

MINUTES OF EVIDENCE  
TAKEN BEFORE  
THE PUBLIC ACCOUNTS COMMITTEE

---

At Sydney on Wednesday, 15th April, 1987

---

The Committee met at 9.30 a.m.

---

PRESENT

Mr J.H.MURRAY (Chairman)

Mr C. M. FISHER

Mr P.M. SMILES

Dr A. J. REFSHAUGE

Mr A.P. WALSH

PAUL HENRY RIOMFALVY, Chairman, New South Wales Film Corporation, of [REDACTED],  
JENNIFER MARGARET WOODS, General Manager, New South Wales Film Corporation, of [REDACTED],  
JAMES YOUNG HENDERSON, Financial Controller, New South Wales Film Corporation, of [REDACTED], and  
DANIEL PATRICK COLLINS, Marketing Consultant Executive, New South Wales Film Corporation, of [REDACTED]  
[REDACTED] sworn and examined:

LYNDON JAMES SAYER-JONES, Corporate Solicitor, New South Wales Film Corporation, of [REDACTED], affirmed and examined:

CHAIRMAN: Did you each receive a summons issued under my hand to attend before this Committee?---A. (All Witnesses) Yes.

Q. I understand that the group was to make a submission to the Committee by way of documentation; is that correct? ---A. (Mr Riomfalvy) Yesterday I sent a document to every member of the Committee just to save time. I ask that that be incorporated in the transcript as part of our evidence. The document reads:

CHAIRMAN: You may remember that when we last met Dr Refshauge left you with an overview type question. I shall get Dr Refshauge to refresh your minds on that question.

Dr REFSHAUGE: The question was about working in a highly volatile, entrepreneurial area under the constraints of public sector bureaucracy controls. I was wondering whether you could let us know where you think changes could be made to improve, I suppose, your efficiency and effectiveness? ---(Mr Riomfalvy) I can talk to this question because I remember it three weeks ago. First of all, I wish to refer to a short point that the honourable member for Mosman brought up about reporting to the Minister. I said that we do not directly report to the Minister, because I realised in the first year of my office that politicians come and go but the bureaucrats stay. So we built up a very strong relationship with the bureaucracy, especially with the Premier's Department and the Treasurer. During my office, Mr Gleeson was the secretary, and still is the secretary, and Norman Oakes was secretary of Treasury, later Percy Allen. I have regular meetings with both - with Norman Oakes twice a year, once arguing about the budget and once talking about what is going on. I felt, and I think my colleagues will share this, that we really do not feel any restriction with the bureaucracy because they come at least half way, if not more than half way.

Really, I cannot remember having any argument or unpleasantness with the public service. I think we realise that we have to fit in because that is where the money comes from. I really do not see that there is anything that

we can improve in this relationship. There are certain points which make life a bit difficult in the public sector, and that is there are a lot of things that you have to publish that you do not want to, especially when there is something under discussion like agreements. As you know, I like to make announcements, but I make announcements only when it is appropriate. We do not really like giving certain information to the public because in a way every other film maker is in competition and we have to protect our own people. Unless you want to ask me anything else on that, I can just say briefly that I do not really feel and my colleagues do not feel that we are restricted in any way. You referred to things apart from the Public Accounts Committee. We know that you are a necessary evil and we have to put up with it.

Q. That is why I specifically excluded us?---A. There is nothing we can do about it. I really do not think I should elaborate any further, unless you have any specific questions.

Q. I wish to take up that point about disclosing information. Can you be a little more specific about the types of information? Is it timing or is it information disclosure?---A. The truth of the matter is that there are two important things about this. One is that people do not like it known how much they are getting paid. I will give you an example. If Glenda Jackson makes a film she will ask for \$1 million, but she will go through a stage of receiving £120 a week. They will do certain things for nothing, but when they see that money is coming in, they are different. We normally overplay this and we tell the public that people are getting so much, which is not true but it is building up an image.

The same can be said about budgets and income. We used to follow a certain procedure. We cannot do it now because since the investment system came in we have to print prospectuses. We call it offering documents. By the way, our next one is coming up this afternoon if anyone is interested in investing. We will be pleased to send you the necessary papers. Then we have to tell the exact truth. But when it comes to box office receipts, and sometimes even with budgets, we will overdo it. We do not like bad news because bad news in show business can do a lot of harm. That would be probably the only way that I could say there is a problem - overstating facts.

Q. Would any of the other witnesses like to add to that?  
---A. (Mr Sayer-Jones) Only as a gloss on what Mr Riomfalvy is saying, that this is a matter of bravado and not actual concrete facts. He is not saying that we would ever say to the public that we had earned X dollars when that was incorrect. What he is saying is that, if I read it correctly, if a film were a moderate success we might in a public announcement say that it is a success. We would not necessarily qualify the statement by saying that there was a problem in a particular territory or whatever. So we are talking about bravado comments; we are not talking about specific figures, because as professional business people and as a statutory authority we would never actually state something that was untrue by way of factual, concrete figures. So we are talking about bravados, puffs of a publicity nature.

(Mr Riomfalvy) Just to give you an example of this, there is a short story of a Broadway producer going into the theatre to see his play. He counts thirty-two people in the house. He goes next door to have a drink and another producer comes in and asks how it is going. He says, "So, so". The other producer asks, "How many people are in the house tonight?" He says, "Thirty-four". That is basically where our problem is, that we have to play up ourselves and our product to a certain degree. Of course now we have to account to our investors. We have to tell the investors exactly the truth. They also like to read in the paper that their film is doing well.

Q. Is there anything that you are disclosing at the moment that you believe is a problem for maintaining the credibility of the corporation?--A. Disclosing to whom?

Q. To the public?--A. No, not really. Of course, we were not really jumping for joy about the press statement of Friday, the 27th about the debts and so on. They did not understand it. The investors told the broker that we actually owed money around town. We explained to them what is happening. In show business generally you will not hear and read the good news only. It is very embarrassing if there is bad news, it is as simple as that. Mr Smiles would know that.

Q. I should like to ask some questions about your international approach and the Australian Films International Corporation. Who are the directors of that corporation?

---A. The same three directors that are the corporation directors.

Q. How often do you have meetings of that organization?

---A. We have meetings and I go to Los Angeles. We normally have informal type exchanges all the time when I come back. Bob Lewis phones Danny practically every day to report what is happening.

Q. Do you have separate directors meetings for the Australian Film Corporation?---A. (Mr Sayer-Jones) In relation to Californian statutory requirements. Under Californian law, and it may be actually the case here - although I may be mistaken - you can conduct meetings by telephone and communicate by proxy and so forth. All the regulations under statutory corporation law are fulfilled at the Los Angeles meetings.

Q. Are minutes kept of those meetings as well?---A. Yes.

Q. Do all three directors attend all of the meetings?

---A. They are deemed legally to have attended meetings in so much as either it is a telephonic meeting or it is done by proxy. In California our Californian attorneys prepare the minutes if a discussion takes place. It can be subsequently ratified by the directors that were not present by their looking at the full minutes and consenting to that procedure. That is permissible, apparently, under Californian law.

Because of the realities of the cost of conducting a meeting in California, under Californian law it is deemed that the president, as they call him, of the corporation should be present as well as the secretary. Therefore, instead of paying for directors, Mr Stapleton and Miss Woods, to go to Los Angeles to conduct a meeting, the usual procedure has been that a meeting is held in the presence of the Californian attorneys, the secretary and the president. Paul will be over there in any event for the American film market. Discussions are held and subsequently the attorneys prepare the minutes setting out what has been said. That is ratified subsequently by Jenny, Damien, and Paul, who signs as well. That is the way it works.

Q. The secretary is not a director of the corporation?

---A. No.

(Mr Riomfalvy) The secretary is always the number one public servant in the government office, who is now Gary Day.

Q. So you could actually be making a decision with one director only, namely yourself present?---A. Yes.

Q. With the secretary present?---A. (Mr Sayer-Jones) No, that is not right. Legally the decision is not deemed to have taken place until it is ratified. What happens is it is ratified by the directors back in Australia and then the decision is deemed to be made.

(Mr Riomfalvy) But there is no actual decision.

(Mr Sayer-Jones) I am thinking about, for example, the approval of accounts, which is a standard procedure. Those accounts are not deemed to be approved until they are formally signed and signed by the directors. The discussion



may have taken place but from a legal point of view the force of the decision is activated only upon the signatures.

Q. Is the Australian Film International Corporation a company registered in the United States of American?---A. A Californian corporation, wholly owned by the New South Wales Film Corporation.

Q. Would you supply a copy of the memorandum of articles of association?---A. Yes.

Q. At present I understand Mr Bob Lewis is the president of the Los Angeles office of the corporation?---A. Yes.

Q. What are the general terms of Mr Lewis' appointment? First, are there any aspects of Mr Lewis' appointment or remuneration that are secret and private?---A. (Mr Riomfalvy) No, there is no secret.

(Mr Sayer-Jones) Other than the same requirements we have asked in relation to confidentiality about executive contracts that have been submitted already. Obviously, in relation to this salary, we would seek confidentiality.

(Mr Henderson) This appears in the submission. The salary of Bob Lewis is in our very first submission.

CHAIRMAN: That relates to benefits as well, does it not?---A. Yes.

Dr REFSHAUGE: What are the general terms of his appointment?---A. It is the standard executive contract. e performs certain duties. He is responsible for certain good management and so forth. He gets paid a salary for a specific term. There is an agreement that his telephone will be paid, and matters such as that.

Q. Is he employed full time?---A. Yes.

Q. Is he able to perform other duties, part time, within the industry?---A. (Mr Riomfalvy) No, only what is left over prior to his engagement. He is not supposed to do anything after that.

(Mr Henderson) On 12th January, 1987, all details of the staff of the Australian Films International appear on pages 20 and 21, including salaries, allowances, and what they do.

CHAIRMAN: He is employed as an individual rather than his company being employed?---A. Yes.

(Mr Riomfalvy) His contract expires on 30th June, 1989.

Mr WALSH: Is he an American national?---A. (Mr Sayer-Jones) Yes, he is. He pays American income tax, of course.

CHAIRMAN: Presumably he would have an expense allowance as well?---A. Yes.

(Mr Henderson) Not an expense allowance, a reimbursement for specific expenses. Normally they are put on a credit card which is paid directly by the office.

Dr REFSHAUGE: Could we have a copy of his employment contract?---A. (Mr Sayer-Jones) Yes.

Q. You will be sent a letter about these things so you will not have to remember all the things we have asked before?---A. Thank you.

Q. What is the financial control that the Film Corporation has over expenditure by Film International?---A. (Mr Henderson) Recently, up to the end of the current financial year, the arrangement has been that we have an American auditor who goes through the American information and checks it.

It then comes to Australia where I check it again. The problem is that this is a very slow process and I only get the information three or four months after an event takes place. We have in fact asked the auditor's office for some years to go over and have a look at it to see if better arrangements can be made. As from 1st July next year different arrangements will apply. The situation has not been entirely satisfactory because of delays.

Q. Does that mean you receive information three months after the end of the year or are you watching it all the way through?---A. The problem is, for instance, that I have just received - a couple of weeks ago - their work for December 1986 and January 1987, that is vouchers for the American Film International Incorporated, which I have checked only in the last two or three days.

(Mr Sayer-Jones) They have been checked already by a fully accredited accountant or auditor over there. What will happen now, though, is that the process will be sped up whereby information is being sent direct to Sydney.

(Mr Henderson) As of 1st July the auditor in America will cut out the routine check from month to month and will do only what is necessary at the end of the year. We have asked also that all such information arrive here no less than fifteen days after the end of the calendar month in which the expenditure took place.

Q. Will that be very difficult?---A. That rather depends on the cooperation of people over there in providing information that is needed so that accounts can be completed each month.

CHAIRMAN: Do you have a delegation in terms of the maximum amount Mr Lewis can expend on particular items?

---A. It is essential that he stays within the budget.

(Mr Riomfalvy) He is not buying anything. We are not in the buying business, only the selling business, so hopefully he is working within the budget.

(Mr Sayer-Jones) Any overseas trips must be approved by the chairman. For example, his travel and expenses are his primary expense items and they, as Paul says, must be approved by the corporation.

Dr REFSHAUGE: So far as the expenditure of the budget is concerned, on your 12th January submission there is mention of an operating budget for 1985-86?---A. (Mr Henderson) I am sorry, that is an error. That is an operating expense. It says operating budget but it should say operating expenses.

CHAIRMAN: What is the difference?---A. This is what was actually spent. A budget is what was intended to be spent.

Dr REFSHAUGE: Then there is an addition that is for the participation of the American film market?---A. Yes.

Q. What was the budget for that year?---A. I am sorry, I do not have the budget figures in front of me. We did go over budget in that year, deliberately, with the permission of Mr Riomfalvy, because in that year we had a major overseas drive for selling. We had four films that we thought could be sold. In fact, as you are probably aware from the annual report we specifically said that all international promotion is over budget and that is a deliberate shift in the strategy of the corporation because of our intentions. We realized

that we had films that could be sold and as it turned out,  
in the case of "Dead-End Drive-In" it was very definitely  
true.

Q. Could you provide the Committee with a copy of your 1985-86 budget. A---Yes.

Q. We have not received a copy of your 1986-87 budget. Could you provide a copy of that also? A---Yes.

Q. Are you keeping within the 1986-87 budget? A---No. As at the end of January, it is running on line. We do not have the same problem that we had last year, when we changed our aim between the time that the budget was drawn up and when the funds were available. That we have to budget up to eighteen months before the money is actually spent puts us in an awkward position. In the film industry one must operate on a week to week basis. What might have appeared as good strategy eighteen months ago might be totally wrong for today. Though we keep within the overall budget for the corporation as a whole, we may well decide that something is not appropriate for today and change the original emphasis. Therefore we will change what we put up in January or December the previous year.

(Mr Riomfalvy) Actually, we have not forwarded money to America for a few years. That operation runs on its own income. Last week they repatriated \$US238,000 plus some interest. We retain some money in the State Bank of NSW in New York, and some with the Bank of America. They also repatriated \$US100,000 in October. That is a total of \$US338,000 this year. Our operations at the Cannes film festival will be financed from America, from their surplus.

Q. You say that effectively you prepare budgets six months prior to the start of the financial year?

---A. (Mr Henderson) The first submission to Treasury this year was made about the middle of January.

Q. How much variation to the budget can you make without seeking Treasury approval? ---A. My understanding is that all that is required is that we stay within the overall budget. I believe we are a one-line item in the Government's budget. There are no detailed budget estimates saying we shall spend this, this and this. We are a one-line item.

Q. You submit to Treasury in January that you shall spend money in a certain way? ---A. Yes, we present a normal line item budget, and convert that also to a programme budget. As far as we can tell at this stage, that is what we hope to do.

Mr SMILES: Will you receive an indicative budget in May, an indication of what will be your likely budget? ---A. If everyone else has, I assume we will too.

(Mr Riomfalvy) We work on the same basis that we will receive the same money as last year.

(Mr Henderson) We will actually work on much lower expenditure.

Dr REFSHAUGE: The information you have provided about the 1985-86 expenditure is that your expenditure was \$367,000? ---A. That is US dollars.

Q. Plus an extra \$31,000 for the American film market? ---A. Yes.

Q. The Auditor-General's report stated that expenditure was \$619,000? ---A. That was an error. The Auditor-General has corrected that in a red line report. The problem was that this was prepared on 11th August, when we did not have much of the American office information. There was a mix up with the American budget. They spent some money on Cannes and the AFM has been included in that. The \$619,000 was incorrect. In a later red line report the Auditor-General stated that the correct figure is \$529,374 in Australian currency. The reason for the error was that at the time we only had rough figures from America. Without us being aware of it, those figures were included in the expenditure on Cannes and expenditure on the American film market. That market happens to be held in Los Angeles, which is convenient, but it is not part of the operating cost of the American film office.

(Mr Riomfalvy) Some money is recoverable from producers. That is part of the expense there.

(Mr Henderson) The \$31,000 is the nett figure.

Q. You are right and the Auditor-General was wrong? ---A. Not really. It is part of a problem with getting late figures. Probably we both made a mistake to some extent in view of the fact that we did not have all the necessary detail from America. We probably did it straight off the FAX as the figures came in at the time.

Q. The Auditor-General reported that your total expenditure on industry promotion internationally was \$885,000. Is that correct? ---A. Not now. You can check by looking at the figures in one of the submissions. We gave



figures for a total breakdown of expenditure in all categories. In the submission of 2nd March the figure for industry promotion internationally was \$885,000. There should be a note in respect of Cannes, as appears at the bottom of the page, that these figures integrate with the figures used in the financial statement. As I said, the financial statement figures included estimates which we found were not appropriate. Therefore MIFED made a howling blue in not taking off the corporation figures of producer expenses that were overstated. The American film market is overstated. Cannes is likely understated by about \$6,000. The AFO is now about correct.

Q. That dramatic increase, which the Auditor-General said is 48 per cent above the previous year, is as a result of a conscious decision to promote films? ---A. It was not 48 per cent, obviously. It was our deliberate intention to move money from other purposes into promoting films overseas during that year.

(Mr Sayer-Jones) Which was vindicated by excellent sales results, as Mr Henderson said.

(Mr Riomfalvy) That is true.

Q. Has the industry promotion internationally decreased this year or has it maintained the same level? ---A.

(Mr Henderson) It has decreased. For instance, we are not going to MIFED, and Cannes is a lower figure. The figure for the American office for the current year is \$373,000. <sup>US</sup> **The Australian dollar figure** will depend on the exchange rate.

(Mr Riomfalvy) The present budget is based on 4 francs to the Australian dollar. There are two weeks to go; it could be better. I do not know what will happen by 6th May.

Q. How do you organize your Australian money that is to be spent in the United States? Do you receive your entire budget at the beginning of the year and send it to America? ---A. (Mr Henderson) No, we do not send money across. As explained before, the American office receives sufficient money from its income from sales. In fact, sometimes it receives too much and they have to send some back here.

(Mr Riomfalvy) As I said, they repatriated \$338,000, plus \$17,000 interest.

Q. Who works out when is the best time to send money back? ---A. (Mr Henderson) This is tied up with -

(Mr Collins) This resulted from a sale made last year at Cannes. We sold the picture "Dead-End Drive-In" for a large sum of money to an American distribution company. The instalments paid on the advance associated with that sale were received over a nine month period. More recently, I believe that a \$US400,000 instalment was to be made, and most was repatriated back to us because there was no reason for it to sit in an account in Los Angeles; and could be used better by the corporation. Timing is related to payment of instalments associated with the advance on the sale of "Dead-End Drive-In", which was actually negotiated at the 1986 Cannes festival.

Q. You do not consciously seek to obtain the best rate; when you have the money, you transfer it? ---A. The exchange rate is an important question. If one look at rates during the past two weeks, a decided trend has emerged between the US and the Australian dollar, and one should get money out while the rate is good; don't

let it deteriorate further. So, we got it out at the best rate at the time of the payment.

Q. It was a conscious decision to do that, rather than simply transfer it because the money was there?

---A. Yes, a conscious decision to obtain the best rate.

Q. Who makes that decision? ---A. Our State Bank advisers in New York. They confirmed to our office in Los Angeles that the rate they were giving us on that particular exchange was the best possible rate we could obtain. That was about a fortnight ago.

Q. A directors' meeting ratified that the money be transferred? ---A. (Mr Sayer-Jones) That is an executive decision made, in the circumstances, by Jim, in liaison with Paul and Bob Lewis, the president.

(Mr Henderson) If the American rate were to show more nasty signs, we would have to seriously consider that. We do have a complication in that we have to not become subject to a withholding tax of 15 per cent. It is not a matter of simply saying send the money across. It has to be transferred in such a way so that we do not pay that tax.

(Mr Riomfalvy) We have to pay a lot of money to lawyers. It is complicated to avoid tax?

Q. What is your overseas budget for promotion this year? ---A. (Mr Henderson) Individual items?

Q. No, the total budget? ---A. I do not have the budget. I shall send a copy to you.

Q. Can you tell us how many films you are marketing internationally this year? ---A. (Mr Collins) I have a catalogue of twenty titles. From our point of view, with all these titles we are looking to licence various rights in various territories. Shall I speak of the calendar year?

Q. The financial year? ---A. For the 1986-87 year we attend two particular events at which we will sell product. The first was the American film market last February. At that market we screened four films for distribution. We had a catalogue of a total of twenty films, which we were looking to sell. Those we screened for distribution, we were looking to sell theatrical rights, where possible. For those in the catalogue we were looking to sell what are called the ancilliary rights, that is home video and the various forms of television that are available around the world at the moment. This year I shall be selling twenty pictures, four of which are new titles and sixteen of which are titles put together in the corporation's catalogue over the period of our operations. At Cannes, which is three weeks away, once again I shall be in that market selling the catalogue of titles and screening the four new titles for theatrical distributors - quite apart from representing the catalogue for sale to ancilliary markets.

Q. What is your success rate? How many have you sold? ---A. It depends what you mean by sold.

Q. When you receive the money. ---A. Every title in the catalogue has received sales. Are we talking ex-Australian and New Zealand?

Q. International? ---A. Foreign?

Q. Why do you count New Zealand as not part of that?

---A. The domestic distributors look to taking New Zealand as part of their own preserve.

Q. After they have fallen off the back of the Valhalla, they go to New Zealand?---A. For various reasons at various times. All of the titles in our catalogue have had sales of rights of one form or another attached to them. There is not one title among the motion pictures, among the feature films, that has not had rights licensed overseas of one form or another, be they theatrical, video, or one of the many forms of television that now exist.

Q. So you are looking for further sales on the same product you have already had some success with?---A. Further sales on the same products that we have already sold; and in some cases, licences that were entered into years ago which have expired. I am dealing with a situation of resales of such licences, particularly in the areas of television and in the area of video. Not so in the area of theatrical because the sort of risk involved in releasing a theatrical picture in terms of the expenditure by the distributor on advertising and prints is such that they do not warrant a second theatrical release.

Mr WALSH: What percentage of your sales do the videos represent? Is it a growth market?---A. You have to look upon video as very much a growing market. Five years ago there was no video business of real interest outside the United Kingdom. In the last few years, and particularly this year at the American film market, countries like Spain, Italy, Greece, Argentina, Brazil, were beginning to look for video products. The video penetration of television households in those markets

of whether in your judgment you dubbed the picture, which is very expensive, or sub-titled the picture, which is not quite as expensive but probably still involves in the order of \$US10,000 per ninety minutes.

**Dr. REFSHAUGE:** What are the titles of the four new films you have?---A. The four pictures we screened at the American film market - do you have a copy of the catalogue?

Q. Yes. ---A. The one called "The Bee Eater" was retitled "The Place at the Coast". The others were "The More Things Change", "Going Sane" and "Short Changed". They are the four new pictures that we are screening. And the rest - I do not screen them in cinemas but, for example, at the American film market and at Cannes I have a large screen video set up inside our office. At the American film market you take a room at the Beverly Hilton hotel. You fit out your room with video equipment. It is a ten foot screen, front projection system, so you create the atmosphere of a small theatre or screening room. You bring in the people looking to buy television and video rights, and you sit them down and screen for them a compilation trailer that you have put together of all our titles. We demonstrate to the distributors all around the world that we have within our catalogue the best of the Australian talent, the people who have really made this film industry come together over the past ten years, and these are the pictures they were involved with.

Q. What did you sell at the American film market?---A. Just gone past?

Q. Yes. ---A. I believe the most important sale was of the new film "The Place at the Coast". This transaction is not yet concluded. Ultimately until it is signed on the dotted line

and contracts are exchanged, everything is uncertain. However, I have every reason to believe I have made a sale of the picture to the British Broadcasting Corporation which has been a very important user of our product. Over recent years the BBC has had a number of Australian film seasons, and the corporation has contributed to them substantially in terms of product. Verbal negotiations are concluded and I believe I have made a deal for the sale of that picture to the BBC. I look upon that as the most important transaction that came out of the American film market.

Of those pictures, "Short Changed" and "The More Things Change" and "Going Sane", I have an option arrangement existing until December of this year for "Short Changed" and "Going Sane". The BBC has made an offer to me on those two pictures. I am not particularly happy with that offer. I turned it into an option which I have until December to exercise. If I can get something better somewhere else on ITV, on commercial television in the United Kingdom, I will. If not, maybe, maybe not. That is speculating into the future. I concluded a sale of "The More Things Change" to the BBC following Cannes '86, in about July or August of last year. So all of those four pictures are in some way doing something in the television area in the United Kingdom. But in principle I am not looking to sell to television first. I am looking to sell theatrically.

However, as I have said, the investment a theatrical distributor must make to release a picture theatrically is so great that unless in his opinion he has Robert Redford or Meryl Streep in the picture, unless his market knows who you have, when you are dealing outside Australia it is difficult to get them to

make those kind of commitments. We have been able to get them to do it in various instances. I was hopeful of being able to do it with "The More Things Change". It is still uncertain that I can achieve that. When Cannes comes and goes in the next few weeks, I will finally know my position there and whether or not I relinquish the opportunity to keep trying for a theatrical release and just accept the fact that it will be television, and before television it will be video.

The sequence of exploitation of rights is theatrical, video, television. Also at the American film market we concluded a transaction for three pictures from the catalogue which had been subject to existing licences with an American distribution company. These pictures are "Careful, He Might Hear You", "The Journalist" and "Newsfront", two of the earlier titles. The American distribution company is looking to put together a package of titles and sell the ancilliary markets, not primarily the theatrical market, in the territories that were available. I actually brought contracts back. We have subsequently finalized them.

Q. With the major sales being to the BBC, why do you not deal with their office here?---A. Because their office here is not empowered to make those kind of decisions or those sorts of judgments about product. They have an individual who is their head of acquisitions. One individual buys motion pictures for the BBC and you must deal with him. We have been dealing with him now for several years.

Q. Do you make most sales at film markets like that?---  
A. It is not written anywhere that you have to go to a film market to sell a film. However, when you live in this part of the globe, your opportunities to sell in Europe are at the American



film market when the European distributors come to Los Angeles looking for product for use in the next twelve months. That is a major opportunity to sell, and we do make sales there. In Cannes one finds the European distributors, and also distributors from South America and Asia. Japan is potentially a growing market, and distributors from that country come to the Cannes film festival looking to buy product. The third occasion each year is in Milan in October where again European distributors and South Americans and Asians all come looking to buy product for the next twelve months.

Those instances represent three specific occasions on which we can sell Australian films worldwide. But there is nothing to say one cannot approach the question in a different way. It would be perfectly feasible to go to Rome, Paris, London, and the different centres where the distributors live when you have new product coming up or just completed, do your screenings and make your transactions on their home ground. A different atmosphere prevails on their home turf than it does in the high anxiety of these markets. In these markets there is only ten days available; there is a scrambling atmosphere going on.

(Mr Riomfalvy) Everybody goes to the film festivals. You do not have to chase them up. Say if you go to Rome or Paris and try to sell, you might find two or three distributors being out of town. But they all go to the American market, and the Europeans go to Cannes.

(Mr Collins): It is a question of finance, and what we can and cannot do.

CHAIRMAN: Following that through, do you basically compete against private enterprise?--A. Absolutely.

Q. So you are one of the very few governmental-type organizations in that market?---A. In that game. That bears upon Dr Refshauge's opening question. All we are asking that the Committee understand is that when we go out into the market to finance a picture, we are competing against private enterprise. When we go out into the market to sell a picture, we are competing against private enterprise. If they have cards in their hands that we cannot have in ours, then necessarily they have an advantage over us. But we do our best.

Dr REFSHAUGE: That was my original question: what cards do you not have that you would like to have in your hand?

---A. I realize that.

Q. What are you missing?---A. It is not a question of missing. I simply say we have to compete on an equal footing with private enterprise to stay in the game. That is all that is necessary to understand.

(Mr Riomfalvy) May I add to this? The way we operate is that our administration and financial operations, and so on, are public sector, but our business activities are part of the private sector.

Mr WALSH: With any of the films with which you are involved, do you have dual marketing rights or are they all sole marketing rights? In other words, are you out there with private enterprise?--A. (Mr Collins) No. We represent our own product on an exclusive basis.

Dr REFSHAUGE: You have government backing to some degree Does that mean you have a more stable reputation?--A. In our first submission in January was a paper which I believe attempted to canvass all the questions being raised now. That paper showed two sides of the coin; one, that certainly when you come into the United States of America market, if you are selling a product and have the stamp of government you are regarded by the private enterprise world into which you are selling as possibly being in the business of propaganda or politics, and you are like the Rumanians or Bulgarians which have film organization selling propaganda about their countries. They say, "We do not want to buy that for money, but you can give it to us. We don't want to really pay money for that sort of stuff." That was our opening position in 1978 when we came into the business.

The other side of the coin is, "You are a stable organization, you are an organization that can be good for its debts and will be reliable and meet its obligations in all ways."

Thus you get the stamp of stability attached to you. One works for you and one works against you. Ultimately, it is the product itself and your ability to get distributors to believe in the commercial value of the product that takes you out into that area of private enterprise which is the film industry. The film industry is very much speculative. It takes major risks. You have to look after your own where you can to try and get major returns.

Q. I take you back to the matter of Cannes film festival last year. You say in the minutes we received "On 7th February, 1986, there was an authorized budget of \$155,000 for that festival." \$100,000 came from the corporation and \$55,000 from the producers. The actual expenditure was \$200,000, with the corporation paying \$130,000 and the producers \$70,000. How was that decision made and in what way was the board involved in the decision?---A. (Mr Riomfalvy) I am not sure.

(Mr Henderson) Are we talking about the decision, or the way the figures are arrived at?

(Miss Woods) No, they are talking about the fact that the Cannes budget apparently was an overrun.

Q. You had an approval of \$155,000. That is in the minutes of 7th February. This year's submission of 12th January shows that the actual expenditure was \$200,000. We cannot find where you authorized the extra expenditure. I want to know what the process was.---A. (Mr Henderson) I know what it is

(Mr Riomfalvy) I suppose I authorized it.

(Mr Henderson) You must have done.

Q. Page 17.---A. This is the actual expenses. I know how this is drawn up. The question is, who did it? I presume there was a change after that date in what we decided to spend in total. I must confess I am not aware of it. All I know is that these figures were compiled after the event to show that in fact that much was spent. There is an enormous difficulty with this. This is all done largely overseas and it is up to the people over there as to when they spend the money. I just get the figures back here. It is a constant problem that I am never there.

(Mr Riomfalvy) Jim, was not the budget made on 7 francs and we finished up with 5 francs?

(Mr Henderson) No, it was not. I believe it changed. I believe it went from five to four. There was a major change, although I do not know what it was, in the exchange rate. I believe that it went from five to four, but it was more likely four.

(Mr Riomfalvy) The corporation was \$30,000 over.

(Mr Henderson) As it turned out, the net result was practically the same.

Q. The net result does not look the same?---A. I am sorry. I am talking about my estimate that is put in the annual report, and the annual report finally has a figure that is pretty much the same.

(Mr Riomfalvy) Also, we were pretty badly treated. The office accommodation just went out. The French decided what they were charging. This year it will be different. We will

be in a different office to what we were in for the last few years. I should like to draw to your attention the fact that it will be above a butcher's shop. That does not mean it will have all the premises. People might say that now we are above the butcher's shop it is even more expensive, but it is not.

(Mr Collins) I should like to put something into better perspective. Cannes is not a particularly large town, but the population swells by perhaps 300 per cent during a couple of weeks early in May. During that period credit cards become virtually useless. Transactions are for cash only. The prices of everything from a glass of beer to a cup of coffee, or to a dinner or hotel accommodation or whatever, go up by a variable figure each year. There are no rules. Money is the only rule in the town for that time. You are in Cannes, playing that game, trying to compete with competitors who are private enterprise organizations. You really have to do what the climate and the market demand of you.

(Mr Riomfalvy) You have to buy your chair at the Carlton Palace from the head waiter.

(Mr Collins) It is not a laughing matter. It is not that funny. For that particular few weeks Cannes is very expensive.

(Mr Riomfalvy) Give about \$10 American and you will be all right. The head waiter puts in all his relatives and moves them out one by one.

Q. Was that overexpenditure on the board's original authorization brought back to the board for authorization?---A.I do not think so, no. That is my fault.

Q. Should that have happened?---A. I suppose it should have, but I did not do it. I forgot.

(Miss Woods) I do not think anyone at the festival knows during the time they are there, when they are spending money, that it is in fact going over budget. Sometimes it is only three or four months after the event they find they have been taken on the exchange rate at the time. I imagine that when Jim finally gets all the bills in and puts them together, he should draw it to our attention and it should go to the board but it is by then six months after the event and obviously this was overlooked.

(Mr Henderson) Actually it is more than that. We got a bill for the 1985 festival two years after the event from the French telephone system, and like with Telecom, you do not argue with them.

Q. Mr Henderson, as far as you are concerned you pay these bills as they come in?---A. Are you talking about Cannes now?

Q. Yes.---A. No. The way Cannes works is that we pay some of the bills from here. Obviously, when Mr Collins goes overseas his fare is paid. The fare of anyone who comes from the American film office is paid from the Los Angeles office. The fare of anyone who comes from the London office is paid by the London office. And for any other expenditure - for instance if we send film from here we pay. The actual expenditure at Cannes is paid on the spot at Cannes. Obviously, if you do not pay for it, you do not get what you want. Basically, the expenditure comes from four different sources which I eventually

amalgamate to get the total expenditure at Cannes. It is extremely difficult to keep control of the overall expenditure. In fact, the only part I have in that is that which actually comes to me.

Q. When the total expenditure authorized by the board is \$100,000 but the amount actually spent is in excess of that, is it your responsibility to tell the board that more money was needed than was actually authorized?---A. Yes.

(Mr Riomfalvy) I suppose you spoke to me about it, Jim.

(Mr Henderson) Yes, I did. Well, the most obvious point would have been at the point when we drew up the annual report. At that stage. Actually, I do not think we had the Cannes figures at that stage.

(Mr Riomfalvy) Actually, the Cannes figures did not come until after the financial year. But in any case the system we work under is that the buck stops on my desk. It is not really Jim's fault. It is mine.

Q. Newspapers do the job, too?---A. I would not be surprised if he mentioned it to me. I really do not know. Basically I can only say that Jim is not tardy with documents or papers, so sooner or later it would have come up. I would say that probably it should have been minuted.

Q. It really comes back to my earlier point: what is the use of the board? In one way the board appears to be really a friendly advisory committee more than a board that takes responsibility. It does not seem to have much control over its finances?---A. (Mr Sayer-Jones) The substance of what has



happened is that a budget was drawn up for an event to take place in a foreign country in future. The vast majority, the actual expenditure that did take place, was approved by the board. There was an overrun, not a substantial overrun but nevertheless an overrun of a certain percentage -

Q. An overrun of one-third.-A.All right, it is a third overrun, but you should remember the circumstances of what happened. Although a procedure should be in place, and the chairman indicated this sort of thing should be ratified and put to the board, the fact is that it is not as if the board is being bypassed in the decision-making process. A budget was drawn up in all good faith. We had tremendous currency problems. It was particularly difficult. We had all sorts of problems in that respect, and with office accommodation. The expenditure went over. If, by oversight, the board has not ratified that overrun I do not think you can extrapolate from that that or suggest from it that the board is being bypassed as being merely an advisory body. In all good faith the board approved it. There was an overrun, and there were reasons for that. The overrun was not formally put to the board to be approved, but an executive officer looked at it and thought the vouchers were justified and ought to be paid. The problem is effectually procedural. You cannot draw from that the substantial link which says that the board has been bypassed. It is unfortunate that that should happen. Perhaps we should improve on that.

(Miss Woods) Well, yes. The other point is that the board could not have rejected this overrun, anyway. It would have

been spent at the time, without them knowing, or being there. It comes out in the wash six months later. It is not as though the board is not consulted or is not involved. It is not valid to say that in this case. It is not a friendly advisory group. Nothing could have been done about it. Sure, the board could say it does not approve it but then if they went back to Cannes they would find that no one would give them any facilities.

Q. I am not saying that the overexpenditure was not justified. What I am saying is that the board has not made a decision that has been justified, and it should be justified?  
 ---A. (Mr Sayer-Jones) I think the mistake probably would have been that a contingency should have been built into that budget. That is probably what we should do. When the board considers the budget it should approve a specific sum and also approve a reasonable overrun if circumstances require it. That is what we should have done, and that would have probably covered that.

Q. They ought to bring it back and say that this has been a justified overexpenditure and approval is required?---A. Yes.

Q. The point is that the board has not been making that decision. Are there other areas where the board has not been making a decision on overexpenditure? I can understand that with the areas in which you are dealing an overexpenditure is likely?---A. Take script development or project development. When extra moneys are needed, the decision has to go back for the board. The board makes the decision and subsequently meets the expense. Just immediately, that is really an isolated situation. Expenditures of the sums we are talking about are always ratified. There are minutes, and you can see how

repetitive the projects are. People need an extra \$2,000 sometimes. One particular case was a mere formality. It concerned one of the projects. As the result of legal problems one producer had on copyright issues - the owner of the book was in London and they were using a major firm of solicitors - this produced a substantial increase in legal costs for the producer. They made another formal request for assistance with respect to the legal costs. It was more than justified. Actually it was more than half of what the increase was. They did not want to give it all. There was a board minute for that. It was not as if they said, "All right, give them another couple of thousand dollars." The matter went to the board. I remember they were screaming for it. We said it would just have to be a board decision. When it was done, there was a new agreement and a new deed. Until it was all signed the money did not flow. I think the board is being regularly consulted.

CHAIRMAN: What is the length of the festival?---A.  
(Mr Collins) Two weeks, usually the mid-two weeks in May.

Q. Who attended?---A. Last year? Myself.

Q. For two weeks? ---A. I set up. It takes me about three days to set up before, and two days to scale down after.

Q. Basically it was the two weeks?---A. Basically the two weeks of the festival itself. The president of the Los Angeles office went.

(Mr Henderson) Bob Lewis. This information is already here again.

(Mr Riomfalvy) Wilf Beaver, who is our London manager, and a French-speaking English girl.

(Mr Collins) Danny Cowburn.

(Mr Henderson) Whom we brought down from London.

Q. The budget for air fares did not include air fares from the London operatives or the Los Angeles operatives, because their airfares are budgetted out of their expenditure.

(Mr Collins) I do not think so. I would expect it would all be in the current budget.

(Mr Henderson) No, actually you did not put it in the budget.

(Mr Collins) What did not I put in?

(Mr Henderson) I believe Wilf Beaver's air fares, which were only \$728.

(Mr Collins) Tell me what the average is?

(Mr Henderson) \$50,000 gross.

(Mr Collins) For what?

(Mr Henderson) I would have to go through the details.

Q. I wanted to know in regard to the air fares, because one of the earlier questions indicated that some of the expenses incurred by people working out of London and Los Angeles came out of those budgets rather than out of this budget. I am asking whether that same principle replied to the Cannes film festival budget?--A. (Mr Riomfalvy) There is no such thing as the London budget, because they practically have no expenses. The London office actually has not got a budget.. The fellow who runs it is a public servant and we

do not pay him. We pay the Premier's Department for his services. The London expenses are very low.

(Mr Henderson) We count them as part of the head office budget here, because it is so small. We do not have a separate set-up for that.

Mr FISHER: I preface my question by saying that the points you made, Mr Riomfalvy, in your letter to us are well taken. We all recognize the most valuable role that the Film Corporation has played in lifting the image of Australia, particularly overseas, away from the Dad and Dave type of image, which we certainly had and which did such tremendous damage to this country. It is important that we recognize the role played by the corporation. Our inquiry was initiated by the Auditor-General, as you know, who expressed some concern about the operations not generating sufficient return to service borrowings. Essentially it was the inquiry by the Auditor-General that initiated our inquiry of the corporation. For all that, we should recognize that we appreciate the work you have done, which has had a dramatic effect on tourism; and also, as you point out, on young Australian talent, and in being able to assist and develop that talent. Had it not been for the corporation a lot of that would not have occurred?---A.

(Mr Riomfalvy) Thank you very much. I think that is the first time probably a public accounts committee has paid a compliment to any film organization.

Q. I wanted to put things in the right context. Our questions arise merely because of the query by the Auditor-General to the Committee. We are merely trying to inform

ourselves on these matters. Following on the questions you have been asked about the financial delegation, I ask you, Mr Henderson, this: in terms of the Finance and Audit Act, it is required that expenditure be approved by certain authorized officers? Have you a list of the authorized officers?---A. (Mr Henderson) Yes, I have. The appropriate minutes indicate who is allowed to spend what and how much.

Q. You can provide us with such a list?---A. Yes. (Minutes of New South Wales Film Corporation board meeting of 19th October, 1983, 1st December 1984 and 16th January 1985, read as follows:



*New South Wales Film Corporation*

MINUTES OF BOARD MEETING

HELD ON WEDNESDAY 19 OCTOBER 1983

4TH FLOOR 45 MACQUARIE STREET SYDNEY

PRESENT: Paul H Riomfalvy .. Chairman  
Jenny Woods  
Damien Stapleton

1 CONFIRMATION OF MINUTES

The Minutes of the Meeting held on Wednesday 21 September 1983 were read and confirmed and signed by the Chairman.

2 ADMINISTRATION, FINANCE & ACCOUNTS

2.1 Delegation to the Chairman under Section 15 of the Act

Pursuant to Section 15 of the Act, the Board resolved to make, and hereby made, the following Delegation:

- 1 The Chairman and Director, Paul H Riomfalvy, to have sole responsibility to carry out the policies, decisions and resolutions of the Board including without limiting the generality thereof the following:
  - a The general administration of the Corporation;
  - b the supervision and direction of all executive staff, general staff and consultants;
  - c the preparation and supervision of legal arrangements giving effect to directions and resolutions of the Board;
  - d the supervision of marketing arrangements for contracts;
  - e the nomination and enforcement of controls in respect of arrangements with third parties.

Nothing in the foregoing either:

Permits the Chairman unilaterally to resolve to invest moneys in, or lend moneys to, a particular project or group of projects, that being the function of the Board.

In the absence of the Chairman of Directors the above-listed Delegations shall be exercised by the General Manager.



*New South Wales Film Corporation*

- 2 -

Minutes of Meeting held 19 October 1983

2.2 Delegation of Authority to Incur Expenditure

Pursuant to Section 15 of the Act, the Corporation hereby authorises the occupants of the positions designated hereunder:

- a To incur expenditure on behalf of the Corporation, including all of the services listed, within the limits of the budgets, and subject to the provision of funds, to the extent specified beside the respective designations;
- b to approve all requisitions for materials, stores, etc, for use in the Corporation, subject to the provisions specified in (a) above.

These Delegations shall commence from 20 October 1983 and rescind any authorities to incur expenditure previously delegated to directors, employees and consultants of the New South Wales Film Corporation.

<u>POSITION</u>	<u>AMOUNT</u>
Chairman of Directors	\$25 000
General Manager	\$25 000
Financial Controller	\$10 000
Accountant (Production)	\$ 2 000
Production & Marketing Consultant	\$ 5 000
(NB: No authority re corporate status, restricted to advertising, publicity & sales)	
Manager, Government Documentary Div.	\$ 5 000

All other matters are to be referred to a meeting of the Board.

Persons officially acting in the above positions are entitled to exercise the relevant delegations.





*New South Wales Film Corporation*

- 3 -

Minutes of Meeting held 19 October 1983

2.3 Delegation of Authority to Authorise Payments

<u>POSITION</u>	<u>AMOUNT</u>
Chairman of Directors	To the limit of the approval to incur.
General Manager	As above
Financial Controller	As above
Accountant (Production)	As above
Production & Marketing Consultant	To the limit of the original approval to incur but restricted to advertising, publicity and sales.
Manager, GDD	To the limit of the original approval to incur but restricted to GDD matters.

ACTING CHAIRMAN

In the absence of the Chairman of Directors the General Manager shall act as the Chairman of Directors.

2.4 Appointment of Tokyo (Far East) Representative

The Chairman reported that the Premier had agreed that Mr Brian Wallace, Commissioner for New South Wales in Tokyo, who also represents the State Bank of New South Wales in Japan, be appointed as a representative of the New South Wales Film Corporation for Japan and the Far East. The Premier has ruled, and Mr Wallace has accepted, that no extra remuneration will be paid to Mr Wallace for his services as the Corporation's representative.

Mr Wallace will take up his appointment as the Corporation's representative upon his arrival in Tokyo.



*New South Wales Film Corporation*  
Minutes of Board Meeting held Saturday 1 December 1984

- 2 -

- ii. the companies involved be advised accordingly;  
and
- iii the Corporation recruit and employ suitable personnel to carry out the desired functions as and from the expiration of the relevant Consultancy Agreements.

The Chairman also advised the meeting that on advice from the Corporate Solicitor a uniform indemnity clause be included in all Agreements.

2.2 Delegation of Authority to Incur Expenditure

The following delegation of authority to incur expenditure (by Mrs Anna Ambrose) is hereby rescinded:

Accountant (Production)	\$2000
-------------------------	--------

Pursuant to Section 15 of the Act, the Corporation hereby authorises the occupant of the position designated hereunder:

- a To incur expenditure on behalf of the Corporation including all of the services listed, within the limits of the budgets, and subject to the provision of funds, to the extent specified beside the respective designation;
- b To approve all requisitions for materials, stores, etc, for use in the Corporation, subject to the provisions specified in (a) above.

This delegation shall commence from 3 December 1984.

<u>POSITION</u>	<u>AMOUNT</u>
Accountant	\$2000

Any person officially acting in the above position is entitled to exercise the relevant delegation.



*New South Wales Film Corporation*

Minutes of Board Meeting held Saturday 1 December 1984

- 3 -

2.3 Delegation of Authority to Authorise Payments

The following delegation of authority to authorise payments (by Mrs Anna Ambrose) is hereby rescinded:

<u>POSITION</u>	<u>AMOUNT</u>
Accountant (Production)	to the limit of the approval to incur.

The following delegation is authorised as from 3 December 1984.

<u>POSITION</u>	<u>AMOUNT</u>
Accountant	To the limit of the approval to incur.

3 NEW PROJECTS -- SCRIPT DEVELOPMENT

369 DREAM GIANTS

This application was discussed and the Board declined to invest in the development of the project as it was felt that it would not be a commercial proposition for the contemporary cinema.

370 THE KALKADCONS

This application was discussed and the Board declined to invest in the development of the project as it was felt that although the material was interesting the writer may not be able to realise its potential as a commercial cinema film.

373 FIZZGIG

This application was discussed and the Board declined to invest in the development of the project as it was felt that the story was more suited to television and therefore would not be viable in the cinema.

375 OPEN LICENCE

This application was discussed and the Board declined to invest in the development of the project as it was felt that the material would not sustain a feature film.



*New South Wales Film Corporation*  
Minutes of Meeting held Wednesday 16 January 85

- 2 -

2.2 Delegation of Authority to Incur Expenditure

Pursuant to Section 15 of the Act, the Corporation hereby authorises the occupant of the position designated hereunder:

- (a) To incur expenditure on behalf of the Corporation including all the services listed, within the limits of the budgets, and subject to the provision of funds, to the extent specified beside the respective designation;
- (b) to approve all requisitions for materials, stores, etc, for use by the Corporation, subject to the provisions specified in (a) above.

This delegation shall commence from Wednesday 16 January 1985.

<u>Position</u>	<u>Amount</u>	
Consultant to GDD	\$2000	Restricted to expenditure related to GDD print sales.

Any person officially acting in the above position is entitled to exercise the relevant delegation.

2.3 Delegation to Execute Contractual Documents

The Board resolved to delegate the Financial Controller (position presently held by Dr James Henderson) and the Corporate Solicitor (position presently held by Lyndon Sayer-Jones) as persons who may execute contractual documents including contractual documents under the Corporation's Seal in the performance or exercise of the Corporation's functions and powers. As a matter of general practice the delegation is to be used only when it is not convenient for two members of the Board of the Corporation to be present to execute such documents and in any case one of the signatories shall be the Chairman or the Acting Chairman. For the purpose of this resolution Jennifer Margaret Woods shall be deemed to be the Acting Chairman if the Chairman is absent.

3

CURRENT PROJECTS -- DEVELOPMENT

338 CRABS

It was resolved that a further \$15 000 be invested in

Q. Usually what authority do you require before funds are allocated to the marketing accounts?--A. That has to be on a board minute, with the approval of the board of a budget prepared by Mr Collins.

Q. Mr Collins simply submits to you - ?--A. He draws up a budget.

(Mr Collins) It is presented to the board and the board would approve the budget and the funds would be organized through the financial controller into an account, and that account is to be operated by myself and the producer of a particular picture.

Q. I wish to ask you some questions about some areas of doubt in regard to trying to read into the minutes, which you have provided, and other submissions. Miss Woods might be able to help in regard to this matter. The project entitled "Morrison of Peking" received its first Film Corporation script in 1982. Since then six further grants have been given; the last was in January 1987. The sum of \$114,973 is involved. That has taken

five years. Is it usual to take so long?---A. (Miss Woods)

No, it is not usual. It is due to the nature of the project. We feel this project will not be made unless it can be made in China. Dealing with the Chinese is a very complicated procedure. We have had to have the script translated into Chinese. We have had a Chinese consultant here on the project. It involves a research trip and a location trip to talk to the Chinese, because their Cultural Bureau has to approve anything that takes place. It sort of half lapsed, because they do not come back to you with an answer for six months. This is not usual, but it was due to the nature of the project.

Q. Was that based on a book?---A. It is not really; it is history. We purchased an option on Cyril Pearl's book, because so much of that material is very close to the way this film is developing.

Q. Did you have the option originally?---A. No, the producer has the option.

Q. The producer had that at the time the first grant was made?---A. Yes.

(Mr Riomfalvy) That is one of the projects with which I do not think we will ever go into business with the Chinese. It is history. They say what is in the book did not happen.

Q. The board minutes of 3rd March 1987 recommend that no further funds be given to the project "Threads of Gold". Previously a total of \$105,000 had been expended on that project. Why was it decided to cease funding?---A. (Miss Woods) The problem is that the picture we want to make is not the picture the producer wants to make. We have taken it through

a number of drafts. At the very last draft he changed writers and started again. We were most unhappy with that draft when we read it and we told him that we do not like the way it is going and that we are not prepared to keep funding it. Should he mount the project elsewhere, it is still a good idea, we will get all that money back plus interest.

Q. Do you say he will get all that money back?---A. We will. If he is able to mount the production, we will get all that money back plus interest.

CHAIRMAN: As I understand it, two weeks prior to making that decision, which was on 3rd March, on 16th February you wrote a cheque for \$6,200?---A. Yes. I have not looked at the minutes, but I think the application for that money was given a lot earlier. We withhold some of the money until a script is delivered. He delivers the script and we then pay him the balance, which has been approved previously by the board - the balance of that overall development. It then goes to the next board meeting to be discussed to see if we want to stay in. That was just his delivery payment in that instance. If we pay them all up front when the board makes a decision to invest, sometimes we might never get the thing delivered.

(Mr Sayer-Jones) A normal commercial arrangement.

Q. It does not seem a normal commercial arrangement if you decide not to fund a project and you keep paying money up until two weeks before a decision?---A. (Miss Woods) We do not know that we are not going to fund it. The draft could have been wonderful, in which case we would have gone soldiering on with it.

(Mr Sayer-Jones) The payments you are referring to, ~~the \$6,000, is a contractual obligation. The board makes~~ the decision at a certain time to invest a certain amount of money. It contracts by deed with the producer to write a draft.. It is completely out of our hands but when he delivers it we must make a payment, even if six months before.

Q. I understand that.---A. (Mr Riomfalvy)

That is why the public generally has confidence more in a publicly funded organization, because a private company would have walked off and said, "Good luck". We pay whatever we have to pay according to the agreement.

Mr FISHER: The "Magic Telescope" received twenty-four grants between September 1983 and April 1986 totalling \$123,000. Why would that project have taken so long?---A. (Miss Woods) It is a very complicated children's film and probably has a budget bigger than we could ever be involved in. If they want to mount it, they will have to do it by getting pre-sales overseas. It involves very complicated science fiction type sets. It is about a city. This city has been built in model form. Those sorts of things, the design of it, the building of it, and finding a place to put it in all take years. They will not attract money unless they do all these things to prove that we can physically make such a film.

Q. What is the present situation?---A. They are working on another draft. They have already had two trips to try to raise pre-sales and have not been successful. I have a feeling it may lapse. It may be bought lock, stock and



barrel by an American studio, because they could make it a lot more easily than we could. We have the technology but it is a fairly tough one from our point of view.

(Mr Sayer-Jones) We will recoup what we put into it, together with a premium, and we have a percentage interest in the net profits if it is good.

(Miss Woods) Or if it is made.

Q. When was it last considered by the board?---A. I do not know. I would have to look it up.

CHAIRMAN: Mr Collins, would you be in the market selling this?---A. (Mr Collins) That particular project, no.

Q. Who would be selling it?---A. (Miss Woods) It depends who makes it.

(Mr Riomfalvy) Danny only sells completed pictures. It is not his department. It is another department. We tried to sell it off. Danny only does that when the picture is actually completed.

(Miss Woods) Although our office in Los Angeles was used by this producer. He worked with Bob in trying to create interest in pre-sales for it. At a guess it must have been last considered by the board about the end of 1985 that is on looking at this document. They are the last payments made. It cannot have been before the board since or we would have voted some more money.

Mr FISHER: The minutes would show when those twenty-four grants were approved?---A. Yes, it would.

(Mr Sayer-Jones) No, it would not. There might be two or three payments for each approval but the total sum

would be covered. If there were twenty-four, there probably might have been ten or so board meetings. It is a stage payment situation. There is an amount on execution. There might be an amount at a certain stage depending on what is happening - if there is a reconnaissance for a location or something. In an absolutely stock standard script situation there is an amount on execution of the deed and an amount on delivery. That is an unusual one, because it probably would have had more draw downs in each specific board approval because of the nature of the project.

A designer had to be brought in and he probably wanted a certain payment when he started and a certain payment midway in the production, because the model was very complicated and very expensive. Probably on delivery of his model he got another payment. I would be surprised if there are anything like twenty-four board meetings approving that total sum.

Q. The Australian Film Commission has a policy of charging commercial interest rates on script development funds and a buy out policy which includes the sum spent on development plus interest plus a 10 per cent bonus. Does the Film Corporation charge interest on its script development funding?---A. No, it charges a 20 per cent premium. It is a flat premium. So, for example, for every dollar we invest in a project the buy out of it will be \$1.20. Then we have a percentage of the net profits, which is 5 per cent of the producer's share of net profits or 1 per cent of the total net profits, whichever is greater.

Possibly Miss Woods will make a comment, but our policy is different to that of the AFC. It strikes me as unfortunate - this is not a criticism - but there are pros and cons in looking at it, I suppose. One of the problems with a flat interest rate accruing on an investment is that if a particular project has problems getting up - when I say getting up, I mean being made - you can actually cripple a project. Let us take "Morrison of Peking", a typical project where you have a lot of time. After four or five years, if the investing body - say, the AFC in that case, and this is not meant in any way to be a criticism of

Mr FISHER: They only have slow moving trains in New Zealand?---A. No, it all happens here. It is based on the Southern Aurora. It is about a prostitute working on a train. That is the story.

Q. It would not happen in New South Wales? ---A. (Mr Sayer-Jones) The bad activity happens when it crosses the border. One might say, free intercourse of trade.

Mr SMILES: Mr Fisher discussed with you the film "Morrison of Peking" and there was some discussion about film rights. Could I just establish with you who now owns the film rights? ---A. There was a hiatus period when it originally started off and another funding body was interested in that project. It invested some money and then subsequently passed. They accepted a particular letter, which is called a deal letter in the business - not a formal contract or a formal option arrangement, but a deal letter - that was deemed to be legally binding at the time. What happened was we went into it on the basis of that and then the option subsequently lapsed. There was then an interim period where you will see there were no grants made by the board because I advised the board that the rights had lapsed and had actually gone into abeyance. We needed to get the rights back in over the Cyril Pearl book. When they were got in, subsequent board approval was made. I cannot give you the exact dates. The rights are held by the producer on an option arrangement.

Q. What concerns me is that that interim period was almost four years. ---A. I could not imagine it was anything like that. I just cannot tell you what the period was. Have you got an idea?

Q. My concern is that in September 1986 the rights were finalized in terms of ---?---A. No, they were brought back in. It was not as if they did not exist at the time. They were brought back in. That is the trouble with options and it is a problem endemic in the film industry. We cannot go up to a particular author and say, "Okay, we have an option over the rights, we to make a film of this book for twenty years". That would be ideal from a lawyer's point of view. It would be beautiful to say, "Okay, we have the rights, we will do whatever we have to do".

The literary agents who negotiate these things, and or the author directly directly, will only give it to you for a very limited period. I am always fighting on behalf of the corporation to get the longest possible time we can so that we have sufficient time to make the project. What sometimes happens, and it happened in this particular project, is that the option runs out. Until we get the option rights back in so we can be sure about the film, money will not flow.

There is a gloss on this particular project and that is that the lawyer who acts for the producer - and I think it would be reasonable to say that he would be Sydney's leading film lawyer in that he certainly does the vast majority of films in this country and acts for the biggest producer - is of the opinion, and I disagree with him myself, that the rights are not necessary on this book because we are dealing with an area of what is called in the public domain; it is history. There is a

big kerfuffle about the "Fatal Shore", which is the new book that the de Laurentis group has bought. The argument is that in reality the book is of archival material and it is not necessary to get the rights at all. It was purely for want of better caution and prudence that those rights were brought in. The lawyer of the producer who must be accepted as an expert, is of the opinion that the film could be made anyway. There is a gloss on that particular project. It was not a clear cut case. There is strong argument to say that the film could be made anyway.

Q. I hear you but I remain uncomfortable because there was at least a period where the corporation had advanced about \$86,000 for script development and there appears to my interpretation to have been no guarantee or legally enforceable connection. ---A. What you are doing there is confusing a screen play with the screen rights. We have never ever lost control of the screen play. But what may have been lost for a period - and this happens in the film industry - is the rights, the actual screen rights. It is similar to a person owning a car but not having a licence to drive it. It does not mean that the car can be taken from that person. We have never agreed to a reversion arrangement whereby, for example, if you invest in a screen play and it is written and if the rights lapse, the proprietary interest in the script reverts to the author. We always disagree with that arrangement but some producers agree with it. I think it is fatal.

In this case we did not lose the proprietary interest in the script that has been written. There is a lot of

value in that script because we have a consultant who is skilled in Mandarin and this type of thing. The screen rights, the rights to use that script for a film lapsed so we waited until the rights were brought in and we proceeded.

Q. Therefore a film such as "Threads of Gold" could have your corporation locked in for twenty or thirty years before the relevant producer actually got around to doing something about it? Your corporation could be involved in an investment because of the nature of the industry as you have just outlined it. However, I would question whether there is not a legal mechanism to adapt to that nature. The New South Wales Film Corporation could be locked in for twenty to thirty years until certain parties ---? ---A. You are saying that the project could be sterilised because the option lapses?

Q. Yes. ---A. With respect - and I say this quite seriously - if you have any thoughts on that, I would be interested to hear them because certainly not one film lawyer in this country, and to my knowledge not one film lawyer in America either, has ever found a solution to that problem. That is a problem with script development.

If an option lapses because a project has not been made, you are quite right, the project could be sterilised in the sense that you own the script. But, if for some reason the film has not been made over a period and the option lapses, until you get those rights back you cannot make the film. That is true. You cannot

avoid that; that is the commercial risk in script development. What you try to do is to get an option over the rights for a sufficient period so that if the project proceeds at the normal level of advancement, you will be able to make the film. What happens is that with some projects they slow down, there are problems, authors die, people get writer's block - these things happen. If there are delays for some reason and the option lapses, you do have sterilisation of the project, that is true. It is unfortunately a commercial risk that is part of the film industry.

(Miss Wood) At the same time, we are not developing projects just with a view to their being bought out and sold. That is only in the eventuality. We are developing many projects looking for that one in twenty or twenty-five or thirty that we want to make. That is why we are developing many. We have the mechanism to recoup.

Q. Yes, I recall your comments made on the last occasion. Mr Riomfalvy, does this mechanism really mean that no government in New South Wales could now disband the New South Wales Film Corporation without putting at risk millions of dollars of taxpayers' money? ---A. (Mr Riomfalvy) Yes, you could by not giving us any money for the next year. You will not have to repeal the Act.

(Mr Sayer-Jones) The corporation does not have a contingent liability because of its script development arrangements. It purely has a contingent right to get money if the project is made.



(Mr Riomfalvy) If you are under the impression that we have deliberately created that situation - well, so far as I am concerned, I shall be sixty-five years of age in two years time. I have to retire, in spite of the fact that Mr Collins said that the last amendment provides that age does not matter in show business.

Q. I accept your point. I am not talking about the corporation, I am talking about the reality. ---A. (Mr Sayer-Jones) May I add something? There is no continuing liability. One of the critical components in every single deed that we have is that the corporation is never obliged to participate in any further script development, any further marketing, any further production costs. We are never committed. We are committed only for the specific sum that has been given board approval. No producer has a call upon the corporation, or the Crown through the corporation. There is no huge potential liability or obligation on us to make a film. If we are not interested at any time, we simply say that we are not interested.

Q. I am glad you brought that up. I refer you to "Escape from Poland", where the sum of \$350,000 is at stake?

---A. Yes.

Q. We looked briefly at that on the last occasion. I am concerned that nothing you have said today reveals a concerted mechanism for reviewing decisions. In my view 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. Consequently there is film after film and when it gets difficult they come back to you for more money. The situation is that, unlike the federal body, which considers a maximum involvement of approximately \$120,000, you have numerous films in which your investment is much more than that. In particular there is the nonsense of "Escape from Poland" in which you have involved \$350,000 of taxpayers' money, and not one foot of film in the can?---A. Jenny has already addressed the issue that some projects involve larger sums of money. Compared with the American industry, all these sums of money are extremely modest. There are not that many projects in which we have invested more than \$100,000. The vast majority have a lesser involvement. Our mechanism is the most controlled that there could be. We do it draft by draft, and we never lock ourselves in. We always have a proprietary interest. We actually own a half of the script and the rights. As a basic legal principle you cannot divest yourself of the script without our consent. We also have a buy-up provision so that if ever the film is made, either here or in Iceland, we will receive our money back,

plus a premium, plus an interest in the proceeds. That would seem to me to be the best possible approach. In that respect we are in no way different to the AFC. I am not aware of their specific policy, but if it is that every project in which they have invested in excess of \$120,000 should be reviewed in their overall capacity, I would suggest that the corporation's policy is to review at every single stage. Every penny that is put in is reviewed. "Escape from Poland" went over \$100,000, and was done in stages. It was not as though \$300,000 was approved at the one time. It was a matter of approving \$50,000, \$30,000 or \$40,000 in stages. At every stage the board looked at the draft, the reader's comments, discussed the project and decided whether to proceed to the next stage. It proceeds incrementally. I believe there is an intensive review process.

Dr REFSHAUGE: With regard to film rights, do you obtain film rights or options in relation to every book on which one of your films is based?---A. Yes.

Q. Do you ever go ahead without them?---A. Never.

Q. What is the usual option length? ---A. The industry standard is about eighteen months. It may be a year, or sometimes three years - or as long as possible. You obtain an option period, plus a right to extend. You try to obtain as many extensions as possible. The general average is eighteen months. I would say our average would be nearer to two years - simply because we try to obtain a longer period. Less than eighteen months is dangerous, because it takes so much time to get a project up. It is a matter of making a commercial decision. Some authors, particularly those overseas, simply refuse to

negotiate longer periods. They believe - I suppose with justification - that the longer the option period the more likely a producer to say he is comfortable to wait, that he has other priorities. It is true that there is a flurry of activity in the latter part of an option. People know they might lose the rights.

Q. Is there an average cost for those options?---A. They vary. You could obtain an option for \$1,000 for a little-known work. You might have to pay \$30,000 for an international or best-seller. I would say as a rule a typical option fee is \$1,500 for the first year, with \$1,000 for an extension for one year. It varies on the stature of the project, or the perceived benefit or value of the property. For example, it might be an idea or an original treatment that has never been published. Therefore there is no barometer by which to say that it was a best seller. However, if it is by a well-known script writer or someone who is perceived to have an insight into the industry, it could be seen to be of value.

Q. Who within the corporation has the responsibility to be aware of when options are running out?---A. That is my responsibility, in conjunction with Jenny. We are aware of the projects and there is constant liaison. We know when they make application. They approach the project co-ordinator or Jenny as to what rights they can acquire. If I believe a period is too short, or there is a problem, I discuss it with Jenny. I am constantly having such discussions with Jenny.

Q. In the majority of cases are the options continued, or is there a hiatus where you lose out?---A. Invariably - there may be some exceptions - a project is either going into production

or peters out long before the extension period is up. I usually hound producers to extend.

Q. You would expect in the vast majority of cases you would not have a hiatus?---A. We would know before the option is lost whether we want to proceed. A script is a valuable commodity. A script can cost \$20,000 to \$30,000 to have written, and has a value. If an option lapses, it is possible that another producer will pick up another option and request of the former producer to buy the script, which he can use as a working tool. There may be an approach on that basis, for which our consent is necessary as we own half the script.

Q. The option of "Morrison of Peking" lapsed?---A. Yes. That was a difficult one. There is expert legal argument to the effect that that option is not necessary. For prudence sake, we deliberately held back money until the option had been reacquired. There was a problem there. The author had been ill and in hospital and there were difficulties communicating with him.

Q. Is that why it did not roll over?---A. I do not know if that is so. It certainly accounted for difficulty in obtaining an answer from the author. Also, there was an argument at the time between two publishing houses as to who owned the film rights. The author had contracted with one group and then another group. That was finally resolved.

Q. What have you learned from that experience to prevent it reoccurring?---A. You can never avoid such a situation. No option is open-ended. I may be wrong, but I have never heard of a film option in excess of an absolute maximum of three years. If you cannot have the film made in that time, the option lapses.

Either you keep extending, if you are still interested and can extend, or lose the right to use what you have written. You do not lose the value of what has been written; still own the script.

Q. Did a problem arise because you did not begin to renegotiate early enough?--A. No. The producer went to considerable lengths and had much difficulty negotiating because the author, Cyril Pearl was chronically ill and could not be spoken to. His wife would not allow him to be spoken to. Also, there was the problem with the publishing house. It certainly was not for lack of trying. As a matter of fact, in that case the producer constantly was coming to us saying he was sure it will be okay; offering a legal opinion that the rights are not necessary. We said that we wanted the option. We took a prudent approach, and I believe we did the right thing.

Q. How much did that option cost?--A. I just do not know. I can provide that information to you.

Mr WALSH: I want to clarify the decision-making process and the relationship between the executive and the board. I notice in the minutes of 3rd March that the board approved of the corporation vesting in the co-production of "Emerald City". However, on 26th February there was a public statement that the corporation would be involved in a co-operative effort with that film. Can you comment on that decision-making process. I believe that the executive meets and that the board ratifies the executive's decision?--A. (Miss Woods) I refer you also to a board minute of 11th February in regard to our becoming involved in "Emerald City". That states that we decided to invest

a sum of money with the applicant to secure an option on the play; that the applicant will submit a development budget to the corporation for the next board meeting. It was also decided that the corporation, should the project go into production, would be co-producer. Then there was the announcement you refer to, to the effect that the corporation would take up the option. Then our official investment in the project was recorded on 3rd March.

Q. I note with "Touch the Sun", again referring to the board minutes, a change of attitude toward that production in terms of policy as to whether you would invest in television programmes. Will you comment on that?---A. (Mr Riomfalvy) In the past we believed that television stations made sufficient money to support Australian drama, and we did not believe we were obligated to support television movies or mini-series. In January, following returns from television stations and rating charts, we knew the stations were having problems, and we decided to go into television. I attended a function at the Sebel Town House at which Mrs Janet Holmes a'Court, the president of the foundation, was present. I told her that we would go into television. However, that is not a signed contract. Indeed, we still have not received a signed contract. I made an announcement of that intention, and informed the staff, and they agreed it was a wise decision.

Q. And on 3rd March you made an investment?---A. Yes.

Q. In the amount of \$140,000?---A. Yes, but we have not signed an agreement.

(Mr Sayer-Jones) The investment agreement has not been put to us. It will be soon.

(Mr Riomfalvy) It is normal in our business to make announcements for the sake of publicity, which are not binding.

Q. The corporation invested \$1,000 in "I'll Plead Insanity". By way of conflict of interest, would it not have been better for Mr Collins to have approached the Australian Film Commission rather than the corporation?---A. I would have sacked him the next morning. Why should he go with a good project to another organization. He would have been treated as a traitor. I will ask Mr Sayer-Jones to answer as to the legal position.

(Mr Sayer-Jones) The legal situation is set out in the transcript.

Q. You do not see any difficulty with Mr Collins working on that project as producer, in the corporation's time?

---A. (Mr Riomfalvy) We have not reached that stage. Certainly he will not be the line producer. We shall employ a line producer and his role will practically disappear.



(Miss Woods) It depends. We are in the very early stages yet. We do not have a draft that we are interested in. But Mr Collins' involvement at the moment would not be significant to affect it being in corporation time. He is only briefing various writers while we see whether it develops as we would like it to. We have no commitment other than this first-stage development.

CHAIRMAN: On 7th February, 1986, in relation to "Bliss", \$195,000 had been deposited in the marketing account. However, the minutes note that the board approval had been minuted for \$30,000 on 5th June, 1985, and \$50,000 in August 1985. The question is: who approved the transfer for the remaining \$50,000 on 19th February, 1985, and for \$65,000 on 16th January, 1986? The minutes note that board approval for \$30,000 had come through on 5th June, 1985, and for \$50,000 on 9th August, 1985. My question is: who approved the transfer of the remaining \$50,000 on 19th February, 1985, and \$65,000 on 16th January, 1986?---A. I am afraid I do not quite understand the question. Was the information supplied here said to apply only to 1985, or would there be previous minutes?

(Mr Henderson) The minutes only go back to 1st January, 1986.

(Miss Woods) It must be minuted in previous minutes prior to the information you have here.

CHAIRMAN: Would it be satisfactory if I give you notice of that?

(Mr Sayer-Jones) I suppose one has a situation where the board approves these transactions. That is the answer to that, on page 2 of the minutes. As you say, the board had approved certain sums and extra sums had been spent. The chairman reports these extra sums and the board approves these transactions. I suppose in effect one has a ratification by way of the board approving these transactions at that time.

Q. You might put that to us in writing?---A. Yes.

Q. There was a memorandum from the marketing manager attached to the minutes, noting a total of \$250,000 allocated to the "Bliss" marketing account. \$195,000 had been expended. Consequently, there was another \$45,000 committed. Why the discrepancy in the figure between the initial \$195,000 approved and the \$250,000 expended?---A. (Mr Riomfalvy) We will have to go into this and write to you.

(Mr Collins) If I can get the drift of the question, "Bliss" is a picture with an unexpended balance in the marketing account. Perhaps Mr Henderson could confirm what I am saying.

(Mr Henderson) There would be a balance unexpended in the marketing account. What we are talking about here is money paid into the marketing account.

(Mr Collins) The commitment totals whatever figure you said, and I guess the outlays total \$195,000 or whatever. That is the most logical explanation from my point of view.

Q. So the budget for marketing is \$250,000?---A. And there is still \$40,000 or \$60,000, or whatever it is, left in it.

(Mr Henderson) There is a fair sum left in it at the moment.

(Mr Collins) But in reality that sum is unlikely to be expended.

Dr REFSHAUGE: The board makes a budgetary decision to allocate a certain amount to the marketing account?---A. Right.

Q. You then get approval every so often for a certain amount to be in your marketing account?---A. I get in-principle approval from the board for a figure. Then, as I need to use that figure, I draw down the funds and spend them. As I would understand the situation that the Chairman has raised, the in-principle approval is for \$250,000, and the actual expenditure is \$195,000. I do not see any immediate reason to draw any more funds. It is not money sitting in an account; theoreticall there is an approval on the books for another \$60,500, or whatever the figure is.

CHAIRMAN: \$45,000.

(Mr Collins) Should some eventuality occur where money has to be spent on "Bliss" marketing, it is not necessary for me to go back to the board and get another in-principle commitment, providing it is less than \$45,000. It is possible to transfer the moneys into the account.

Dr REFSHAUGE: So you will spend that before the actual transfer has been ratified by the board? You spent \$195,000 and you have \$250,000 approved. You can still spend more? ---A. \$45,000 more, without looking for another approval from the board for overall funds available for marketing.

Q. Even after spending that, you need board approval to transfer it into the marketing account?---A. No, once the board has approved in principle a budget for a particular title. I have the ability, with the producer, to draw funds from the corporation into that account.

Q. You do not need board approval for each drawing? ---A. No. 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 account whatever I need as I need it. In this particular instance the approval is higher than the actual outlays.

CHAIRMAN: I think the converse applies here. Our reading of the minutes is that there was approval for \$195,000?---A. (Miss Woods) What I think has happened is that the approvals earlier are in the 1985 minutes which you do not have. But there would already have been some allocations in those previous minutes.

(Mr Collins) There would be, because we took "Bliss" to the 1985 Cannes festival.

Q. Do you have a delegation? Let us say the figure is \$250,000; do you have a delegation up to a certain figure that you can spend at any one time?---A. No, I believe my delegation is \$5,000.

(Mr Henderson) No. It is quite different. Your delegation ultimately flows from the fact that there is \$250,000 that you have the right, with the producer, to spend. There is a quite separate delegation that Mr Collins has to

spend up to \$5,000 on the corporation's account for minor marketing and sales. For some very old films there would no longer be a marketing account. As a result, if a marketing expense arises, it is paid out of the management account and invoiced against the movie's proceeds. So Mr Collins does have a delegation of \$5,000 for that purpose but his delegation is different in this case. It is up to the amount that is available in the marketing account.

Q. So in effect he has a carte blanche cheque-writing ability for \$250,000?--A. No.

(Miss Woods) No, Danny would have to have a counter-signature with the producer on every cheque. In the same way the producer could not withdraw funds from the marketing account. neither could Danny. Two signatures are required on all marketing accounts.

(Mr Riomfalvy) The reason why we keep it until the last possible minute is that Jim is investing the funds on interest-bearing deposit. If he transferred it immediately to the producer's account, we lose the interest on that money.

Mr SMILES: I wish to ask a few brief questions based on the materials supplied by our witnesses since our last meeting, and then turn to the issue of financial support for the films and marketing. Mr Riomfalvy, there is one brief question arising from your note of 14th April. On page 3, under the heading of industry assistance, the comment is made that the corporation gives financial assistance each year to various guilds and organizations to assist them in their activities, including

the Australian Writers Guild, the Australian Film Institute, students' film festivals, et cetera. In making those grants does the corporation give consideration to the assistance that those same organizations might receive from either Treasury sources or from the Ministry of Arts?---A. No, we have an agreement which we are not happy about. We believe that certain functions in the film industry are more cultural than business. That is funded by the Ministry for Arts, or the Premier's Department previously. The Australian Writers Guild has one or two annual meetings. We paid for the New South Wales people to fly to Melbourne, or we finance some of their expenses in Katoomba. They normally have their annual meetings in Katoomba. The Australian Film Institute really means the Australian film awards for which we are committed. We supply the trophies. We actually pay for it. We also pay for some of their expenses connected with the festival. It is the same with the national screen writers' conference as with the Australian Writers Guild. It is just the same under a different name.

(Miss Woods) No, it is not. It is a separate body. They are two separate bodies. We have not mentioned them all here.

Q. I am not uncomfortable with the corporation looking to assist those bodies. My only concern is that there might be duplication, given the opportunity for funds to come from the Premier's Department or from the Ministry of Arts?---A.

(Mr Riomfalvy) No, not in New South Wales. It could be that the Australian Writers Guild gets money from the South Australians

to fund their members, but to my knowledge no other funding is given by any other department.

Q. I wonder if I could draw your attention to the letter dated 3rd April which includes material supplied by Mr Collins. You list here the consultants. You have Mezzo Media Pty Limited and Mr Brian Dale's organization. Could you explain why Mr Dale's organization was engaged and paid double in the last four months to what he was paid in what appears to be the previous twelve months?---A. (Mr Henderson) That is a per annum figure.

Q. If we accept per annum, it appears to me that in 1986 there was a \$6,000 fee. There seems to be some confusion? ---A. No, it is straightforward enough. When he was originally engaged his fee was set at \$6,000 per annum. That rate ceased on 31st December, 1986. I think the engagement is a calendar-year engagement, if I remember correctly, and the rate was changed to \$8,500 per annum, starting 1st January, 1987.

Q. The next topic is financial support for the films. Some areas of loans produced particularly concern me. Do you have written agreements for marketing loans and production loans? If so, could you supply samples?---A. (Mr Sayer-Jones) I see a copy of "The Bee Eater" which incorporates the draft production deed. This is a deed and covenant which is the best protection you can have. The whole procedure for recoupment of marketing loans is contained in the draft production deed. I refer to clause 10. It is under signed, sealed and delivered deeds, the marketing arrangements for the loans. So the producers are automatically under that obligation.

Q. Is that document fairly typical?--A. Yes, that has been the standard arrangement. ~~The other protection we have is that~~ all gross returns from the films come to us. We make the deduction. The producer has no control whatever over the gross proceeds. We do that by covenant and deed with the investors as well. No one can object. This is the advantage of us being the sole marketeer. All moneys flow to the corporation and we deduct first. So we protect ourselves in a practical way as well as a legal way.



Q. I seek explanation with regard to interest charged on some loans but not on others. In the case of "Bliss" interest was charged on the \$1.2 million production loan but not on the \$335,000 marketing loan?---A. That was a commercial decision. We described this at the last hearing. One of the big problems with raising money from the public is the fear in the investment community about the marketing loans. It is an intangible. No one knows what will have to be spent on marketing. For some films that are highly successful you might not need to spend much, but you might have to spend a large sum on a less successful film to give it a start. It is an intangible item. Interest on marketing loans is the killer. For good commercial reasons which have enabled us to actually offer a lesser distribution guarantee than we would normally have had to do, we do not charge interest on marketing loans. It is just a good commercial decision that we have made. That makes our products more attractive and gives us the commercial benefit in that we do not have to offer the sort of guarantee we would have to offer if we were charging interest, because it would put the investors off. The other loan was not in that category, so interest was charged. It is a commercial decision.

(Mr Collins) I should like to clarify something. In relation to "Bliss" the figure on the marketing loan appears high. The reason for that is that not only were we involved in marketing "Bliss" in terms of selling the film overseas, but also here in Australia we acted as distributor for "Bliss". There is a figure of \$135,000. I think you have the figure in front of you. It is over \$100,000. This was

associated with the domestic distribution of "Bliss" as opposed to its overseas marketing. The total figure we are talking about, \$195,000, is an aggregation of what we spent marketing the film world-wide and what we spent on the domestic distribution of the picture since the corporation acted as distributor in that particular instance.

Q. We are looking at the production loan. Unlike most of your other films it did acquire an interest charge. Why was that?--A. That is not my area.

(Mr Sayer-Jones) It was an amount of money that was repaid quickly.

(Mr Henderson) It is a commercial decision. The decision on whether we charge interest on production loans is made from movie to movie. The production loan I think, unless it had changed, did not have an interest charge. On a lot of the earlier ones we charged what was referred to last time as a single rate of 12 per cent. It is a decision that is made from one movie to the next.

(Mr Sayer-Jones) A lot of these things depend on "the deal" in the sense that they move from market to market. When the 10BA concessions were at 33-33 we did not have to offer more than about 40 per cent to attract investors. They were certain ground rules that all the underwriters accepted. The change in a period of one year is quite incredible. The amount of guaranteed return you have to offer has gone up about 50 per cent. I would suggest it is more like 65 per cent. All this in one year. It is quite outrageous when you think of it. It is the result of the 10BA being reduced. Various things acceptable one year are not acceptable the next. Various things you have

to offer need to be increased. This goes back to the whole concept of flexibility. ~~To a large extent we are dictated~~ to by the money market and what they see to be the situation.

Q. At this stage why should the Committee be comfortable and accept, with regard to "Cathie's Child" where there was a production loan of \$74,000 written off, the investors got back several times their investment on the film. Why was that production loan granted?---A. "Cathie's Child" was not our film, as such. I do not know. It was before my time.

(Mr Henderson) We have an interest in it. We are just an investor. I cannot believe some of those earlier deals. We now have more or less a standard arrangement that the loan comes first and then the investors get their money back. It was not unusual in those days. I refer to the film "The Journalist" which had the most complicated repayment structure I have ever seen. It was that we get the \$25,000 back and the capital loans are paid off and the producer gets \$25,000. I do not remember all the steps, but there were seven of them. I really do not know. I might go back to the original deal, which was in 1978 or 1979. This was all prior to the 10BA. Those things were frequently structured so that private investors got their money first, possibly with a bonus, and we came in much later in the figures and if we were lucky got our loans back. These were the days when you had to offer very generous incentives to private investors.

Q. Look at "Goodbye Paradise". Something there intrigues me. The corporation provided 100 per cent of the equity invested in the film, which was \$1.76 million.

Looking at the information you provided to us on 7th March it appears the corporation has received only a small proportion of those returns as net returns, and I notice that the marketing loan of \$110,000 has been repaid but this still leaves \$115,000 gross return not accounted for?

---A. What was the question?

Q. I will repeat it. It puzzles me that you have 100 per cent equity in that \$1.76 million and the corporation received only a small proportion of the gross returns in the net returns - and we can understand that, given the difficulties of the marketing. The marketing loan of \$110,000 had been paid but that still left \$115,000 not accounted for. Who would have been paid those gross returns?---A. Gross returns, not the amount returned?

(Mr Collins) On "Goodbye Paradise" what is apparent from the document in front of you is that all the licences would have been between the corporation and the licensees and the money would have been paid to the corporation in gross terms. There seems to be a \$115,000 amount -

(Mr Sayer-Jones) - which should have been brought into our books, as such.

(Mr Collins) There must be some other explanation, some simple explanation.

(Mr Sayer-Jones) Have you any particular page? Is that a page of the submission?

Q. It was your submission of 2nd March.---A. (Mr Henderson) That is wrong. It must be wrong because we got some money back on the returns.

CHAIRMAN: Are you saying that you made a profit?

---A. (Mr Sayer-Jones) No. But it would appear we have made more than our marketing expenditure which means we should have reduced our 100 per cent investment.

Q. That shows that you have had a return on the \$110,000 at the moment?---A. Certainly, no third party has been paid those moneys. There must be an accounting -

(Mr Henderson) There is an accounting. I have it that the original investment -

Q. Could you just start again on this?---A. The original investment was \$1,716,409. There was a loan - I have made a mistake - there was a loan of \$110,000? That is a total of \$1,862,409. The loan was repaid fully on the \$110,000? Then going back to the net return - this is straight forward - \$53,483 and \$26 in debtors - big deal - so the figure should be less \$53,483. That gives you about \$1,662. Getting to the main point of the question: the rest would go to private investors. But there are no private investors. Sundry debtors? How can this possibly be? I will have to check again. There is something funny about this somewhere.

Mr SMILES: Perhaps you can look into that and report to the Committee later?---A. Sure.

Q. I revert to "Cathy 's Child" for one moment. You may recall the corporation invested a fairly small amount in the film, about \$9,000, and did receive a good return of \$33,000 odd. The figures are not of great concern to me. The seemingly good result in the equity investment of the production loan of \$74,000, despite the seemingly good result in the equity investment the production loan of \$74,000 was written off. You will recall I made the point that the

investors clearly got back several times their investment in the film. You made some comment there. Can you give an explanation as to the grounds the corporation referred to in writing off that loan?---A. (Mr Sayer-Jones) What was the date of the writing off of the loan? Is there a date for that?

Q. "Cath y's Child" you wrote off the production loan of \$74,000 -

Dr REFSHAUGE: 29th June, 1984.

Mr SMILES: - could I trouble you to provide to the Committee all minutes of the relevant board meeting and any accompanying documents that relate to that decision?---A. Yes.

Q. Next I refer to expenditure on operations. Mr Henderson, I note that the corporation's balance sheet as of June 1986 lists plant and equipment at a cost of \$157,000 gross. What are the major assets associated with that? ---A. (Mr Henderson) Basically, it is the word processing system and the computer. These are the major items. There is also quite a lot of furniture, of course, and some projectors and video equipment.

Q. Where is that equipment held?---A. Most of it is held in the office. Under the terms of the contracts you will realize that the executives are entitled to have video machines and video monitors at home at their addresses.

Q. How many motor vehicles does the corporation own? ---A. One.

Q. What make and model is that?---A. Perhaps the chairman of the corporation can help you on that.

(Mr Riomfalvy) It is a Ford Fairmont in beautiful Gerry Gleeson colour.

(Mr Sayer-Jones) It is a Falcon.

(Mr Riomfalvy) A Falcon. And when you go out from a function there are fifty all of the same cars because they cannot tolerate any other colour so you get to know your car by the driver's head.

(Mr Sayer-Jones) Except that it is a Falcon. It is not a Ford Fairmont.

(Mr Riomfalvy) It is not a Fairmont, it is what comes in between.

(Mr Sayer-Jones) I think it is a Falcon GL, which means that you get bucket seats.

(Mr Riomfalvy) We bought it from the Premier's Department.

Q. Is that the vehicle that Mr Les Kliho drives?

---A. Yes.

Q. He is listed in your staff as at 28th February 1987, in information supplied as of 3rd April letter initially signed by Mr Collins, as a corporation driver-messenger?

---A. Yes.

Q. How much of his time is spent as a driver each day? How much would you calculate?---A. I would say from about 8.30 in the morning until about 4 o'clock. He does all the letters to government departments twice a day, to the Premier's Department and to Parliament and for all your lovely staff. He brings the letters for you. And he takes the reels to the government documentaries division. He also does the mail at night. He drives me in the morning, but he also picks up the mail and he does it at night.

Q. Is it part of his function to pick you up from your place of residence and drive you to and from the office?---A. Yes.

Q. Does he operate as chauffeur for other members of the board, or senior staff members?---A. What do you mean by chauffeur? He drives the car and they sit in the car.

Q. That is what I meant.---A. Your reference sounded very American. I thought you were referring to some special position. He is used for picking up people at the airport if we have visitors. He goes to the airport.

Q. Do you see it as part and parcel of your office that that gentleman should be available to pick you up from your home and return you there from your office?---A. In what way do you mean that?

Q. You have indicated to me that was part of his job?---A. Yes, it is his job.

Q. That is regularly part of his job?---A. Yes.

Q. Does he pick up any other members of the board or staff?---A. Yes, he picks them up generally.

Q. Next I turn to the procedures the corporation follows in purchasing items of equipment. Are quotes called for?---A. (Miss Woods) This is really Jim's area.



(Mr Henderson) I shall go through the major items.

For the word processing system we had three quotes called for. I think there were three off hand. There was OCE, Rank Xerox and Wang and a selection was made from those three.

(Mr Sayer-Jones) There were another two.

(Mr Henderson) We got down to three. There were five originally. But the three I have mentioned were those that were seriously considered. Another item of major expenditure was the computer. Since we are not experts in that area we engaged Deloitte Haskins & Sells. Strictly speaking it was Deloitte Haskins & Sells Management Consulting, not the actual chartered accountant firm. They came in and discussed our needs with us. They approached several, as I remember, suppliers and told them what the needs were. They made a recommendation to us on what their opinion was the best offer to match our needs.

CHAIRMAN: About two minutes ago you had an inspiration. You said "I now know the answer" and made a gesture?---A. That was a long time ago. The problem was complicated by the additional expenditure. I shall have to check that and come back to it later.

Mr SMILES: Mr Henderson, who is authorized to incur and approve such expenditure?---A. It has got to go to the board, to the chairman, depending on the size of the amount. It is to the chairman officially and it has to go to the board.

Q. In consequence, are you satisfied with the provisions of the Public Finance and Audit Act?---A. So far as I am aware provisions of the Act require three tenderers for most items as a minimum.

Q. The Auditor-General's Report of 1985 noted the contingent liability for the first time of \$1.65 million to cover distribution advance guarantees; and the budget that has since been noted for 1986-87 is \$2.7 million. Do you think that would materially assist the corporation in expanding its activities?---A. No, it could not have. That expansion was to meet those particular items. I am not sure what you mean, 1986-87?

Q. The current financial year. The contingent liability provision is \$2.7 million?---A. Yes.

Q. That is a particularly large item in the total budget of the corporation?---A. Yes.

Q. I am interested in your views on how that impacts on the corporation's activities?---A. It obviously has restricted us currently to the one film. It has restricted us essentially to \$800,000 of expenditure, which is considerably less than we had for the previous year. In previous years the whole \$1.5 million or \$2 million, whatever the figure was, was available for production and marketing. There is a complication here. The budget figure is a net figure. There is a gross figure. The way the Treasurer gives it to us is as the net investment, which is the gross figure less any repayment on loans that are made.

Q. So the Treasurer is hoping to make a profit?---A. There is an unavoidable gamble whether we will get some money repaid each year.

(Mr Sayer-Jones) The result of incurring that liability, the contingent liability under guarantees, enabled the corporation to generate a large number of films in that specific period 1985-86. That means that we have a greater

chance of recouping moneys or making profits if a film is successful. Obviously the fewer films you do, arguably while there is less risk there is also less potential gain. Arguably, the more films that are made the more chance there is that one of them will be very successful. There is a demonstrable effect in incurring that expenditure, both in the financial way - as Jim has just mentioned - and also in the level of product that we have. In that time a relatively large number of scripts reached the stage where the corporation felt that they were worthy projects and worthy of being produced.

Q. I am a little troubled about the overall accounting procedure. In regard to the marketing of accounts, they are under the corporation's control but they do not form part of the corporation's accounts?---A. (Mr Henderson) No.

(Miss Woods) It is very similar to the production situation. The corporation does not run the production accounts either, but we are counter signatories on day-to-day accounts during the shooting of a film. Although the accounts are in the producer's name, we are counter signatories to them. I am in the case of production and Danny Collins is in the case of marketing. They are not the corporation's accounts; they are the producer's accounts. To double check them we are signatories as well on those accounts.

Q. We have the situation where the marketing accounts have some control over them in that they are assigned to a certain project?---A. Yes.

Q. On the other hand - and I am not trying to draw a tight or composite parallel - the contingent liabilities are not assigned to a particular project?---A. (Mr Sayer-Jones)

(Mr Henderson) In fact, they do have this power.

It has been used on one or two occasions. On the instructions of the producer they can do it if they wish to do it.

(Mr Sayer-Jones) The trouble is that audits are so expensive. What would an audit on a production be?

(Mr Henderson) About \$3,000 or \$4,000.

(Mr Sayer-Jones) That is a cost.

(Mr Henderson) If they are unhappy with <sup>it,</sup> they can enforce that right.

Q. Do the moneys in those accounts earn interest?

---A. No. They sit in various bank accounts, mostly with the State Bank.

(Mr Collins) Which accounts are we dealing with? 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 be accruing interest all the time.

CHAIRMAN: You might remember that when you were before the Committee on the last occasion Dr Refshauge put the question to you that if there was a year end spend up that you may be able to use the marketing budget to siphon moneys off. I put it that in 1984-85 of a marketing budget of \$135,000, 55 per cent of that was allocated in the June period. In the 1985-86 period, \$687,000 budget, 52 per cent of that budget, that is \$357,000, was accounted for in the June period. Have you a response to that?---A. (Mr Henderson) I think one of the facts that we probably have not got across is that by the nature of the industry practically all our

expense takes place in May and June. It is not until June frequently that we know which films are going to go. Even if a film is still in production, it may well be that already marketing expenditure is being undertaken. It is a fact of the industry that expenditure falls there -

Q. Just hold it there. I heard the response. There is a need for a greater proponent during that latter part of the financial year because of the type of industry you are involved in. Yet in 1981-82 that was not the case, because you spent only 23 per cent of your budget in that June period. In 1983-84 it was not the case because there was no expenditure in that June period. My next question is why has there been a change in terms of the proportion of the budget spent in that June period over the period 1981-82 to 1985-86?---A. (Mr Riomfalvy) Let me say one thing. When you use the expression "siphoning" that is one thing we have never done. I said to Norman Oakes that there is one thing we will never do under any circumstances: get money out of the account to cheat the Treasury. That is just out of the question. We do not do that. We have to live with the Treasury.

Q. That did not answer the question?---A. (Miss Woods) Given that there has been a change, it is a fact that we are living to raise investment on a yearly basis, depending on what the federal Government is doing with tax incentives in regard to the industry. In 1981-82 there was no such Act, and in 1984-85, 1986, and 1987. We are going to the market-place this afternoon and between now and 30th June we intend to raise all the money for "Emerald City".

Our money will go out also into that production. Since ~~10B A that has been the situation. Prior to 10B A~~ it was a different thing. Next year it will be a different world.

(Mr Riomfalvy) That is true in the industry to a certain extent - the 30th June position. It is just insane, but that is what it is.

Dr REFSHUAGE: I still do not understand that. I thought 10B(a) was a matter of getting investment in and marketing is selling a product?---A. (Mr Collins) Let me attempt to answer that question. In regard to all the pictures, when do you spend money on marketing - that is the reality we are addressing here. So the first time I expend money on marketing is when a picture is actually completed. I get to see the picture and start to think about what kind of trailer one might want to make, what kind of poster and selling tools I will need to sell the picture. So 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 the production took.

The second time I will spend money on marketing is in the December, January, February period. February is the American film market in Los Angeles. I spend money on advertising in the trade papers, setting up our operation for attendance at the American film market, and again making sure that I have all the up to date materials I need to present that film at that market. So I will be expending money in those months.

The third time in the year I will be spending money on marketing - this is marketing as opposed to distribution, which I explained earlier with "Bliss" - is at the moment 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 so ever since I have been responsible for this area.

I will spend my first amount of marketing money after a picture completes. I will spend before the American film market; I will then spend money before the Cannes film festival. How that might get picked up in the minutes or on the books, I am not certain. The suggestion that we spend all our money in June for the reason that we have money there to spend, is untrue. It is the fact that we spend the money as the demand arises, and it arises on those three occasions each year.

CHAIRMAN: You went to Cannes in 1981-82, did you not? ---A. Yes.

Q. You spent only 23 per cent of your funding in that June component. This year you spent 52 per cent?

---A. How do we know this?

Q. The figures you have given us. ---A. I know when I spend the money, and I spend the money when I have just told you I spend the money. If it is appearing in the books differently, that is a question of when it is recorded in the books.

Dr REFSHAUGE: These are funds that advance to the marketing account? ---A. In 1981-82, what happened?

Q. In 1981-82 \$35,000 was given to the marketing account?

CHAIRMAN: An amount of \$149,000 was given, of which \$35,000 went to the marketing account in June?

---A. Towards which picture, for which marketing account?

Dr REFSHAUGE: To the marketing account. ---A. There is no such thing as the marketing account. There is a marketing account for each individual picture that I am selling.

CHAIRMAN: Add them all up. That is the total figure for all your marketing accounts for that time?

---A. When the money is spent and why it is spent is for the reasons I have just enunciated. That has always been the case and will remain the case.

Dr REFSHAUGE: Presumably you are spending the money after it has arrived in the marketing account, not before? ---A. Certainly.



Q. In the last two financial years - 1984-85 and 1985-86 - more than half of all the money that went into the marketing account went there in June?

---A. I do not know if that is so.

(Mr Henderson) The actual bills for Cannes come before we invoice the movie. As I said, we do not put the money into the account until we actually know the price we are going to pay out. This means that if he spends money at Cannes, I will know in June that there will be a fairly substantial expenditure at Cannes which will have to be met in the marketing accounts. This money has already been approved earlier but we have not moved it in yet for the reasons I explained earlier. It happens that Cannes is in May. Therefore, necessarily it is accessible late in the year when we decide to move the money in. Mr Collins makes this expenditure. In fact, sometimes it does not show up in the books until later on in the year.

Q. If you take out a small percentage and whatever else in June, roughly half of your marketing accounts is spent - ? ---A. (Mr Collins) In June I am not spending money. In June I am never spending money because in June I have just come back from Cannes.

Q. For a holiday? ---A. In your opinion. I have just come back from Cannes and there is no reason to be spending money in June.

Q. So half of your marketing account is really spent at Cannes - almost half? An enormous amount of

money gets put into the marketing account in June?

---A. Each individual picture has its own marketing budget. So the pictures I had in Cannes in 1981-82, and as I remember in 1981-82 I think they would have been "Goodbye Paradise", "Crosstalk", and "Best of Friends".

(Mr Riomfalvy) I do not understand what you are talking about.

Q. What I am talking about is that you transfer from your general account to your different marketing accounts moneys as required. ---A. Yes.

Q. Up to what the board has decided has been allowed for each film? ---A. Yes.

Q. One would expect that that would be evenly distributed with different bumps because of particular needs. Half of the money for the last two financial years that you have spent on marketing for all films has been transferred to the marketing accounts in one month - in June - which, if the discussion previously is that the bulk of that would be for the Cannes film festival, I am asking: do you basically spend half of your marketing money at Cannes? ---A. I am not sure about this, but I think what happens is that the accounts come in, which we pay, and then we charge the producers. I think that could be the answer. I can tell you one thing: I can guarantee you that we are not trying to juggle amounts so that Treasury will not know about them. There are a lot of

things that you do not like, but we do not do this.

~~(Mr. Collins) Let me work through a practical~~  
example and then we can both understand one another. There is a point of misunderstanding here. The money that goes into the marketing accounts for each picture is in principle allocated after the picture is made. I then draw money into the accounts themselves from the corporation's general account as I need to expend funds. I need to expend funds as soon as the picture is finished and then prior to the markets that I may be taking these pictures to for sale. So I need to expend funds in the April-May period and the January-February period and when the picture is completed. It is true in relation to Cannes that each picture going to Cannes will have significant money spent on it in marketing it. If that expenditure is not showing up in our books until June, that is by chance.

Q. Does that mean you are expending it before it has been transferred to the marketing accounts? Are you spending it in April and May? ---A. That is not possible. The marketing funds that are spent get spent out of the marketing account. So they have to be in the account so you can pay your invoices.

Q. Of the money that goes into the marketing accounts, 50 per cent of the money that has gone in in the past two financial years went in in one month - June? ---A. I do not understand that.

Q. I do not understand, either. I am asking you why that is so? ---A. (Mr Riomfalvy) I can only say that anyone who has the time and energy to work this out

should not work here; they should work for the CIA.

It is a ridiculous discussion.

Mr SMILES: It is our job. ---A. I know. I am saying that it never occurred to me what months those funds are transferred. I still do not know what you are talking about.

Q. On behalf of the Committee, I would like to say that sometimes our job is apparently to chase the ridiculous to find the logical explanation. What my colleague is presenting might at first blush appear to be ridiculous. However, we are presenting that to you in the hope that we will find the logical explanation? ---A. (Mr Collins) I think this is the logical explanation: the minutes will show when moneys were voted or committed in principle for marketing of each picture. Is it so - I am asking this question rather than answering it - that at the same time moneys are actually being picked up on our books somehow? When the board votes X dollars to "Goodbye Paradise", do we move money around then?

(Mr Henderson) No, as we need it to pay the bills later.

CHAIRMAN: On 2nd March a submission was made to the Committee which indicated payments for marketing for each of the product that you had. If you go through those payments, it works out that in the last two financial years 55 per cent and 52 per cent of all payments for marketing for the films came in that June

period. That is when the payment was made. I assume that is when you made that payment and that is when you have put it in here? ---A. As instructed I transfer the money.

Q. That is where the information is coming from? ---A. (Mr Collins) The only answer I can give is that that is by chance. When the demand to spend the money occurs, as I have said several times, is when I will be actually spending it. It is not possible for me to spend money out of an account if there is no money in it.

Q. Let us take the converse of that situation. With "Bliss", there should be \$45,000 unexpended? ---A. Committed. Not in the account but in principle committed.

Q. Committed? ---A. I believe so.

Q. Is Treasury aware of that uncommitted money when you put in your bids for the next year's budget? ---A. (Mr Henderson) No, it would not be. It has not usually been a sufficiently large amount for us to worry about. We are happy to tell Treasury. It does not cause us any problems if you wish us to tell them the balance in each marketing account as at 30th June. We would be quite happy to do that.

Q. There is \$45,000 with "Bliss". That is one. There is obviously unaccounted money? ---A. (Mr Collins) Money is not sitting in the account. There is a commitment on the books, as I understand it, in principle.

Q. It is a commitment from the previous year's budget? ---A. (Mr Henderson) But it is not money that we have actually transferred. If what you are saying is true, it is committed but it does not actually mean that we have spent the money. That would have to be included in our budget request for the following year. In working out what we will have left after the money is transferred, we would have to say that we are committed to an amount of \$45,000 in this account, therefore we will have that much less to spend on anything else.

Mr SMILES: But at present that information is not provided to Treasury? ---A. No, but there is no reason that it could not be if they want it.

Dr REFSHAUGE: Coming back to Cannes, from the explanations we have been given, it appears that half of the money you spend on marketing is spent at Cannes. Do you think that is right? ---A. (Mr Collins) The Cannes budget is basically 50 per cent picked up by the corporation each year and the remaining 50 per cent will be allocated to the individual pictures that will be presented at Cannes for sale. Those moneys come out of the marketing budget for each one of those individual pictures. I think it would probably be closer to one-third than a half of the moneys coming out of the marketing accounts for individual pictures being allocated to Cannes. Another one-third will probably be allocated to the American film market, and another one-third will probably be allocated to general production of materials

that occurs on the completion of production of a film. In logic, that is the way I would look upon it. Cannes does not necessarily take more than the other markets.

Do you write the cheques for the marketing account? ---A. No, the accountant for the Film Corporation writes the cheques.

Q. Do you sign the cheques? ---A. I sign the cheques alongside the producer.

Q. When do you sign those cheques for Cannes - in June? ---A. All the accounting occurs after Cannes.

(Mr Henderson) Let me explain how it works. I think we are getting a little complicated. Most of the money for Cannes is paid from an account kept at Cannes, which is quite apart from money which is paid from Los Angeles, London and so on. When we have finished at Cannes we work out what the expenditure was and then we invoice it to the marketing accounts. That is in fact where the problem lies. Ultimately it is expenditure from the marketing accounts, but the way it works is that it is invoiced to the marketing accounts from the money which is paid out of those various other accounts. So ultimately it comes from the marketing account.

At all times the expenditure will ultimately come from the marketing account. The fact is that we cannot take more than six marketing accountants to Cannes, together with six producers. I might add, by the way, that for this particular year there is also a late invoicing of stuff from MIFED and AFM because, Heaven help us, without being rude to the Italians, the accounting from MIFED took a long time, and the American film market also took a fair while.

Q. So you wait until Cannes has most of their books in order and they send an invoice to the accountant? ---A. I do that. What happens is that I summarize the expenditure from here, Los Angeles and London. Then Mr Wilf Beaver keeps the records for expenditure in a special account back in Cannes. He keeps, as best he can, complete records of the expenditure for that. I amalgamate that with expenditure from the other three accounts. When that is all added up, I then have to go through. Cannes is slightly more complicated, as Mr Collins said.



What happens is that in each expenditure classification we say, for instance, that three-quarters of this item will be allocated and half of this item will be allocated. We do this more elaborately for Cannes because obviously that is our big time of the year. So I analyse the expenditure after the event and then it is invoiced. Technically, if you like, they are paying for a general account to be reimbursed from a marketing account.

(Mr Collins) That is obviously what is happening. We pay Cannes out of our general account and then after we come back, when he sorts out the budget, he allocates each amount of expenditure against each particular picture. An individual picture's marketing budget is adopted and it shows up in June.

Q. That is what happened?---A. Yes, that is the logical explanation from my point of view.

(Mr Henderson) I have the 1987 sheet for Cannes, I hope it has been approved by the board. It shows how the percentages of each particular cost classification is allocated between the corporation and the various films.

Q. Can you provide us with a statement of how much is left in each marketing account/<sup>at</sup>the end of last financial year?  
---A. Yes.

Q. Also on the marketing question, it is my understanding from what was said at your last appearance before the Committee that only the corporation carries out marketing of films. Is any marketing done by others? Are you the only people who market films?---A. (Mr Collins) Our films?

Q. Yes.---A. Yes.

Q. So producers cannot go off and do their own marketing?  
---A. No.

(Mr Sayer-Jones) In the early films, such as "Careful He Might Hear You" the producer had a co-marketing role but effectively the marketing was done by the corporation. But since "Bliss", "Short Change", "The More Things Change", "Place at the Coast", "Going Sane" and "Dead-End Drive-In", the sole marketing rights were with the corporation. The early films did have them. Of course, sales agents over the years have been used in certain territories but it is not the case at the moment. We found them very unsatisfactory.

Q. So far as "Going Sane" is concerned, the board met on 7th February and a memo was sent by Mr Collins to the board about "Going Sane" saying that a market account has not been opened but that Mr Sanford had utilized funds available from the production underage for those marketing expenses so far incurred?

---A. That is in the production deed.

Q. What does that mean? Does that mean he could market it?---A. No. In a situation where a production does not use all of its budget - and sometimes that happens - you are making an estimate of \$3 million or \$2 million, or whatever it might be, and if it turns out that the production uses less than the budgeted amount there is provision that that underage can be utilized for marketing expenditure. However, that is subject to counter-signatures just as the marketing account is. It is just that it comes from a different form. It is a provision in the production deed arrangement for underage expenditure. By the way, such amounts are necessary because they are part of the production budget audit.

(Miss Woods) Just to clarify that: that producer would not have been marketing the picture but he would have been preparing

trailers and various items that are counted as marketing items. That is what I would imagine Danny meant. He has not gone off selling it. He has actually been preparing the tools for Danny to take to sell it.

Q. Was that the case with "Going Sane"? At the 7th February board meeting a memo was sent from Mr Collins dated 3rd February?

---A. (Mr Collins) Is this on page 3 of the minutes?

Q. There is a memo at the back of it. I refer to the last substantial paragraph. My reading of that is that presumably Mr Sanford is the producer?---A. Yes.

Q. And he has utilized the funds for marketing expenses even though no marketing allocation has been made?---A. Yes.

Q. It says that he has done that presumably with your concurrence. Or does he not need your concurrence?

---A. (Mr Sayer-Jones) He needs the corporation's concurrence.

(Mr Collins) He needs my concurrence to do that. I am saying or asking for approval in principle for \$100,000 for the marketing of a picture. I only need to draw into the account \$25,000 at this point. Some things have been prepared and other marketing items have been prepared already. For example, the publicist who worked on the picture was actually working on the picture while it was being made. John Sanford paid the publicist out of the underage that he had in the production account. I am noting that fact for the board's information. That will be subject to different audit requirements and different control requirements.

Q. That would not be covered by what goes into marketing expenditure, would it?---A. No. I am drawing in \$25,000 out of the \$100,000 I am seeking approval in principle for.

Q. There was mention of a number of items at that same board meeting in relation to which you were seeking an increase for the marketing account?---A. Yes. If you would look at the date, you will see it is 3rd February 1986. I ask you to remember that I am going to the American film market at the end of February so I am setting up my funding for the American film market.

Q. I understand that, but presumably each one of those had already had some money agreed for marketing; is that so or not?---A. As I turn over the page the next one is "Dead-End Drive-In" in the second last paragraph which shows that already there is \$45,000 in the account and I show where it is up to. Then I look at the "Bee Eater" and there is \$15,000 in that account.

Q. Would that have been the total amount the board has already agreed to?---A. In each case there is approval in principle for \$100,000.

Q. No, that is what you are asking for?---A. That is what I am asking for.

Q. But what was there already? What approval was there already for each one?---A. (Miss Woods) In most instances where money has already been expended, it would have been approved by the board. However, in the case of underage -

Q. I am coming to the question of underage?---A. No, that is the only case where it would not have been approved by the board. We cannot have the money back. If we do, we alter our percentage in the picture.

Q. You have referred to "Dead-End Drive-In". You say there is a total of \$45,000 that has been deposited and the amount

expended is a little more than \$15,000. The amount \$45,000, does that represent the total that the board has approved should be used for marketing - that is, the maximum? Is it that you are asking for an increase from \$45,000 to \$100,000 or would it have been say \$50,000 that had been agreed to already and only \$45,000 transferred across?---A. It would be the latter. It would represent actual expenditure.

Q. No, it does not represent that at all. It represents - ?  
---A. (Mr Collins) Any money that has been deposited into the account would have come from the corporation's general account into the marketing account for this particular title "Dead-End Drive-In".

Q. My understanding is that the board makes a decision as to how much in principle can be spent on marketing and then there is a different stage where a certain amount up to that maximum is transferred to the marketing account. Then you spend some of that marketing account. But you are suggesting that you only get money transferred to your marketing account when you are able to spend it?---A. The implication is this, so that everyone is clear about what is being said: with reference to "Dead-End Drive-In" an amount of \$45,000 has somehow or other been spent prior to its being approved. Is that it?

Q. No. What I am saying is, of that \$45,000 what was the amount that was agreed by the board that could go into the account in total? Would it have been \$45,000 or would it have been more?---A. (Miss Woods) Without looking up the previous minutes we cannot tell you.

(Mr Collins) Would you mind repeating the question; I cannot follow you.

Q. The \$45,000 that was already deposited in the marketing account for "Dead-End Drive-In", was that the total amount that the board had agreed could be spent on marketing, or would it have been less?---A. It says there that for "Dead-End Drive-In" a total of \$45,000 has been deposited into this account. The amount expended to date is \$15,782.98 which leaves a balance of \$29,217 in the account.

Q. Has the board agreed to more than \$45,000 or is it only \$45,000?---A. You will see that I then say that the basis of the approval was for an amount of \$100,000 for the marketing account of "Dead-End Drive-In" for 1985-86 and that a balance of \$55,000 will be available for the remainder of the year. My implication is that approval to date is \$45,000 but this \$45,000 in fact is coming out of the \$100,000 so that there will be a balance of \$55,000 left in the account.

Q. You say that what is in the account is not necessarily the amount the board has agreed may be spent? In other words, the board might agree that \$90,000 might be spent but has transferred \$45,000 only, and you are asking for that approval of \$90,000 to go up to \$100,000?---A. I am asking for \$45,000 to go up to \$100,000 in this case.

Q. For all of these items at that meeting of 7th February where you have asked for an increase, can you give us the minutes for that board meeting that indicate how much was agreed originally could be spent on marketing?---A. This goes back to the implication that I suggested you were drawing.

Q. No it does not. What I am saying relates to previous decisions that were made about how much could be spent on the marketing of those films. The next thing I want to ask is this:

I inferred from your previous answers that although you might have a certain amount of money that could be spent on marketing, your marketing account often does not have that total amount in it at any one stage. You only have a marketing account or a cheque book account with a small amount in it. You do not draw from the corporation account until you are about to spend it, is that right?---A. I do not transfer across from the corporation's general account into an individual picture's marketing account?

Q. Yes?---A. This is an example of my doing that in these submissions.

Q. So you do not draw across into your marketing account from the corporation account until you are about to spend it, is that right?---A. Yes, until I have a need.

Q. So I ask this question: for "Dead-End Drive-In" why have you \$45,000 when you have already spent \$15,000?---A. Because I am about to spend a great deal of money. It is 3rd February 1986 and I am about to go to the American film market with five new pictures on my hands and I am going to try to market them. So I am looking to get funds available to me to be able to create the materials I need to present the pictures at the American film market.

Q. That is why you are asking for \$100,000. Why have you already got \$30,000 that you are not spending. Why is it sitting in a non-interest-bearing deposit in your account when you have not been spending it?---A. I do not know that that is true.

Q. Is not that the case?---A. I do not know that that is true.

(Mr Riomfalvy) Does it matter.

(Mr Collins) That is a conclusion you are drawing.

Q. You would get more interest from this than you would from that?---A. Is there interest being foregone, is that what you mean?

Q. Yes.---A. I shall regard that question as being on notice.

Q. Mr Henderson, so far as transferring money across to the marketing account is concerned, you have said that so long as it is within the agreed maximum it is a matter of when Mr Collins says he needs more to come across?---A. (Mr Henderson) On his instructions, yes.

Q. You would say that he is allowed to have \$100,000 and he is about to go to Cannes and he needs almost all of that, so \$90,000 would be transferred?---A. Yes. We usually sign a note which says that a certain amount of money is needed and should be made available.

(Mr Collins) No, I do not do it like that before I go to Cannes. That is not correct.

Q. How do you do it?---A. The money that is spent in Cannes is spent from the corporation's general account. It is only when I come back in the wash-up, in the accounting wash-up, that different amounts spent against each picture are invoiced across to the marketing account. If the marketing account does not have sufficient funds in it to cover its portion of expenditure, moneys would be transferred from the approval in principle that had been given some time earlier, into the account. They could be then transferred back out of the account, to reimburse the corporation that paid the money in the first instance



Q. But it is on your initiation, when you are running low in that account and you want more to spend that - ?---A. I will know if there is not enough money in the account to cover the corporation's invoices that should be paid back to it and I will have to get more money transferred across.

Q. You initiate that by seeing Mr Henderson, or  
 (Mr Henderson)  
 he may talk to you about it?---A./We talk to each other;  
 it is not a one-way transaction.

Q.What do you need by way of documentation to transfer it?  
 Do you have the board decision in front of you?---A. I have  
 the overall board decision; not the individual items.

(Mr Collins) He would require a minute from me to  
 say that should occur.

Q. The minute would include the maximum amount that  
 the board agreed can be transferred?---A. Yes, and the amount  
 expended. It would be the same wording as that which you read

Q. That memo is basically the same information?---A. Yes,  
 it is the information that is required in logic; no more and  
 no less.

Q. To effect that transfer within the board's  
 allocation you do not need to go back to the board for  
 approval?---A. (Mr Henderson) Assuming the board has  
 authorized a total amount, that is all that is required.

Mr SMILES: From the information that the corporation  
 supplied to the Committee, dated 12th January, it appears,  
 Mr Riomfalvy, that you have a fair and reasonable understanding  
 of the media. I notice some flattering media comments of  
 the corporation, on which I congratulate you. Do you accept  
 that you have an understanding of the media?---A. (Mr Riomfalvy  
 Yes, I think so; though I am not sure about the forty-five  
 years.

Q. In a communication to me - and I presume to other  
 members of the Committee - you identified an article in

the March 31st issue of Daily Variety which you implied had been generated by press release or other communications by the Public Accounts Committee to the show business media?

---A. No, I did not say that. I said they picked it up from the Herald. I did not say that you communicated that to the media. They picked it up from the Sydney Morning Herald.

Q. The inference of the communication to me as a member of the Committee was that the nature of our hearing and perhaps disclosure during public evidence of amounts of money would, I understand, though I accept it may not have been by press release, in the normal nature of events be communicated to the media?---A. Yes.

Q. You indicated you were informed by one of your officers in the United States that the March 31st issue of the Daily Variety had carried that story. You indicated, further, that that story could only have come out of the public hearings or communication, general or specific, from the Public Accounts Committee?---A. No, I did not.

Q. That the impression the communication gives?---A. Could I see the actual -

Q. Let me complete my concern, because one could debate the essence of that. The Public Accounts Committee made investigations and discovered that the author of the article in the Daily Variety of 31st March had no communication by way of press release or direct or indirect contact with Australian media representatives who might have attended the previous public hearing, and that his or her only contact was with you? ---A. Correct.

Q. The upshot of that is, as it stands, that I believe you have deliberately attempted to manipulate the media and to confuse or misdirect or in other ways manipulate the Public Accounts Committee. Am I right to have that view?

---A. No. I have a feeling that you do not like me. I cannot understand why you cannot properly interpret. I shall tell you word by word what happened. That statement appeared on Friday morning. The journalist, Blake Murdoch, phoned me continually while I was attending this Committee. That night Danny and I went to a variety function and that journalist came to me and said, "What about this in the Herald? I have to report that". I said, "Well, report it". He said, "Can you talk to me?" I said, "No, not today, come back on Monday". On Monday I spoke to him. Do you think I would draw the attention of the media to that sort of article?

Q. You are a marketer in the entertainment world. With my experience of the entertainment world, such a proposition is not unknown?---A. (Mr Collins) I can say something here because I was privy to all this as well. The sequence of events as it occurred is strictly as follows: an article appeared in the Sydney Morning Herald on Friday morning. That day a change-over occurred at the Variety bureau desk in Sydney. The journalist who had been there for six years was leaving, and a new one taking over. That night at the Intercontinental Hotel there was a farewell for the former journalist and a welcome for the new guy. During the day the new journalist, Mr Murdoch, called our office to inquire about the story in that morning's Herald. No one was

at the office, as we were attending before this Committee. That night Paul and I attended a function at the Intercontinental. The first thing, the new journalist at Variety's desk came up to me before he went to Paul and asked what was the article in that morning's Herald. I said, "Please don't do anything about it; do not write anything about it until we have had an opportunity to speak. This is hardly an occasion to have a conversation about that kind of thing". During the evening he also approached Paul about the same matter. We agreed that he would write nothing, and come to see us on Monday morning and we would explain the position. On Monday morning he came to our office, was briefed on what it was all about and went away and filed whatever story he thought was appropriate in the circumstances. On the Tuesday staff at our office saw in Daily Variety the article that Mr Murdoch had filed. Our staff faxed that story to us. They said to us, "This only hurts our reputation and our standing with our distributors around the world. It suggests we have financial problems. It suggests maybe we are going out of business. It suggests all sorts of things". That is the sequence of events. I understand your suggestions and I understand the reasons why you would think that, given the sequence of events that appeared to have occurred. The reality is that the sequence of events occurred exactly as Paul and I have described.

(Mr Riomfalvy)As I said to you before, Mr Smiles, I hate bad news. I would be the last person to want bad news about us. If this had not been Blake Murdoch on his first day

I probably would have tried to talk him out of filing that story. It did not do us any good. Why do you think I would do it?

(Mr Collins) It is important that that explanation be understood and be clear.

CHAIRMAN: I think we have discussed that sufficiently. That completes our questions. Is there anything further you would like to say?--A. (Mr Riomfalvy) Following my request over many years, the Auditor-General sent a senior auditor to Los Angeles to look at the accounts of our office there. I think they were satisfactory. The Auditor-General also furnished a red-line report, which was satisfactory. I did not bring that because I thought, perhaps, you would not want to hear any good news. We all respect the Committee, and accept that it is a necessary evil. However, we have spent four months with the Committee, and I would ask that we be not sent further questionnaires before mid-August. Danny is going away I am going away; Jim is starting work on the new AFO system; Lyndon has to start this afternoon to raise money for "Emerald City". It would be disastrous if we had to supply any more material at this stage, or had to appear before the Committee. We would appreciate if further requests could be postponed to mid-August. We will answer these questions but would hope there would not be a further questionnaire. We are too small an organization to deal with further requests at this time.

Q. We are obliged to follow through evidence which was unavailable to the Committee today. You realize that of necessity we must peruse the transcript. Matters may arise from

the transcript about which we are not certain of the interpretation to be placed. It is incumbent, not only for our benefit but also for yours, that we follow up such matters. Our general philosophy is that as soon as possible we issue a report. We have efficiency criteria that of necessity we must follow. Therefore we will follow our usual methods, but will respect the difficulties that might flow from such requests in terms of your commitments at this time of year. However, I can give no other guarantee than that?---A. Do you envisage a hearing in May?

Q. No, I would not envisage any other hearing - though that is a matter for the Committee and not the Chairman. I trust that today will complete the public hearing. However, I shall not circumvent the Committee's right to ask further questions. We do understand that you have constraints at this time of year. Personally, your appearance before the Committee has been most fruitful and interesting. It has given the Committee an insight into the difficulties you face, being a public service organization, operating in the commercial world. As Mr Fisher said, we appreciate those constraints and acknowledge the successes you have achieved.

Mr SMILES: I concur with the Chairman's remarks.

(The witnesses withdrew.)

(The Committee adjourned at 1.15 p.m.)