.
- 3.3. The decade since the Film Corporation's inception has seen the establishment of an Australian film industry with markets in this country and overseas. The success of the industry has been largely due to the involvement of government funded film bodies. The New South Wales Film Corporation has been associated with a number of films which have received international and domestic recognition and acclaim, such as "My Brilliant Career", "Newsfront", "Careful He Might Hear You" and "Bliss". A list of all films which have received financial support from the Corporation is provided in Table 6.2.

Objectives and Activities

- 3.4. The Film Corporation's 1985-86 Annual Report states:

"The main objective of the Corporation is to help foster the development of the Australian film industry as a source of motion pictures of high quality and commercial appeal."

3.5. To achieve this objective the Corporation provides funding for script and project development, investment in production, mobilisation of private capital and Australian and international marketing.

A detailed discussion of the role and objectives of the Film Corporation is contained in Section 4.

Functions

3.6. The Film Corporation's functions are specified in the legislation:

- . to make, promote, distribute and exhibit films and, in particular, to have the sole responsibility for making, promotion, distribution and exhibition of short films and documentary films for or on behalf of any department of the Government or any statutory body representing the Crown;
- . to encourage and assist in, whether by the provision of financial assistance or by other means, the making, promotion, distribution and exhibition of films;
- . to encourage, whether by the provision of financial assistance or by other means, the proper keeping of films in archives in Australia;
- . to advise the Minister with respect to any matter relating to the making, promotion, distribution and exhibition of films; and
- . where the Minister so requests, to carry out research or an investigation into any matter relating to the making, promotion, distribution and exhibition of films and to report the findings resulting from the research or investigation to the Minister.

Powers

3.7. The legislation gives the following broad financial powers to the Corporation:

- . in providing financial assistance to the producer of a film, to make and enter into any contract or to enter into any arrangement that entitles the Corporation to receive a share of the proceeds derived from the sale, hire or exhibition of the film but that does not render the Corporation liable for any debts incurred by that producer;
- . to make and enter into a contract or to enter into an arrangement with any producer of films for the making of a film;
- . to acquire plant, machinery or equipment used in the making, distribution or exhibition of films and to sell, hire or lend any plant, machinery or equipment so acquired.

Power of the Minister

3.8. The legislation gives the Minister limited powers to direct and control the Film Corporation. While the Minister may give directions to the Corporation with respect to the performance of its functions or the exercise of its powers, he or she, cannot give directions in respect of a particular project, except in limited circumstances. Where a direction is given, the Minister must inform both Houses of Parliament within 15 days.

Ministerial control of the Corporation may however be exercised through the allocation of funds as the Minister must approve the Corporation's annual budget.

Table 3.1 STATE GOVERNMENT CONTRIBUTIONS FOR OPERATING COSTS

| Year ended 30 June | \$000 |
|-----------------------|----------|
| 1978 | 339 |
| 1979 | 964 |
| 1980 | 797 |
| 1981 | 2,025 |
| 1982 | 2,269 |
| 1983 | 1,800 |
| 1984 | 1,871 |
| 1985 | 1,871 |
| 1986 | 1,871 |
| | ----- |
| TOTAL | \$13,807 |
| | ----- |

Table 3.2 OTHER INCOME

| <u>Other Income</u> | 1984-5 \$000 | 1985-6 \$000 |
|---|-----------------|-----------------|
| Returns on Film Investment | 444 | 609 |
| Interest | 506 | 362 |
| Export Development Grant (from the Commonwealth) | 200 | 200 |
| Administrative Fees | 45 | 120 |
| Commission on Overseas Sales | - | 58 |
| Sale of Developed Scripts/Projects | 219 | 401 |
| Distribution Fees | - | 30 |
| Other | 10 | 8 |
| | ----- | ----- |
| TOTAL | \$1,424 | \$1,788 |
| | ----- | ----- |

Film Corporation Funding

- 3.9. Until July 1, 1986, the main sources of funding for the Corporation were annual Government contributions for operating expenses and loans raised through the borrowing allocation provided by the Government.
- 3.10. In the nine years to June 30, 1986, the Corporation raised loans under its borrowing allocation totalling \$10.5 million; Government capital contributions were \$3.05 million, and Government contributions to operating expenses were \$13.8 million. Table 3.1 shows Government contributions to operating costs from 1978 to 1986.
- 3.11. Funding arrangements were altered from 1 July, 1986. Since that date the Film Corporation has been funded through the Consolidated Fund for the purpose of paying debt charges, as well as operating costs. Under this arrangement the Corporation can no longer raise loans through a borrowing allocation.

Income and Expenditure

- 3.12. In addition to Government funding, the Corporation receives income from a number of other sources, as shown on Table 3.2. Between 1978-79 and 1985-86, the Corporation received \$1.175 million in the form of Commonwealth Export Development Grants. The Commonwealth did not provide an export grant in 1986-87.

Table 3.3 shows major items of expenditure for 1984-85 and 1985-86.

Table 3.3 MAJOR EXPENDITURE ITEMS

| Expenditure | 1984-85 \$000 | 1985-86 \$000 |
|--|------------------|------------------|
| Promotion of Industry in Australia | 297 | 263 |
| *Promotion of Industry Internationally | 598 | 885 |
| Script and Project Development | 875 | 583 |
| General and Administrative | 562 | 616 |
| Interest | 1,002 | 1,212 |
| Other Financial Expenses | 109 | 271 |
| Amortisation of Investment in Films | 2,036 | 1,208 |
| | \$5,479 | \$5,038 |
| *Includes costs of Los Angeles Office. | | |

3.13. The income and expenditure items detailed in the tables gave the following financial results:

| | 1984-85 \$000 | 1985-86 \$000 |
|-------------------------|------------------|------------------|
| Total Expenditure | 5,479 | 5,038 |
| Total Income | (3,295) | (3,659) |
| Operating Deficit | 2,184 | 1,379 |
| Transfer to Loan | | |
| Repayment Reserve | 251 | 410 |
| Addition to Accumulated | | |
| Deficiency | <u>\$2,435</u> | <u>\$1,789</u> |

4. ROLE AND OBJECTIVES

4.1. Legislation establishing the New South Wales Film Corporation sets out the functions and powers of the Corporation. In common with much other enabling legislation, however, the Act does not spell out the Corporation's objectives.

4.2. The Corporation has established the following broad objective, as published in its 1985-86 Annual Report:

"To help foster the development of the Australian film industry as a source of motion pictures of high quality and commercial appeal."

The Corporation's Annual Report also states that the Corporation "is committed to the eventual creation of a commercially viable industry".

4.3. Due to the broadness of this statement and the lack of any more definitive objectives, the Committee had difficulty in assessing the effectiveness of the Film Corporation. For example, while the twin goals of "high quality" and "commercial appeal" may in some instances be compatible, this will not always be the case. The film industry has provided numerous examples of films which have received critical acclaim but have not succeeded at the box office.

4.4. The Committee does not wish to canvass the merits of the respective goals but does consider that the Corporation's goals should be clarified in regard to the type of films it supports and the relative priority it gives to the attributes of high quality and commercial appeal.

4.5. The Committee believes that the Corporation also has other objectives which are not formally stated. These objectives relate to areas such as encouragement of young script-writers; development of new directors, actors and

producers; and fostering private investment in films. The Committee recommends that the Corporation clarify and formalise such objectives.

- 4.6. The Committee also found that the Corporation's policies were vague and undefined in a number of areas.
- 4.7. The Corporation has, until recently, concerned itself almost exclusively with feature films, unlike other Australian film bodies which provide substantial financial assistance to television films and mini-series. The Committee questioned the Corporation Chairman about investment in television projects.
- 4.8. The Film Corporation Chairman explained his reasons for not investing in telemovies and T.V. films:
- "We felt it was the job really of the television stations out of their enormous profits to finance telemovies and mini-series. Now it is a different picture. The television stations are not doing as well as they did."
- 4.9. In early 1987, the Corporation decided to change its policy and consider investing in television mini-series. The Committee notes that prior to this change, the Corporation had in fact invested in two television projects: "Australia Now" in 1982 and "Winners" in 1984.
- 4.10. The Committee believes that the Corporation's policy re investment in television projects should be more clearly defined. The relative priority and allocation of funds to television and film projects should also be established.
- 4.11. All other State Government film bodies have specific charters to promote and develop the film industry in that particular State. The New South Wales Film Corporation differs from other State film organisations in that its aim is to develop the Australian film industry, rather than the State film industry. The enabling legislation does not prescribe which aim the Corporation should pursue, although

it does state that the Corporation may carry out its function outside New South Wales. The debate accompanying the introduction of the Film Corporation legislation, however, speaks more in terms of the New South Wales film industry. The Committee does not see its role as deciding what the objectives and policies of the Film Corporation should be. It does, however, wish to highlight the need for clear objectives and policies.

4.12. The Committee endeavoured to ascertain the Film Corporation's policies in areas such as investment in television, terms and conditions of grants and loans, employment of overseas' actors and buy-out of script development grants. The Committee found that while individual members of the Corporation had a view on each of the matters raised, the Corporation had not clearly defined nor formally considered the policies discussed.

4.13. Corporation witnesses advised that policies were matters of "mutual understanding" or not spelt out. The Corporation's approach as put to the Committee by the Corporation's Chairman during public hearings was:

"Our policy is that we have not got any because today's policies are tomorrow's disasters in the entertainment business...."

"...Basically, the Corporation's policy, if there is one, is to make sure that the Australian film industry will continue, despite difficulties caused by taxation laws and some other matters."

4.14. The Committee appreciates that policies and strategies in the film industry need to be flexible. It takes the view, however, that this should not mean that policies are not clearly articulated and well defined. The Committee believes that in a rapidly changing environment such as the film industry, a clear sense of direction, with defined policies and strategies, is essential. These policies

should be both short-term and long-term and should be adapted and revised in light of changing conditions and priorities.

- 4.15. **The Committee considers that the Film Corporation currently lacks an operating framework. It recommends that the Corporation develop a Corporate Plan, aimed at examining the strategic role and objectives of the Corporation and at articulating short-term policies and strategies. This plan should be updated on an annual basis and become an integral part of the Corporation's management activities.**
- 4.16. The Board of the Corporation, itself, should devote more of its energies to development of policy and planning. The Board should give priority to this function, which the Committee considers a vital prerequisite to operational activities. The role of the Board is discussed in greater detail in Section 5.
- 4.17. **The Committee has formed the view that after 10 years of operation, it would be appropriate for the overall objectives of the Film Corporation to be reviewed and more clearly defined. Corporation objectives should be published in the Annual Report.**
- 4.18. The role of the New South Wales Film Corporation vis à vis other Government film bodies was raised during the course of the Committee's inquiry. The major issues in this regard were investment by New South Wales in film productions of other State and Federal film bodies and duplication of activities of Government film organisations. The Committee considers these issues of vital importance to the current and future role of the New South Wales Film Corporation, and believes they should be addressed in the recommended review of objectives of the Film Corporation.

5. CORPORATE STRUCTURE AND STAFFING

Legislative Requirements

- 5.1. The Film Corporation Act 1977, sets down that the Board of the Film Corporation shall consist of between three to five persons, one being the person holding the office of Chief Executive Officer, the remainder being directors. One of the directors is to be appointed Chairman of the Corporation and the Chief Executive Officer is to be appointed by the directors.

The legislation gives the Corporation the power to appoint employees "as are necessary to enable it to perform and exercise its functions and powers" under the Act.

Film Corporation Structure

- 5.2. The Committee questioned the Chairman of the Film Corporation concerning the structure of the organisation.

**PUBLIC ACCOUNTS
COMMITTEE:**

"Do you hold the position of Chief Executive Officer as prescribed under the Film Corporation Act?"

**CHAIRMAN,
FILM CORPORATION:**

"No, but I am acting as a Chief Executive Officer. We do not have one."

**PUBLIC ACCOUNTS
COMMITTEE:**

"How long have you been Acting Chief Executive Officer?"

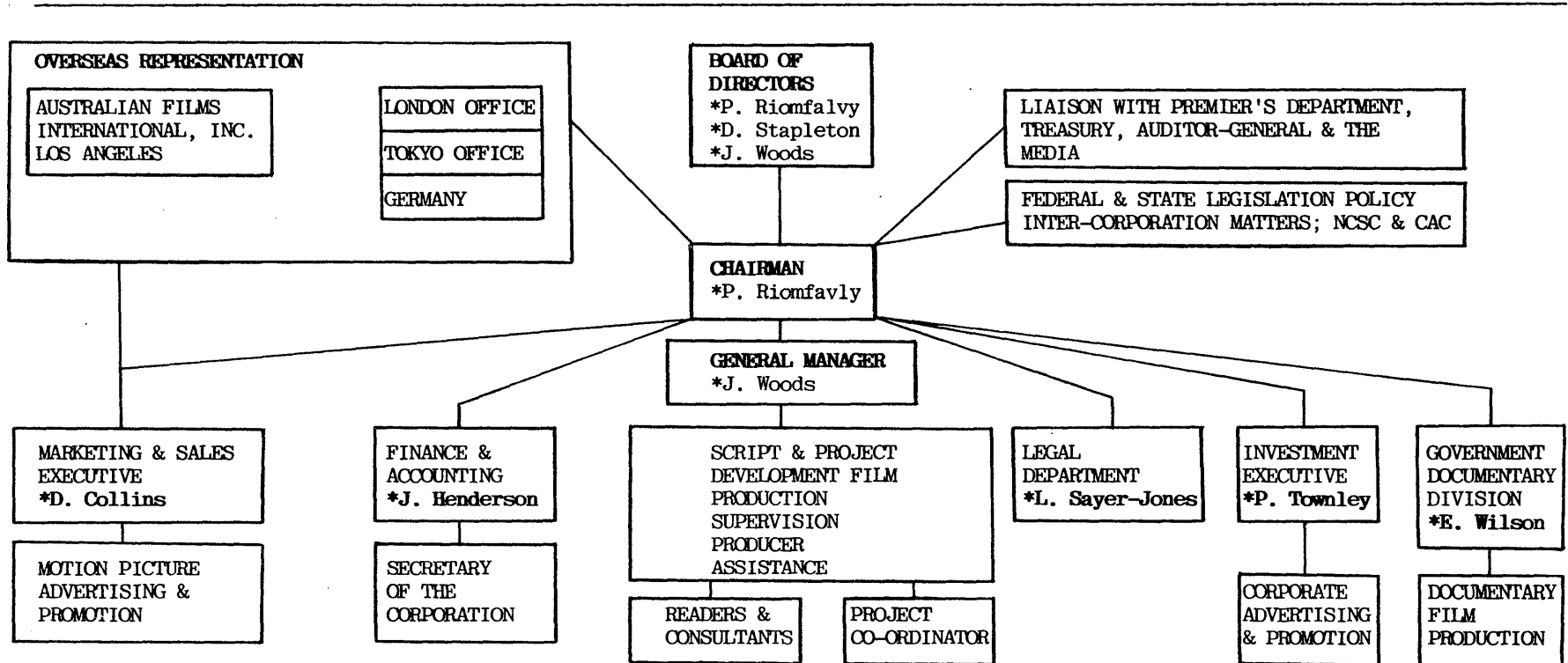
**CHAIRMAN,
FILM CORPORATION:**

"Since the start of the Corporation."

- 5.3. The Chairman has subsequently advised the Committee by letter that he is not in fact Acting Chief Executive Officer, although he carries out the functions of the Chief Executive Officer. The Committee is somewhat

TABLE 5.1

MANAGEMENT & STRUCTURE OF
NEW SOUTH WALES FILM CORPORATION



perplexed by this situation, particularly in light of the fact that the Chairman, who also carries out the duties of Chief Executive Officer, receives a lower salary than the General Manager.

- 5.4. An organisation chart of the Film Corporation taken from the Corporation's 1985-86 Annual Report, is shown in Table 5.1. As the chart demonstrates, the Chairman of the Corporation has day-to-day responsibility for marketing and sales, finance and accounting, legal department, investment and the Government Documentary Division. In addition, the General Manager also reports to the Chairman.
- 5.5. The Board is composed of three members: the Chairman, the General Manager and one outside appointee. The Committee inquired into the respective roles of the Board, the Chairman and other senior officers in the Corporation's decision-making process. The Committee was advised that all policy decisions and decisions on the granting of loans, script development finance and equity investment were decisions of the Board. The Committee was also told, however, that many decisions on policy and other matters were taken by the Chairman and subsequently discussed and ratified by the Board.
- 5.6. **The Committee considers that there is some confusion concerning the respective roles of the Board and the Chairman, arising from the dual roles of the Chairman, as Chairman of the Board and carrying out the functions of Chief Executive Officer. Questioning during public hearings revealed a number of occasions where this conflict was evident.**
- 5.7. The Committee questioned the Corporation's Chairman regarding the decision to commit funds to a children's television project in March 1987.

**PUBLIC ACCOUNTS
COMMITTEE:**

"But you are sure the Board made the decision before you publicly announced it?"

**CHAIRMAN,
FILM CORPORATION:**

"No, I do not think so."

**PUBLIC ACCOUNTS
COMMITTEE:**

"So you are saying you publicly announced you would do it before you had the Board's decision?"

**CHAIRMAN,
FILM CORPORATION:**

"Yes, I suppose so. I cannot remember but it could easily happen. I do that from time to time when I feel an announcement should be made..."

- 5.8. Perusal of the relevant Board Minutes, confirms the sequence of events above. The Committee found that a similar situation occurred in relation to a recent decision by the Film Corporation to enter into a co-production arrangement for the proposed film of the stage-play "Emerald City". In this case, the Chairman publicly announced the commitment of funds prior to discussing the matter with the Board. The Committee notes that considerable public money is involved in this project with the Corporation's eventual financial commitment likely to be several million dollars.
- 5.9. In his defence, the Film Corporation Chairman made the following statement in the hearing:

"Sometimes there are occasions when I make announcements. Perhaps once or twice I did it in the last five years but we have never come into any commitment without the Board's approval. So probably I have done something which is all right if you are the chairman of the 20th Century Fox. Perhaps it does not work in a Government operated atmosphere but I would like to make it quite clear that we have made no commitments of any kind without discussion with the Board informally and formally. I just thought, because somebody suggested to me these people think you are an autocrat. Well I am not. Sometimes I am but I have to be. In our business, you know, it is the sort of business you have to make decisions. You have to tell people what to do and in this way, yes, I am an autocrat

but I would never commit a breach of the Act by committing ourselves. I did not go and have a handshake to anybody and say, "You get \$100,000." I said "I believe we should be in it. I will talk to the Board."

- 5.10. The Committee also endeavoured to ascertain the role of the Board in decision-making and authorisation of major expenditure. The Committee noted that the Board had authorised a budget of \$155,000 for the 1986-87 Cannes Film Festival, but that \$200,000 had actually been spent. Questioning during the hearing of 15th April 1987, revealed that the Board was not advised of the over-expenditure and had not authorised the additional expenditure.
- 5.11. The Committee questioned the Corporation's executives about the role of the Board in authorising marketing expenditure.

**PUBLIC ACCOUNTS
COMMITTEE:**

"What authority do you require before funds are allocated to the marketing accounts?"

**FINANCIAL
CONTROLLER,
FILM CORPORATION:**

"That has to be on a Board Minute, with the approval of the Board of a budget prepared by Mr Collins."

- 5.12. Subsequent material provided to the Committee did not support this evidence. The Committee noted that the Corporation's Minutes of 7 February 1986, advised that as at that date, \$195,000 had been expended from the marketing account for "Bliss", and accounts received for commitments totalling \$45,000. The Committee noted that transfers to the "Bliss" marketing account were:

| | |
|------------------|-----------------|
| 19 February 1985 | \$50,000 |
| 7 June 1985 | \$30,000 |
| 25 June 1985 | \$50,000 |
| 16 January 1986 | <u>\$65,000</u> |

\$195,000

- 5.13. The Committee questioned the Corporation as to when the transfer of these funds was authorised by the Corporation Board.

GENERAL MANAGER

FILM CORPORATION: "In most instances where money is already expended, it would have been approved by the Board....(Underages) are the only case where it would not have been approved by the Board."

- 5.14. The Committee requested copies of Board Minutes prior to 7 February 1986, which authorised the transfer and expenditure of these funds. The Corporation provided evidence of the authorisation of \$80,000 but was unable to provide evidence of authorisation for the remaining \$115,000 other than the retrospective authorisation of 7 February 1986. The Committee reiterates that by this date \$195,000 had been spent, with an additional \$45,000 committed.
- 5.15. The Committee inquired into the operations of the marketing accounts for four further films. In each case, the Committee concluded from material supplied by the Corporation, that funds had been transferred out of the Corporation's bank accounts into the marketing accounts prior to the Board authorising the transfer. Funds had also been spent or committed prior to authorisation by the Board.
- 5.16. The Committee concludes that a total of \$220,000 was transferred to the marketing accounts of five films without authorisation from the Board. Of this, \$156,000 had been spent and over \$45,000 committed without authorisation of the Board.
- 5.17. The Committee is critical of the lack of effective financial controls over this area of the Corporation's operations. It recommends that a system of procedures and controls be established to ensure that the Board formally exercises its responsibility in regard to authorisation of expenditure and that no funds are transferred, expended or committed without appropriate authorisation from the Board.

- 5.18. The Committee extends this recommendation to other forms of financial assistance provided by the Corporation, such as equity investment, production loans and script development grants, which due to time constraints were not subject to detailed scrutiny by the Committee.
- 5.19. Other aspects of the operation of the Corporation's marketing accounts also caused concern to the Committee and are discussed in Section 6.

Conclusion

- 5.20. The Committee, in reviewing decisions taken prior to authorisation by the Board, is not criticising the decisions themselves. The Committee is concerned, however, that the Board of the Film Corporation is not properly exercising its authority. This may be due in part to the composition of the Board, with two out of three members also having full-time management responsibilities for the day-to-day running of the Corporation. The process whereby the Board reviews and authorises major expenditure items is a necessary safeguard in any statutory authority. Statutory authorities established by the Government are given much greater freedom in the policy making and management areas than departments. The authority and control which in departments is normally exercised by the Minister, usually resides, in a statutory authority, in the Corporation or Board. It is, therefore, essential that the Corporation or Board exercises its authority in the proper manner, on behalf of the Government.
- 5.21. Only where this control and authority is exercised can the Government, Parliament and the public be assured that public funds are being spent for the purposes intended and with due economy.

- 5.22. The Committee recommends that the membership of the Corporation be reviewed to enable it to carry out its intended role. In particular, the Committee recommends:
- . The legislation be amended to provide for the appointment of three part-time directors to the Corporation. Employees of the Corporation should not be eligible for appointment as directors.
 - . The position of Chairman be filled from amongst the three part-time positions. The Chairman should not carry out executive functions of the Corporation.
 - . A full-time Chief Executive Officer be appointed by the Corporation. The Chief Executive Officer should be an ex-officio member of the Board, with no voting rights.
 - . The Committee suggests that directors of Corporation be selected with a view to providing appropriate financial expertise. It may also be appropriate for a senior government officer to be appointed as one of the directors.
- 5.23. The Committee believes that the changes in the structure of the Board recommended above will result in greater accountability and will also improve the effectiveness and efficiency of the Corporation.

Pecuniary Interests

- 5.24. The Film Corporation Act provides that directors of the Corporation must disclose their pecuniary interests in any projects being considered by the Corporation. A register of pecuniary interests is kept by the Secretary of the Premier's Department. Where a director has pecuniary interest he or she is prohibited from taking part in any

discussions or voting on the project. The legislation does not address the question of pecuniary interest by employees of the Corporation.

- 5.25. The Register of Pecuniary Interests shows that a producer, who was a Director of the Corporation from 1977 to 1980 disclosed his interest in relation to three projects. One of these projects, "The Journalist", received \$331,627 in financial support from the Corporation. This was made up of equity investment funds of \$52,000; a production loan of \$185,500; a marketing loan of \$92,782; and an overage loan of \$1,345. \$158,00 of the production loan was written off in 1984.
- 5.26. The Director, according to the register, was also involved in a company which received a script development grant of \$123,543 in relation to the film project "The Boat", in 1980. The Committee has no further information on this project and does not know if a film eventuated. The Corporation declined to provide funding for a further project with which the Director was associated.
- 5.27. The Committee is concerned at the potential conflict of interest in the above situation. It is noted that the Corporation Chairman also expressed his concern. The Chairman stated in relation to the pecuniary interest outlined above:

"He registered his interest with the Premier's Department. I still did not like it. I do not think that really it should happen, but the Act allows that."

- 5.28. The Corporation Board is composed of only three members. In this situation, the Committee considers that a pecuniary interest by one member could be seen to present a very real conflict of interest. In other States, such as Victoria, a large Board provides some protection against a perceived conflict of interest involving one of the members.

- 5.29. The Committee supports the view of the Corporation Chairman recorded above and recommends that directors of the Corporation be barred from having any financial interest, direct or indirect, in projects receiving financial benefit from the Film Corporation.
- 5.30. A further potential conflict of interest situation arises where employees of the Corporation have a financial interest in projects financed by the Corporation. The Committee questioned the Corporation's Marketing Director about his recent application for a script development grant for the project "I'll Plead Insanity".
- 5.31. The Committee understands that \$10,000 has been paid to two writers to produce a screenplay and \$1,000 to a publishing company to renew an option over the film rights of the book. A total amount of \$30,000 has been authorised by the Board to the project. The Committee further understands that the Marketing Director is to co-ordinate the writing of the screenplays "in the role of 'Producer' and in his capacity as an officer of the New South Wales Film Corporation".
- 5.32. To avoid possible conflict of interest situations, the Committee recommends that Corporation employees should not be eligible to receive direct or indirect financial assistance for film projects from the Corporation.

6. FINANCIAL SUPPORT FOR FILMS

- 6.1. The Film Corporation provides direct financial support for the film industry through equity investment in film projects, the provision of loans to producers to develop, produce and market films, grants for script development and the provision of advance distribution guarantees to private investors in films. Where the Film Corporation is the major investor, the Corporation takes on the role of co-producer, mobilising investment, overseeing the production, marketing the film in Australia and overseas and distributing returns.
- 6.2. This section looks at the direct provision of financial assistance by the Corporation, with particular attention to policies concerning criteria for financial assistance, accountability mechanisms and returns on funds provided.

Script Development

- 6.3. The Film Corporation views grants for the development of scripts as essentially an investment in the future of the Australian film industry and as such does not see this type of funding as part of its commercial operations. The Corporation provides considerable resources for the development of scripts, as the Table 6.1 below demonstrates.
- 6.4. While the Corporation does not seek a commercial return on script development grants, development funding for those projects which go into production becomes part of the Corporation's equity investment in the film. Where a project is produced by an organisation other than the Film Corporation, the script development costs are bought out. Where a project does not proceed the development costs are written off.

Table 6.1 SCRIPT DEVELOPMENT GRANTS 1977-78 - 1985-86

| Year Ended 30 June | Grants \$ |
|-----------------------|--------------------|
| 1978 | 18,630 |
| 1979 | 135,044 |
| 1980 | 438,321 |
| 1981 | 350,271 |
| 1982 | 585,000 |
| 1983 | 1,020,000 |
| 1984 | 1,046,000 |
| 1985 | 875,000 |
| 1986 | 583,000 |
| | <u>\$5,051,266</u> |

- 6.5. The Corporation put the view to the Committee that "development money is the budget risk area in the film industry and therefore, the most difficult to obtain. Whilst the film tax concessions exist and since they do not cover such expenses as development and marketing funds, it therefore falls to the Government film bodies to support these areas".
- 6.6. The Committee considers that the Corporation plays a vital and appropriate role in fostering the development of script writers and agrees with the Corporation that such an activity is a high risk area in which a large proportion of funds invested will not produce returns. The Committee does, however, have some concerns about the operations of the scheme.
- 6.7. The Committee investigated individual projects which received script and project development funding from the Corporation. In a number of cases the Committee was concerned at the large sums channelled into projects which eventually lapsed. Some specific cases are discussed below:

i) Morrison of Peking

This project first received funds from the Corporation for the development of a script in 1982. Six further grants have been given, the last in January 1987. Grants totalled \$114,973. The future of the project is uncertain.

ii) Threads of Gold

The Film Corporation gave script development funds of \$104,370 to this film, between December 1983 and February 1987 before deciding in March 1987 to provide no further funds.

iii) The Magic Telescope

Between September 1983 and April 1986, 26 grants totalling \$123,806 were provided to the producers of this project. No funds have been provided since April 1986 and the project may lapse.

iv) Escape from Poland

The Corporation provided script development grants totalling \$353,950 to this project between March 1983 and June 1986. The Committee understands that the project has lapsed.

6.8. The Committee is concerned that such large sums of money are provided to individual projects which do not go into production. Although, nearly \$700,000 was given to the four film projects discussed above, no films have resulted. Script development grants involving sums in excess of \$50,000 have also been provided for many film projects other than those listed above, which on the information provided to the Committee, also appear to have lapsed.

- 6.9. The Committee recommends that the Film Corporation take greater account of the viability of film projects when considering script development applications. Problems associated with overseas locations and technological requirements should also be assessed.
- 6.10. During the hearing, the following comment was made by the Committee in regard to the granting of script development funds:
- "The evidence you have presented today suggests that in the early stages of contact between the film industry and the Corporation, apparently there is no firm indication from the Corporation as to the totality of possible involvement."
- The Corporation appears to get involved in projects, without setting a maximum amount which it is prepared to invest in development costs. While the Committee is aware that film projects will differ and appreciates the need for flexibility, it is concerned that the present system of incremental funding can result in sums well in excess of \$100,000 going towards films which never get made.
- 6.11. The Committee recommends that guidelines be established setting an upper limit on the amount of funds which will be provided for script development for an individual project.
- 6.12. The Committee sought information on the Film Corporation's policy regarding the buy-out of script development costs. The Corporation stated their policy provides that where a film goes into production elsewhere a flat 20% premium is charged on script development funds. In addition, the Corporation gets a percentage of the net profits, 5% of the producer's share of net profits or 1% of total net profits, whichever is greater.

6.13. This does not appear to be a formal policy adopted by the Board. It also appears that the policy is not strictly adhered to. As the Film Corporation Chairman commented:

"It is more a project to project decision. It all depends how clearly we want to get rid of the project and have a buyer."

The project "Kangaroo" received script and project development funds of \$379,000 from the Corporation. The film was subsequently made under the auspices of Film Victoria, and development costs were bought-out at a cost of \$92,615.

6.14. The Committee recommends that the Corporation publish written guidelines for buy-out of script development costs.

Equity Investment in Films

6.15. Between 1977 and 30 June 1986, the New South Wales Film Corporation provided equity investment in films totalling \$10.3 million. Table 6.2 shows the funds invested in individual films and the percentage of total equity investment provided by the New South Wales Film Corporation.

6.16. Prior to the advent of tax concessions in 1980-81 under Division 10BA of the Income Tax Assessment Act the Corporation provided 100% equity investment in films or provided investment funds for films made under the auspices of Government film bodies in other States. The films marked with an asterisk (*) on Table 6.2 were projects of other film bodies.

Table 6.2 EQUITY INVESTMENT IN FILMS

| NAME OF FILM | EQUITY INVESTMENT | PERCENTAGE OF |
|-----------------------------|----------------------------|--|
| | BY NSW FILM CORPORATION | TOTAL EQUITY INVESTMENT PROVIDED BY NSW FILM CORPORATION |
| | \$000 | % |
| Australia Now | 128 | 100 |
| Best of Friends | 219 | 28 |
| Bliss | 1,067 | 31 |
| The City's Edge | 205 | 31 |
| The Club* | 150 | 28 |
| Cathy's Child* | 9 | 3 |
| Careful He Might Hear You | 600 | 20 |
| Crosstalk | 1,153 | 100 |
| Dead-End Drive-In | 400 | 17 |
| Dirt Cheap | 71 | 61 |
| Dimboola* | 75 | 21 |
| Going Sane | 281 | 14 |
| Goodbye Paradise | 1,716 | 100 |
| Hoodwink | 415 | 37 |
| The Journalist | 52 | 16 |
| The Last of the Knucklemen* | 100 | 28 |
| My Brilliant Career | 155 | 19 |
| Molly | 288 | 33 |
| The Money Movers* | 125 | 26 |
| Maybe This Time | 440 | 100 |
| The More Things Change | 240 | 10 |
| Newsfront | 300 | 59 |
| The Night the Prowler | 418 | 100 |
| The Odd Angry Shot* | 125 | 23 |
| The Picture Show Man* | 120 | 20 |
| A Place at the Coast | 395 | 16 |
| Shadow Effects* | 75 | 11 |
| Short Changed | 336 | 29 |
| Stir | 375 | 77 |
| Thirst | 10 | 2 |
| Tim* | 105 | 17 |
| Winners* | 120 | 20 |
| | <u>\$10,268</u> | |

*Film projects in which the Australian Film Commission OR State film organisations other than the New South Wales Film Corporation were the major investors.

- 6.17. Since the advent of the tax concession scheme, the Corporation has provided for those sections of film budgets which are tax non-deductible, such as script development costs. As the Table indicates, the "non-deductible" items generally amount to about 30-40% of the budget. Private investors provide the remainder of the funds. Marketing expenses are not included in a film investment budget and are provided as loans by the Film Corporation.
- 6.18. Of the 31 films invested in by the New South Wales Film Corporation, seven have returned the sum invested or more than the sum invested. The remainder have provided nil return or less than the sum invested. On equity investment funds of \$10.3 million returns to the Film Corporation at 30 June 1986, had been \$2.8 million.
- 6.19. The Committee acknowledges that some of the films listed will provide further returns over the next few years and to that extent the \$2.8 million figure underestimates final returns.
- 6.20. When other forms of financial assistance to these films which made a profit on equity investment are considered, the financial result is not as good. In two cases, for example, interest free loans provided to the films have been written off or not repaid. Loans to films are discussed later in this section.
- 6.21. The Committee notes that some of the financial information supplied by the Film Corporation proved to be inaccurate. In the two cases where information was queried by the Committee, the Corporation advised that the figures originally supplied were incorrect.
- 6.22. On the figures supplied, the Film Corporation has received an average return to date on equity investment of 27.7%. Or put another way, equity investment funds of \$7.5 million have been provided to subsidise the making of films. As

noted earlier, equity investment forms only part of the Corporation's financial assistance and subsidisation of the film industry.

- 6.23. The Committee believes that in the Corporation's first 10 years it has played an important role in assisting the developing film industry. It is unrealistic to expect the Corporation to have been self-funding through returns on investments during this time.
- 6.24. The Committee notes, however, that the Corporation is committed to the "eventual creation of a commercially viable industry" and considers that the Corporation should develop a five-year strategy aimed at achieving this objective. In each of those five years performance standards should be set and monitored.

Loans and Guarantees to Films

- 6.25. Financial assistance is also provided by the Film Corporation in the form of loans for development, production, marketing and overages (where a film exceeds its budget) and in the provision of advance distribution guarantees on films.
- 6.26. The majority of loans given to film producers are interest free or where interest is charged, this is generally below market rates. Advance distribution guarantees are provided to private investors in film projects. Under the guarantee the Film Corporation contracts to provide a certain percentage return on investments by a specified date, where that return has not been obtained from revenues from the film. The percentage was usually 40% return on investment, but for recent projects has been 60%, reflecting changes in the level of tax concessions.

- 6.27. As at 30 June 1986, the Corporation had provided a total of \$6.26 million in advance guarantees and loans to films. From 1 July 1986 to 28 February 1987, a further \$2.2 million in advance guarantees was provided, bringing the total to 28 February 1987 to \$8.46 million.
- 6.28. As at 30 June 1986, loans and distribution guarantees not repaid stood at \$2.6 million. A further \$673,900 had been written off. Of the loans outstanding, a considerable proportion appears irrecoverable and is likely to be written off this financial year.

Accountability for Loans

- 6.29. Loans for production, overage and marketing are authorised by the Board. With regard to marketing loans the Committee understands that funds are transferred into individual Marketing Accounts for each film. Cheques on the accounts require the signatures of the Film Corporation Marketing Director and the producer of the film. Marketing Accounts are non-interest bearing. Once funds have been transferred into the Marketing Accounts they are reflected in the Film Corporation's accounts as spent. Unspent balances in Marketing Accounts are not recorded in the Corporation's accounts or in the notes to the accounts, although these funds are under the control of the Corporation.
- 6.30. The Committee questioned the Corporation concerning the operations of the marketing accounts. The Marketing Director explained:

"The Board says, 'You can spend \$250,000 for certain reasons on this particular picture.' Then I will draw from the Corporation into the marketing accounts whatever I need as I need it."

"I only draw the moneys into the account when I am about to expend them. The actual approved amount sits in the Corporation's general account, which I believe would accrue interest all the time."

The Chairman of the Film Corporation stated during the hearing:

"The reason why we keep it until the last possible minute is that (the Financial Controller) is investing the funds in interest bearing deposits. If we transferred it immediately to the producer's account, we lose interest on the money."

6.31. The Committee sought explanations from the Corporation as to why transfers of funds to the Marketing Accounts in June 1986 amounted to 52% of the year's marketing allocations. In June 1986, \$357,215 was transferred into the various marketing accounts, while the total transferred for the year was \$687,369. Table 6.2. shows the transfer of funds to marketing accounts in June compared to total annual transfer of funds.

Table 6.2 TRANSFERS TO MARKETING ACCOUNTS

| <u>Year</u> | <u>Total Transferred</u> | <u>Amount Transferred in June</u> | <u>%</u> |
|-------------|--------------------------|-----------------------------------|----------|
| | \$ | \$ | |
| 1981-82 | 149,300 | 35,000 | 23 |
| 1982-83 | 152,750 | 30,000 | 20 |
| 1983-84 | 92,331 | 210 | -- |
| 1984-85 | 135,190 | 75,000 | 55 |
| 1985-86 | 687,369 | 357,215 | 52 |

The Corporation advised variously:

**FINANCIAL
CONTROLLER:**

"By the nature of the industry practically all expenses take place in May and June."

**MARKETING
DIRECTOR:**

"The first piece of expenditure on marketing will occur after the picture is complete. It could complete in any month of the year depending on when it was financed and how long production took. The second time I will spend money on marketing is in the December, January, February period. February is the American Film Market is Los Angeles. The third time in the year I will be spending money on marketing is in April. In April, prior to Cannes in May, I will be once again spending money on putting my marketing operation into action for each of the pictures I will be presenting for sale at the Cannes Film Festival. So it is consistent year in, year out. It has been ever since I have been responsible for this area."

* * * * *

**MARKETING
DIRECTOR:**

"When the Board votes x dollars to "Goodbye Paradise", do we move money around then?"

**FINANCIAL
CONTROLLER:**

"No, as we need it to pay the bills later."

* * * * *

**PUBLIC ACCOUNTS
COMMITTEE:**

"Is Treasury aware of that uncommitted (unspent) money when you put in your bids for the next year's budget?"

**FINANCIAL
CONTROLLER:**

"No, it would not be. It has not usually been a sufficiently large amount for us to worry about."

* * * * *

**PUBLIC ACCOUNTS
COMMITTEE:**

"So you do not draw across into your marketing accounts from the Corporation account until you are about to spend it, is that right?"

MARKETING**MANAGER:**

"Yes, until I have a need."

- 6.32. The Committee found the explanations provided by the Film Corporation as to why over 50% of transfers to marketing accounts had occurred in June 1985 and June 1986, difficult to reconcile with financial documentation.
- 6.33. Data was subsequently sought from the Corporation on the balance held in marketing accounts at the end of each month from July 1985 to February 1987. A summary of the information provided is shown in Table 6.3.

Table 6.3 MARKETING ACCOUNTS BALANCES

| <u>End of Month</u> | | <u>Total in all Marketing Accounts</u> |
|---------------------|-----------|--|
| | | \$ |
| 1985 | June | 46,711 |
| | July | 35,167 |
| | August | 32,853 |
| | September | 49,668 |
| | October | 55,207 |
| | November | 61,985 |
| | December | 30,664 |
| 1986 | January | 75,485 |
| | February | 75,446 |
| | March | 80,941 |
| | April | 98,298 |
| | May | 93,312 |
| | June | 465,325 |
| | July | 423,948 |
| | August | 415,572 |
| | September | 411,427 |
| | October | 389,505 |
| | November | 379,487 |
| | December | 304,267 |
| 1987 | January | 298,822 |
| | February | 268,899 |

- 6.34. The Committee considers that the information supplied by the Corporation contradicts the evidence given before the Committee in public hearing, some of which is quoted above.

- 6.35. In the Committee's view the information shows that in June 1986 funds were clearly not transferred to meet immediate expenditure commitments. The Committee has formed the view that the transfer of funds in June 1986, into non-interest bearing accounts, was a method of inflating expenditure figures in order to impact on the subsequent year's allocation from Treasury. In the Committee's opinion, this is no different to the year-end spend-up syndrome discussed in the Committee's "Report on Year-End Spending in Government Departments and Selected Authorities" (March 1986).
- 6.36. The Committee wishes to express its concern at the number of occasions that evidence given under oath had to be subsequently corrected by Corporation officers. This made the Committee's task more difficult than would normally be the case.
- 6.37. The Committee is concerned that funds under the control of the Corporation are lying idle in bank accounts which earn no interest. The Committee has conservatively calculated interest lost as a result of transfers of marketing funds at \$45,000 in the 12 months ended February 1987 alone.
- 6.38. The Committee recommends that the Film Corporation be required to publish the balances of its marketing accounts in its annual financial statements. This could be done by way of a note to the Accounts as is normal commercial practice.
- 6.39. The Committee further recommends that the marketing accounts be subject to audit by the Auditor-General. From evidence given, it appears that these accounts are not subject to audit either by the Auditor-General or by the production company's auditors. As the accounts and all marketing functions are under the control of the

Corporation, the Committee believes that the Auditor-General's Office is the appropriate body to audit these funds.

6.40. The Committee considers no funds, marketing or otherwise, under the control of the Corporation, should be held in non-interest bearing bank accounts. It is recommended that the Corporation establish a procedure which allows funds to remain in interest bearing accounts until payments are made.

Conclusion

6.41. The material presented in the above section shows that the New South Wales Film Corporation is providing substantial subsidisation of the film industry. During the past 9 years direct financial assistance to the film industry up to 30 June 1986 can be summarised as follows:

| | \$M |
|--------------------------------|---------------|
| Script Development Grants | 5.0 |
| Equity Investment | 10.3 |
| Loans and Advance Distribution | |
| Guarantees | <u>6.3</u> |
| | <u>\$21.6</u> |

Additional indirect costs are also involved as the loans and guarantees provided have mostly been interest free. Indirect subsidisation is, therefore, occurring in interest forgone on these funds. While the Corporation receives some returns on investments (as at 30 June 1986, \$2.8 million) and repayment of loans, the amount of public funds required to support the film industry is substantial.

- 6.42. The Committee endorses the new approach of the Corporation towards supporting films that are commercially viable. The Committee believes, however, that the Corporation must adopt a more rigorous approach to film projects and exercise more care, economy and efficiency in its use of public funds.
- 6.43. The Committee believes that the effectiveness and efficiency of the Corporation would be enhanced by greater public disclosure of its financial assistance to films. The Committee recommends that details of all script and development grants, equity investments, loans and advance distribution guarantees be published in the Corporation's Annual Report. Information on total funds provided to films and overall return on funds should also be published in the Annual Report.

7. OPERATING EXPENDITURE

- 7.1. The Committee reviewed the Film Corporation's expenditure on promotions, in Australia and internationally and on administration.
- 7.2. The Committee appreciates that the film industry may require more expenditure on promotional activities and entertainment than would normally be acceptable from Government authorities. The Committee believes, however, that such expenditure needs to be justified in terms of value for money and achievement of the objectives of the Corporation. Regard should also be paid to the fact that public moneys are involved and due economy should be exercised.

Administrative Expenses

- 7.3. Table 7.1 shows the Film Corporation's administrative expenses over the last five years. The main components of administrative and general expenditure for 1985-86 were salaries, rent and audit-costs. Administrative costs associated with promotion of films are charged to industry promotion in Australia and industry promotion internationally.
- 7.4. The Committee inquired into a number of individual expense items and considers that the level of expenditure in some areas, particularly entertainment, may not be appropriate for a publicly funded organisation.

Industry Promotion

- 7.5. The Film Corporation takes responsibility for marketing its films in Australia and overseas. Marketing of films overseas is undertaken through Australian Films

Table 7.2 EXPENDITURE ON PROMOTIONS

| | 1983-84 | 1984-85 | 1985-86 |
|--------------------------------------|------------|------------|------------|
| | \$000 | \$000 | \$000 |
| Promotion in Australia | 280 | 297 | 263 |
| Promotion Overseas | | | |
| . AFINT* | 309 | 391 | 520 |
| . Film Festivals | 67 | 113 | 180 |
| . Other | 65 | 94 | 57 |
| TOTAL PROMOTIONS OVERSEAS | <u>441</u> | <u>598</u> | <u>757</u> |
| TOTAL PROMOTIONS | \$721 | \$895 | \$1,020 |
| | — | — | — |
| *Australian Films International Inc. | | | |

Table 7.1 GENERAL AND ADMINISTRATIVE EXPENSES
1981-82 - 1985-86

| <u>Year Ended</u> <u>30 June</u> | <u>General and</u> <u>Administrative</u> <u>Expenses</u> |
|-------------------------------------|--|
| | \$000 |
| 1982 | 366 |
| 1983 | 373 |
| 1984 | 443 |
| 1985 | 562 |
| 1986 | 616 |

International Inc, a subsidiary of the New South Wales Film Corporation, based in Los Angeles. Table 7.2 shows expenditure on promotions over the last three years.

AFINT

7.6. Australian Films International Inc. was established by the Film Corporation in 1978. It is managed by the AFINT President, who employs three staff.

7.7. The Committee understands that the Corporation has had difficulty in exercising financial control over AFINT expenditure. The Corporation's Financial Controller advised on 15th April, 1987:

"The situation has not been entirely satisfactory because of delays."

"The problem is, for instance, that I have just received - a couple of weeks ago - their work for December 1986 and January 1987."

7.8. The Financial Controller stated that new procedures were to be instituted from 1 July, 1987 to ensure that vouchers and financial information were received promptly from Los Angeles.

"We have asked also that such information arrive here no less than 15 days after the end of the calendar month in which the expenditure took place."

7.9. The Committee endorses the Corporation's move to strengthen its financial control over the AFINT.

Film Festivals

7.10. Expenditure at film festivals in 1985-86 was \$180,000. In addition, \$99,000 was charged to the marketing accounts of individual films promoted at the festivals. These charges are paid through marketing loans given by the Corporation to the film and recouped when the film generates sufficient sales.

7.11. Film Corporation staff normally attend three international film festivals each year, the American Film Markets, Cannes Film Festival and the MIFED Market in Milan. Costs of each festival last year were:

| <u>American Film Market</u> | \$ |
|---------------------------------|---------------|
| - Direct cost to NSW FC | 30,972 |
| - Charged to marketing accounts | <u>10,324</u> |
| TOTAL | <u>41,296</u> |

MIFED

| | |
|---------------------------------|---------------|
| - Direct cost to NSW FC | 18,542 |
| - Charged to marketing accounts | <u>18,540</u> |
| TOTAL | <u>37,082</u> |

Cannes Film Festival

| | |
|---------------------------------|----------------|
| - Direct cost to NSW FC | 130,616 |
| - Charged to marketing accounts | <u>70,174</u> |
| TOTAL | <u>200,790</u> |

7.12. As noted earlier, the Committee recognises that the Corporation, operating in the commercial world, is required to operate in a different manner to Government departments and most statutory authorities. The Committee reiterates its earlier view that the Corporation should exercise restraint in spending public funds. The Committee believes that the current high expenditure on film festivals should be closely monitored.