

**INQUIRY INTO THE PART TWO REPORT OF THE
OFFICE OF THE AUDITOR GENERAL FOR THE
FINANCIAL YEAR 2005.**

REPORT TO THE NATIONAL PARLIAMENT

1. EXECUTIVE SUMMARY

- 1.1. By 2005, the Constitutional and statutory scheme for Departmental financial accounting and accountability for the management and use of public monies, had collapsed.
- 1.2. By 2005 not one National Government Department could make, keep, submit or produce all statutory records, accounts or reports.
- 1.3. The state of Government accountability for the use of and transactions with public monies, property and stores was very poor in 2004, but worsened considerably in 2005.
- 1.4. By 2005 National Government Departments did not comply with the requirements of the ***Public Finances (Management) Act 1995***, the ***Financial Instructions*** or the ***Constitution***.
- 1.5. By 2005, not one National Government Department could properly manage its own internal finances or reconcile its own bank accounts – including the Department of Finance.

- 1.6. By 2005 not one National Government Department complied with all the requirements of the Constitution, the **Public Finances (Management) Act 1995** or the **Financial Instructions** and most did not comply with any of the requirements of those Acts or Instructions – including the Department of Finance.
- 1.7. By 2005, devolved accounting in National Government Departments had failed.
- 1.8. There follows a summary of failings in fiscal accounting by National Government Departments:

Asset Management:

- 3 Departments maintained inadequate records;
- 9 Departments produced no records to Audit;
- 9 Departments had incomplete records or lack of controls.

Bank Reconciliations:

- 14 Departments did not reconcile bank accounts in a timely manner or at all;
- IRC and Customs had no reconciliations at all;

Revenue DoF vs. Department:

- 2 Departments had no records at all;
- 1 Department did not report;
- Department of Health did not provide information to Audit.

Expenditure DoF vs. Department:

- 12 Departments had no reconciliation;
- 3 Departments not reported.

Procurement and Payment:

- 17 Departments did not comply with requirements;

Salaries and Wages:

- 7 Departments had incomplete or inadequate records;
- 2 Departments had no internal controls;
- 1 Department had not reported at all.

Unacquitted advances:

- A total of K 5.4 million of unacquitted advances across all Departments.

Motor vehicles:

- 5 Departments had inadequate records;
- 5 Departments had incomplete records;

Trust Accounts:

- 2 Departments had inadequate records;
- 1 Department made no response to the Auditor;
- 2 Departments had incomplete records;
- 2 Departments gave no information to Audit.

Internal Audit:

- 4 Departments made no response to Audit;
- 1 Department made no report in M/L.
- 1 Department was not updated.
- 1 Department had inadequate records.

Losses:

- 8 Departments made no response to Audit;
- 3 Departments maintained no register.

1.9 In 2005 the Department of Finance failed to:

- maintain accounting policies
- maintain and enforce subsidiary accounts as required to record receivables and payables.
- act on the 2003 and 2004 Reports of the Auditor General in the area of Public Account balances
- properly require or enforce maintenance of bank reconciliations by Departments
- follow up outstanding returns
- review returns that are submitted
- failed to enforce controls over drawing accounts in departments
- followed up on outstanding reconciliations
- not imposed sanctions available to it

- present to the Auditor General reliable and lawful Departmental drawing accounts, Provincial Operating Accounts, and Receiver of Public Monies Accounts – which resulted in the loss of tens of millions of kina
- failed to impose fiscal discipline on the Department of National Planning and Monitoring in respect of supplementary appropriations
- prevent deliberate misappropriation of payments in that money was paid from the consolidated revenue to trust accounts
- prevent deliberate mishandling of money to alter surplus figures for 2005 and 2006.
- properly state Aid grant receipts
- properly state the surplus in that it was, in 2005, overstated by K 6 million.
- monitor or control Trust Accounts
- keep any record of the number of Trust Accounts
- require Trust returns
- ensure that the Minister approves Trust Accounts

- reconcile trust accounts and records
- prevent Trust Accounts from being overdrawn
- to keep or demand the keeping of Trust Account records, and accounts as required by the **PF(M)A**.
- negotiate with banks to ensure a better rate of interest on Trust Accounts.
- maintain an investment register
- maintain a register of Trust Accounts.
- comply with the **PF(M)A** with regard to write offs and losses
- submit any of the Public Account to internal audit
- exercise proper controls over advances
- establish guidelines for advances
- keep any control over permanent advances
- prevent abuses and illegal activities in its own Department and other entities of Government

- establish or keep any control over special pays account at all
- to establish procedures to monitor Special Pays account
- act legally in the management of Trust Fund Suspense Account No. 2
- prevent irregular and illegal payments
- has misappropriated money into and from Trust Fund Suspense Account No.2
- establish or meet prudent accounting practices in respect of Trust Fund Suspense Account No.2
- keep or submit records for Trust Fund Suspense Account No2
- failed to keep control over District Treasury imprest accounts
- prevent illegal activity in its own Department
- properly monitor revenue receipts

- to step in and control obviously incompetent and corrupt entities of Government as required by the **PF(M)A**.
- failed to exercise any control over Departmental accounting and thereby failed to establish the assurance as to the accuracy and reliability of the Public Accounts and compliance with legislative requirements.
- refused to assist the Auditor General
- withheld documents and records from the Auditor General
- failed to carry out its legal duty to comply with requests of the Auditor General
- failed to obey and implement virtually any requirement of the **PF(M)A** or the **Financial Instructions**.

1.10 In particular, by 2005 the Department of Finance had failed to enforce proper, lawful and timely accounting by National Departments – particularly in respect of Trust Accounts.

1.11 By 2005 misappropriation and fiscal mishandling of public monies within and by National Departments was well established – particularly in the Department of Finance.

- 1.12 By 2005 there was a failure of Law Enforcement, audit oversight, Executive control and fiscal accountability to the point where the Public Accounts of the nation were disclaimed by the Auditor General as being unreliable (at best).
- 1.13 This disclaimer was the result of the collapse of accounting systems across all of Government.
- 1.14 By 2005, Departments which managed Trust Accounts were incapable of making, keeping or submitting statutory Trust Accounting records – including the Department of Finance.
- 1.15 By 2005 Executive control of public monies and Government finances had failed and been supplanted by unaccountable management by officers of the Public Service who were themselves unaccountable, acted unlawfully and failed to carry out their lawful duties to make and submit statutory returns, accounts or reports.
- 1.16 So bad had the situation become by 2005, that the Auditor General was unable to audit significant parts of the Public Accounts and/or many areas of Government because there were no records or accounts.
- 1.17 The Auditor General was unable to trace or reconstruct accounts or records – particularly Trust Account records – and this led to the disclaiming of the Public Accounts for that year.
- 1.18 By 2005, there had developed a culture of impunity against and behind which fiscal mishandling and misappropriation

has prospered. So pernicious is this culture that there was, and is, no fear or risk of detection or punishment for those who would act illegally with public funds.

- 1.19 By 2008, the agencies responsible for fiscal management and which were required to be accountable to Government and the Parliament for their performance, refused to cooperate with this Parliamentary Committee and refused to respond when called to account for past performance. In short, the Heads of the Departments of Finance and Treasury intentionally refused to render account or assistance to this Parliament.
- 1.20 National Departments, by 2005, were without control or oversight in their fiscal management and acted with impunity and immunity in their handling of public monies and in this refusal or failure to account lawfully – or at all.
- 1.21 The Auditor General and the Parliamentary Public Accounts Committee are, as a matter of routine, treated with contemptuous disregard by the Public Service – and in particular by the Department of Finance.
- 1.22 There is a direct correlation between the collapse of public fiscal accountability by Departments and failure of service delivery and development.
- 1.23 To the end of 2005, service delivery had faltered and, in some areas failed, in large measure the result of fiscal mischief and/or incompetence on a huge scale by the very persons responsible for properly and lawfully applying public monies –

our Public Service at all levels of Government and administration. The results are clear to see in any social indicator of health and education and we believe this situation continues currently.

- 1.24 This intentional non-cooperation has seriously impeded this Inquiry and has limited our ability to make recommendations for reform. This is not acceptable.
- 1.25 This refusal to assist or cooperate with a senior Permanent Parliamentary Committee clearly illustrates the extent to which our Constitutional systems of fiscal accountability have collapsed – as at December 2008.
- 1.26 This intentional non-cooperation has seriously impeded this Inquiry and has limited our ability to make recommendations for reform. This is not acceptable.
- 1.27 This refusal to assist or cooperate with a senior Permanent Parliamentary Committee clearly illustrates the extent to which our Constitutional systems of fiscal accountability have collapsed – as at December 2008.
- 1.28 The failure of service and development delivery will, and has already, resulted in significant social unrest. In other words, the loss of Parliamentary power and fiscal control, and thereby policy implementation, has created an increasingly angry, impoverished and disillusioned citizenry, deprived of the services that they have the right to receive.

- 1.29 The culture of impunity attending failure and malpractice in our Public Service should be addressed immediately. There is no fear of detection or sanction for fiscal mishandling – and there must be.
- 1.30 Senior management has failed to enforce standards of accounting required by Law and no analysis of capability has ever been conducted – this must change.
- 1.31 The **Public Finances (Management) Act 1995** requires updating and modernization.
- 1.32 Ongoing training and supervision of accounting staff must be implemented and maintained at all levels of Government.
- 1.33 Departments and agencies that fail to make statutory records or accounts should be penalized by a reduction of funding or removal and replacement of failed staff and management. There should be zero tolerance for failure or refusal to comply with the requirements of the **Public Finances (Management) Act 1995**.
- 1.34 The Committee respectfully advises the National Parliament that this collapse of accountability and responsible, lawful and competent fiscal management was, and remains, a direct threat to the viability and civil stability of the Nation and the health and welfare of our citizens.
- 1.35 As a result of evidence and documents received by the Committee, the Public Accounts Committee makes referrals

of certain Officers of the Public Service for inquiry and possible prosecution for breaches of statutory obligations.

- 1.36 As a result of evidence and documents tendered to the inquiry, the Public Accounts Committee unanimously resolved to make a full and complete report of its Inquiry and findings to the National Parliament in accordance with Section 86 (1) (c) of the ***Public Finances (Management) Act 1994***.
- 1.37 The Public Accounts Committee now tables the report with its strongest recommendation that remedial action be immediately taken by the National Parliament in accordance with findings and resolutions of the Public Accounts Committee.

2. INTRODUCTION

- 2.1. On the 11th day of November 2008 the Permanent Parliamentary Public Accounts Committee concluded a long running inquiry into the keeping of the Public Accounts of the Independent State of Papua New Guinea for the financial year ending the 31st December 2005 – including the Part Two Report of the Auditor General for 2005.
- 2.2. The Inquiry was held pursuant to the powers vested in the Committee by Section 86 of the ***Public Finances (Management) Act 1995***.
- 2.3. When reading this Report, Members should understand that the Report concerns the Public Accounts of four years ago –

not of the present time. Therefore, where the Report concerns the Public Accounts statements for 2005 or the findings of the Auditor General for that year, the Report is written in the past tense and should be understood in that way.

- 2.4. However, this Inquiry did not occur until 2008 due to delays in the preparation and tabling of the Reports in the National Parliament.
- 2.5. Therefore, findings and censure of conduct before the Committee – particularly of the Departments of Finance and Treasury are current to December 2008.
- 2.6. This Report contains matters of an extremely serious nature and of immediate National importance. They require urgent and immediate attention from Government and sweeping reform and reconstruction.
- 2.7. As a result of evidence taken in this Inquiry, the Public Accounts Committee makes findings which are highly critical of fiscal management and accountability by National Government Departments.
- 2.8. The Committee conducted contemporaneous Inquiries into the Part 1 Reports of the Auditor General for the year 2005, the capacity and funding of the Office of the Auditor General, the Part 3 Reports of the Auditor General into Provincial Governments for the year 2005, the Part 4 Reports of the Auditor General for the year 2005 and all Government Trust Accounts.

- 2.9. The intention in conducting these detailed Inquiries was to provide the National Parliament with a comprehensive description and analysis of the state of the fiscal accountability of Government in Papua New Guinea for the year 2004 and, thereby, a full and complete examination of the Public Accounts.
- 2.10. This was an ambitious and unique attempt to provide an analysis of the state of our financial management and the reliability and accuracy of the statement of Public Accounts for 2005. We intend to perform the same exercise for the financial years 2006 and 2007 as soon as possible.
- 2.11. As we have said, the Inquiries revealed the depth and extent of the failure of our systems of accounting, fiscal management, financial reporting and compliance with legal requirements and accounting prescriptions but, more worryingly, the extent to which organized and even institutionalized misappropriation and mishandling of public monies has infiltrated and compromised those systems.
- 2.12. The Committee intended to establish reasons for the collapse of fiscal accountability, the extent of the problem, the non-performance of the Public Service, the failure of Government to heed warnings of failure by the Auditor General, the apparent failures of the supervising agencies and the seriousness and immediacy of the problem.
- 2.13. Most importantly, by this Inquiry and Report, the Committee intends to identify the problems in order that appropriate

solutions may be found and applied by the National Parliament.

- 2.14. There is no doubt that this is the first time that the mosaic of fiscal and Governance failures has been declared or understood. It is a dire picture.
- 2.15. The non production of accounts and records by Departments was, in 2005, largely intentional and deliberate and designed to prevent audit.
- 2.16. The Department of Finance was, by 2004, a failed Department incapable of lawfully managing even its own internal finances and disinterested and incapable of fulfilling its duty to keep and maintain the accounting standards throughout Government.
- 2.17. Trust Accounts were widely abused in 2005 – particularly within the Department of Finance, the very Department that exists to control and monitor Trust accounting in Government.
- 2.18. Governments apply public funds to drive development and service delivery to our people – generally in an equitable and well intentioned way. National Government Departments are the conduit for that development charged with turning funding into policy achievement.
- 2.19. However, large sections of our Public Service have become unaccountable, uncontrolled and ineffective in the application of and accounting for the use of appropriated funds and, at

worst, act illegally with impunity and immunity in the mishandling of public monies, keeping no records or accounts - and this has impacted on development delivery.

- 2.20. The results of this collapse have been manifold.
- 2.21. The first result has been that illegal and/or and improper practices were rife - particularly in the very Department responsible for fiscal management, the Department of Finance, but also across the entire spectrum of Government at every level – National, Provincial and Local.
- 2.22. This systemic disregard of accounting requirements has opened public money to misuse, theft and misappropriation particularly by and through the very Officers of the Public Service whose duty it is to properly manage those monies.
- 2.23. Secondly, diverted or misused public money can only come from one source – funds belonging to and intended for service development and delivery to our people. Schools, hospitals, roads, doctors, infrastructure maintenance, medicine and basic services take a poor second place after allocated funds were diverted or misused.
- 2.24. Thirdly, the misuse of public monies appeared utterly uncontrolled. Governments and law enforcement agencies failed to grapple with the problem and this failure emboldened the misusers, who moved in a few years from small scale opportunistic misappropriation to the organized

diversion of huge sums of public money – with apparent immunity and impunity.

- 2.25. Fourthly, central control of public finances by the Executive and the National Parliament had ceased. The Public Service failed or refused to keep accounts or to obey the legal requirements for accountability, yet were still funded and permitted to control public funds free of any oversight or control by the Executive.
- 2.26. Fifthly, vital information which should be accurately set out in the Public Accounts was, in 2005, not available.
- 2.27. For example the Committee was unable to ascertain the number of Government Trust Accounts (the figure varied from 368 to 15,000), the amount of money held in Trust Accounts, interest accruing on Trust Account deposits (if any), the extent and composition of public or State debt, the actual application of public money through Trust Accounts (especially by Provincial Governments) and much more.
- 2.28. Sixthly, in the absence of competent and reliable Public Accounts the Committee cannot understand how Government could competently and responsibly plan, monitor, form policy, budget, manage currency, meet major fiscal challenges or crises, deliver services effectively or maintain any understanding of the fiscal state of the Nation.
- 2.29. Seventhly, the Government and the National Parliament had clearly lost control of the Public Service and thereby

responsible, lawful and equitable application of public monies
– the most basic requirement for a modern, sovereign nation.

3. CHRONOLOGY

- 3.1. The Public Accounts Committee commenced its Inquiry into the Public Accounts, including the Part Two Report of the Auditor General for 2005 of the Independent State of Papua New Guinea on the 14th December 2007 and continued on the 30th April 2008, 4th May 2008, 14th July 2008, 22nd September 2008, 24th September 2008 and the 11th November 2008 when the Inquiry closed.
- 3.2. Requests to produce evidence and documents were given to the Secretaries of the Departments of Finance and Treasury on the 12th December 2007.
- 3.3. These Notices to Produce were not complied with.
- 3.4. On the 19th May 2008 written questions were directed to the Secretary for Finance, Mr. Gabriel Yer. The information sought would have assisted the Committee and shortened this Inquiry very considerably.
- 3.5. No response was ever received.
- 3.6. The Inquiry was prolonged and frustrated by the deliberate and obstructive refusal of Mr Tosali and Mr Yer to attend the Committee or to provide assistance and information when

requested. These failures will be the subject of further comment and referral in this Report.

4. LIST OF ABBREVIATIONS

4.1 **"PF(M)A"**

Public Finances Management Act

4.2 **"PAC"**

Public Accounts Committee

4.3 **"the Constitution"**

Constitution of the Independent State of Papua New Guinea

4.4 **"TMS"**

Treasury Management System

4.5 **"PGAS"**

Papua New Guinea Government Computerised Accounting System.

4.6 **"the Committee" or "this Committee"**

The Permanent Parliamentary Committee on Public Accounts.

5. COMPOSITION OF THE COMMITTEE

- 5.1. The Public Accounts Committee which made inquiry into the Public Accounts of the Independent State of Papua New Guinea - 2004 was constituted as follows:

30th April 2008.

Hon. Timothy Bonga OL MBE MP – Chairman.

Hon. Dr. Bob Danaya M.P. – Deputy Chairman.

Hon. Malcolm Smith-Kela MBE CMG DFC M.P. – Member.

Hon. Sailon Beseo M.P. – Member.

Hon. Fr. John Garia M.P. – Member.

Hon. Malakai Tabar M.P.

Hon. Koni Iguan M.P. – Member.

Hon. Lucas Dekena M.P. – Member.

Hon. Philip Kikala M.P. –Member.

Hon. Francis Marus M.P. – Member.

Hon. Benjamin Poponowa M.P. – Member.

Hon. Jack Cameron M.P. – Member.

Hon. Sam Basil M.P. – Member.

Hon. John Kekeno M.P. – Member.

07/07/2008.

Hon. Timothy Bonga OL MBE M.P. – Chairman.

Hon. Jack Cameron M.P. – Member.

Hon. Fr. John Garia M.P. – Member

Hon. Lucas Dekena M.P. – Member.

Hon. Malcolm Smith-Kela MBE CMG M.P. – Member.

Hon. Philip Kikala M.P. – Member.

14/07/2008.

Hon. Timothy Bonga OL MBE M.P. – Chairman.

Hon. Benjamin Poponawa M.P. – Member

Hon. Francis Marus M.P. – Member

Hon. Koni Iguan M.P. – Member.

Hon. Lucas Dekena M.P. – Member.

Hon. Malakai Tabar M.P. – Member.

Hon. Malcolm Smith-Kela MBE CMG DFC M.P. – Member.

Hon Philip Kikala M.P. – Member.

Hon. Sai Beseo M.P. – Member.

22/09/2008.

Hon. Timothy Bonga OL MBE M.P.

Hon. Dr. Bob Danaya M.P. – Member

Hon. Benjamin Poponawa M.P. – Member.

Hon. Francis Marus M.P. – Member.

Hon. Jack Cameron M.P. – Member.

Hon. Fr. John Garia M.P. –Member.

Hon. Hon. Lucas Dekena M.P. – Member.

Hon. Malcolm Smith-Kela MBE CMG DFC M.P. – Member.

24/09/2008.

Hon. Timothy Bonga OL MBE M.P. – Chairman.

Hon. Dr. Bob Danaya M.P. – Deputy Chairman.

Hon. Benjamin Poponawa M.P. – Member.

Hon. Francis Marus M.P. – Member.

Hon. Jack Cameron M.P. – Member.

Hon. Fr. John Garia M.P. – Member.

Hon. Koni Iguan M.P. – Member.

Hon. Lucas Dekena M.P. – Member.

Hon. Malakai Tabar M.P. – Member.

Hon Malcolm Smith-Kela MBE CMG DFC MP – Member.

Hon. Philip Kikala M.P. – Member.

Hon. Sai Beseo M.P. – Member.

Hon. Sam Basil M.P. – Member.

11/11/2008.

Hon. Timothy Bonga OL MBE M.P. – Chairman.

Hon. Dr. Bob Danaya M.P. – Deputy Chairman.

Hon. Benjamin Poponawa M.P. – Member.

Hon. Jack Cameron M.P. – Member.

Hon. Fr. John Garia M.P. – Member.

Hon. Malcolm Smith-Kela M.P. – Member.

Hon. Philip Kikala M.P. – Member.

Hon. Sai Beseo M.P. – Member.

Hon. Sam Basil M.P. – Member.

- 5.2. The Chairman, Deputy Chairman and Members of the Committee were properly and lawfully appointed and empowered to sit as a Public Accounts Committee.

6. JURISDICTION AND PURPOSE OF THE INQUIRY.

INTRODUCTION:

- 6.1. At all times, the Committee has taken great care to enable witnesses to make full and complete representations and answers to any matter before the Committee – in particular those matters about which the Committee may make adverse findings against individuals or entities.
- 6.2. The Public Accounts Committee has taken care to give careful consideration to all responses and evidence given before the Committee.
- 6.3. The Public Accounts Committee has taken care to seek opinion, information, facts and submissions from all sources

reasonably open to it including all citizens of Papua New Guinea.

- 6.4. Some evidence was taken on oath and full and due inquiry was made of all relevant State Agencies where the Committee considered those inquiries to be necessary.

JURISDICTION

The Constitution of the Independent State of Papua New Guinea.

- 6.5. The Committee finds its jurisdiction firstly, pursuant to Section 216 of the ***Constitution of the Independent State of Papua New Guinea***. That Section reads:

"216. Functions of the Committee

(1) The primary function of the Public Accounts Committee is, in accordance with an Act of the Parliament, to examine and report to the Parliament on the public accounts of Papua New Guinea and on the control of and on transaction with or concerning, the public monies and property of Papua New Guinea".

(2) Sub-section (1) extends to any accounts, finances and property that are subject to inspection and audit by the Auditor General under Section 214

(2) ... and to reports by the Auditor General under that Sub-section or Section 214 (3)...”.

- 6.6. Whilst considering the relevant provisions of the Constitution, the Committee has had regard to the **Final Report of the Constitutional Planning Committee 1974** and been guided by or applied the stated intentions of that Committee wherever necessary.
- 6.7. The Public Accounts Committee has had due regard to Reports by the Auditor General made pursuant to audit inspections of the Public Accounts for the financial year 2004 and the five years preceding, but has conducted an Inquiry into relevant matters deemed by the Committee to be of National Importance or which arise naturally from primary lines of Inquiry and which are within the jurisdiction and function of the Committee as set forth in the Constitution.
- 6.8. Whilst engaged in the Inquiry the Committee was guided by two definitions contained in the Constitution, which are directly relevant to Section 216 of the Constitution. They are:

“Public Accounts of Papua New Guinea” includes all accounts, books and records of, or in the custody, possession or control of, the National Executive or of a public officer relating to public property or public moneys of Papua New Guinea;”

and

“Public moneys of Papua New Guinea” includes moneys held in trust by the National Executive or a public officer in his capacity as such, whether or not they are so held for particular persons;”
Schedule 1.2 of the Constitution.

The Public Finances (Management) Act 1995.

- 6.9. The Public Accounts Committee also finds its jurisdiction to Inquire into the Public Accounts of Papua New Guinea in Section 86 (1) (a) of the ***Public Finance (Management) Act 1995***. That Section states:

“ (1) The functions of the Committee are –

“(a) to examine the accounts of the receipts and expenditure of the Public Account and each statement and report of the Auditor-General presented to the Parliament under Section 214 of the Constitution or Section 113 (8) (a) of the Organic Law on Provincial Governments and Local-level Governments”.

- 6.10. The Committee has considered such statements and Reports of the Auditor General as were presented to Parliament and in particular the Part Two Report of the Office of the Auditor General for the financial year 2004.

- 6.11. The Committee has further considered Reports of the Auditor General which have not yet been presented to the Parliament, on the basis that that evidence was tendered by the Auditor General for the consideration of the Committee and at the request of the Committee, on the basis that such material is within the purview of the Committee as a matter of national importance.
- 6.12. Power to refer matters for investigation and possible prosecution is granted to the Committee by Section 86A of the ***Public Finances (Management) Act 1995***.

Permanent Parliamentary Committees Act 1994:

- 6.13. The Committee also resolved that a full Inquiry into the Part Two Report of the Auditor General for the year 2004 was a matter of National importance and found further jurisdiction for the inquiry in Section 17 of the ***Permanent Parliamentary Committees Act 1994***.
- 6.14. That Section provides that the Public Accounts Committee can, of its own initiative, consider any matter within its jurisdiction to be of national importance and report to the National Parliament accordingly. The Committee, as we have stated, considers the Part Two Report for the financial year 2004, to be such a matter.

7. RELEVANT STATUTES ETC. CONSIDERED BY THE COMMITTEE DURING INQUIRY.

Public Finances (Management) Act 1995.

7.1 The ***Public Finances (Management) Act 1995*** prescribes the method and standard of the administration of and accounting for public monies, public properties and stores by Government.

7.2 Further, the Act imposes certain obligations on Public Servants for collection of State revenue and controls the expenditure of public monies.

7.3 Relevant sections of the Act which were considered by the Public Accounts Committee during the course of the Inquiry into the Public Accounts are:

(i) **Section 5 – Responsibilities of Heads of Department**

This Section prescribes the duties, powers and obligations of Head of Department.

(ii) **Section 3 – Responsibilities of the Minister**

This Section prescribes the obligations and duties of relevant Ministers of State.

(iii) **Part X - The Public Accounts Committee**

This Part empowers and imposes functions and obligations on the Public Accounts Committee. In particular, the Committee was required to consider Section 86 (A) – power to refer officers of the Department to the Office of the Public Prosecutor for investigation and possible prosecution relating to breaches of the ***Public Finances (Management) Act 1995*** and/or the ***Constitution***.

(iv) **Part XI - Surcharge**

This Section prescribes personal liability for certain public servants who fail in their obligations to collect and protect certain public monies.

(v) **Section 112 – Offences**

This Section prescribes disciplinary action which may be taken against certain public servants or accountable officers who fail to comply with the terms of the ***Public Finances (Management) Act 1995***.

Financial Instructions.

- 7.4 Section 117 of the ***Public Finances (Management) Act*** enables the promulgation of certain ***Financial Instructions*** which establish detailed procedures for the handling,

collection, expenditure, disposal of and accounting for public monies, property and stores.

7.5 The Public Accounts Committee had regard to these ***Financial Instructions*** or Directives when considering the 2004 Part Two Report.

7.6 In particular, the Committee had regard to **Part 6 Division 1 Para. 2.1 – Accountable Officers**. That paragraph reads, in part:

".....the Departmental Head is liable under the doctrine of personal accountability to make good any sum which the Public Accounts Committee recommends should be disallowed".

Audit Act 1986.

7.7 The ***Audit Act 1986*** establishes and empowers the Office of the Auditor General to carry out its work of overseeing and supervising the handling of public monies, stores and property by all arms of the National Government. The Public Accounts Committee had regard to the terms of this Act during the course of this Inquiry.

7.8 The Committee received considerable assistance from the Office of the Auditor General in the course of this Inquiry.

Permanent Parliamentary Committees Act 1994.

7.9 The Committee has had regard to Sections 17, 22, 23, 25, 27, and 33 of the ***Permanent Parliamentary Committees Act 1994*** during the course of the Inquiry into the Public Accounts.

Parliamentary Powers and Privileges Act 1964.

7.10 The ***Parliamentary Powers and Privileges Act 1964*** sets forth those privileges and powers extending to Members of Parliament, Committees of Parliament and Officers or Parliamentary Staff.

7.11 In the course of this Inquiry, the Committee had cause to examine and apply Sections 19 and 20 (1) (d) of that Act.

7.12 The Secretaries of the Departments of Finance and Treasury failed to comply with a Summons requiring the production of documents and certain resolutions and referrals were made in this respect. This matter is developed more fully in this Report (infra).

PURPOSE OF THE INQUIRY

7.13 The purpose of the Inquiry conducted by the Public Accounts Committee was to make full and complete examination of the keeping of the Public Accounts as revealed in the Part Two Report of the Office of the Auditor General for the year 2005

and all the evidence relevant to the compiling and presentation of that Report.

- 7.14 The purpose of the Inquiry was not to improperly pursue or criticize any person or company, but to make a constructive and informed Report to the Parliament on any changes which the Committee perceives to be necessary to any item or matter in the accounts, statements or reports or any circumstances connected with them, which comprise the Public Accounts, all other primary material from which those Accounts are compiled and any other matter considered by the Committee to be of national importance.
- 7.15 Further, the intention of the Committee was to report to the National Parliament in a meaningful way on alterations that the Committee thinks desirable in the form of the Public Accounts as manifested in the method of keeping them, in the method of collection, receipt, expenditure or issue of public monies and/or for the receipt, custody, disposal, issue or use of stores and other property of the State by all arms or Departments of Government as those matters are revealed in the 2005 Part Two Report of the Auditor General or other evidence received by the Committee.
- 7.16 In short, the purpose of the Inquiry was to examine the quality, reliability and legality of Government accountability for the keeping, handling and transactions with public money at all levels and in all parts of the Government of Papua New Guinea.

8 THE AUTHORITY TO REPORT

- 8.1 The Public Accounts Committee finds authority to make this Report in Section 86(1) (c) and (d) (i), (ii), (iii) and (iv) and (f) of the ***Public Finances (Management) Act 1995*** and Section 17 of the ***Permanent Parliamentary Committees Act 1994***.

9 THE AUTHORITY TO REFER

- 9.1 Where satisfied that there is a prima facie case that a person may not have complied with the provisions of the ***Constitution of the Independent State of Papua New Guinea*** and / or the ***Public Finances (Management) Act 1995*** in connection with the control and transaction with and concerning the accounts of a public body or the public moneys and the property of Papua New Guinea, it may make referrals of that person to the Office of the Public Prosecutor in accordance with Section 86 (1) (f) and Section 86A (1) and (2) of the ***Public Finances (Management) Act 1995***.
- 9.2 The Public Accounts Committee is not a true investigatory body or law enforcement agency capable of investigating and/or prosecuting persons for breaches of the law. The Committee is required to refer such matters to the appropriate authorities and may make such recommendations as it thinks fit in relation to any referral made pursuant to Section 86A of the **PF(M)A**.

- 9.3 The Committee is also empowered to refer for prosecution, any witness who fails to comply with a Notice to Produce any document, paper or book and / or any person who fails to comply with a Summons issued and served by the Committee. See Section 23 ***Permanent Parliamentary Committees Act 1994.***
- 9.4 Further, Section 20 of the ***Parliamentary Powers and Privileges Act 1994*** permits the Committee to refer for prosecution any person who, inter alia, fails to comply with a Summons to produce books, papers or documents specified in the Summons.
- 9.5 Regrettably, the Committee is required to make referrals of individuals for further investigation and possible prosecution as a result either of their non compliance when summoned to this Inquiry or as a result of evidence received by the Committee in the Inquiry or their demonstrated attitude toward this Committee or its proceedings.
- 9.6 In particular the Secretaries of the Departments of Finance and Treasury simply refused to answer Summonses issued and served by the Committee or to assist or cooperate with the Committee. What oral evidence was given by these Officers was difficult to understand and/or unresponsive.
- 9.7 Those referrals were made after anxious consideration of the evidence and any explanations given by the persons concerned. The Secretaries for the Departments of Finance and Treasury were invited to make any response or show any

reason why they should not be referred, but made no response to the Committee in this regard.

- 9.8 The Committee is cognisant that to make referrals, particularly of a senior public servant is a very serious matter which will adversely reflect on the individual concerned. These referrals are not made lightly but only after careful consideration of all the evidence and unanimous resolution by the Committee and where there is clear and unequivocal evidence which requires either specialized investigation by the appropriate agency or where a failure to cooperate with the Committee, as required by Law, was clear.

10 METHOD OF INQUIRY

- 10.1 The Inquiry into the 2005 Public Accounts was established by Terms of Reference promulgated by the Committee and resolution of the Committee. The Inquiry continued for many months. A copy of the Terms of Reference is shown in Schedule 6.
- 10.2 The Inquiry by the Public Accounts Committee into the Part Two Report of the Auditor General for the financial year 2005 was a public hearing at which sworn evidence was widely sought from a large range of sources, but received from only a small number of witnesses.
- 10.3 Oral evidence was received from representatives of several selected Departments of the Public Service, Provincial

Administrators, the Office of the Auditor General and from the Acting Chief Secretary to Government, Ms. Margaret Elias.

- 10.4 Early in this Inquiry, the Committee became aware that it was dealing with a serious and thoroughgoing collapse of fiscal accountability by Government.
- 10.5 The Committee quickly became aware of the extent of failure and non compliance with the legal requirements of accounting for public monies imposed by the **Public Finances (Management) Act 1995** and the **Financial Instructions** promulgated thereunder.
- 10.6 The Committee decided to conduct a constructive Inquiry intended to identify the reasons for the collapse of accountability and to make informed suggestions and recommendations to the National Parliament to commence the process of reform and/or restoration of these systems.
- 10.7 To this end, the Committee made a public declaration of this intention for the purpose of encouraging assistance and cooperation from all persons to aid the Committee in addressing this very significant national failure.
- 10.8 The Committee solicited opinion, advice, recommendations and policy from many quarters. In particular, the Committee publically advertised its Terms of Reference and placed public advertisements in local media seeking assistance and submissions from any person who wished to give them.

- 10.9 The Committee anticipated receiving willing cooperation and assistance from the Heads of the two Departments responsible for fiscal management and administration in Papua New Guinea – the Departments of Finance and Treasury.
- 10.10 The Committee solicited this assistance over the life of the Inquiry but received virtually no assistance at all from either Mr. Gabriel Yer (Secretary and Head of the Department of Finance) or Mr. Simon Tosali (Secretary and Head of the Department of Treasury).
- 10.11 The Committee concludes that these two senior administrators intentionally and deliberately decided to obstruct the Committee in its work. Letters were unanswered, questions ignored, requests for assistance disregarded and Summonses to appear as witnesses were disobeyed with no apology, excuse or leave from the Committee.
- 10.12 This attitude is a very serious matter. When senior public servants (particularly the Heads of Departments and, in the case of Mr. Yer, the Chief Accountable Officer to Government) treats a Parliamentary Committee with contemptuous disregard, the nation has a real problem requiring immediate redress.
- 10.13 As a matter of Law all public servants are required to give full, timely and responsive cooperation to this Committee – representing as it does, the National Parliament.

- 10.14 It is necessary to point out that the collapse of public accountability either occurred or continued during the period of appointment of these two Officers and they, more than anyone, would know why and how this happened – and how to address the problem.
- 10.15 Inquiries by the Committee to these Officers mainly concerned policies and plans to rebuild or reestablish our systems of national accountability. Evidence on these matters would have assisted the Committee enormously.
- 10.16 The attitude displayed by these and other Public Servants toward this Committee is, in our opinion, an excellent illustration of the degree to which the Public Service has become uncontrolled, unaccountable and seemingly immune to the processes of Law of and accountability for, the use and application of money entrusted to them.
- 10.17 This is a very serious development and one that this Parliament should no longer tolerate. In the opinion of the Committee the failure of accountability has nurtured and protected significant misuse and deviation of public monies by Government agencies to the point where, in 2004, the accounts of the nation – the Public Accounts – had become unreliable, at best.

11 PARLIAMENTARY SCRUTINY OF THE 2005 PART TWO REPORT OF THE AUDITOR GENERAL.

- 11.1 Review of the Part Two Report of the Auditor General for 2005 by this Committee is the second level of assurance as to the standard, format and contents of the work of the Auditor General.
- 11.2 Responsibility for all aspects of public finance is vested in the Minister responsible for Finance, who is required to submit to the National Parliament a Statement of Government Revenue and Expenditure.
- 11.3 The Auditor General is required to report to the Parliament on the control and management of public money and the property of the Independent State of Papua New Guinea at least once every fiscal year. The Parliament is required to conduct certain scrutiny and oversight of public finances.
- 11.4 Section 215 of the ***Constitution*** establishes the Public Accounts Committee. The primary function of that Committee is to examine the Public Accounts and control of public monies and to report their findings to the Parliament.
- 11.5 These reports have not been made for some years due to the fact that the Public Accounts Committee was dormant until 2005 and the fact that the 2004 and 2005 Statements of Public Account and associated Reports of the Auditor General were not made available or tabled in the National Parliament until 2007.

- 11.6 The Statement and intention of the framers of our **Constitution** was to provide for scrutiny of the control of public funds and to enable the Parliament to call for an account of any irregularities and defaults in the Report of the Public Accounts. This we have tried to do.
- 11.7 The Committee also has a duty to report to Parliament any alterations which in its opinion, should be made to the form of the Public Accounts or in the method of keeping them, or in the method of collection, receipts, custody, disposal, issue or use of stores and other property.
- 11.8 The Reports of the Public Accounts Committee are then forwarded to the Secretary for Finance who should deliberate with Departments concerning the Committee suggestions and criticisms.
- 11.9 Any conclusions reached after these deliberations are communicated to the Public Accounts Committee by means of a Finance Minute, which the Committee tables in Parliament.
- 11.10 This Inquiry and the Report to the National Parliament has been sent in draft form to the Secretary for Finance for comment and after the Report is tabled in the Parliament will be delivered to the Auditor General for the discussion process to ensue.

12 DUTIES AND FUNCTIONS OF THE DEPARTMENT OF FINANCE.

Duty to Keep and Submit the Public Accounts.

- 12.1 By Section 3 (3) of the ***Public Finances Management Act 1995*** the Minister responsible for financial matters is required to:

“As soon as practicable after the end of each fiscal year, the Minister shall cause to be prepared a detailed Statement of the receipts and expenditure of the Public Account during the fiscal year, and send it to the Auditor General”.

- 12.2 By Sub-Section 2 of the ***Public Finances (Management) Act 1995***;

“Public Account” is defined as follows:

“Public Account” means a Public Account established by Section 10 (1) and in relation to a Provincial Government or a Local Level Government established under the Organic Law on Provincial Governments and Local Level Governments, meaning the General Revenue Fund and the Trust Fund established for that Provincial Government or Local Level Government”.

12.3 Section 10 of the ***Public Finances (Management) Act 1995*** reads as follows:

“Public Accounts”

i) There shall be a Public Account for each of:

(a) The National Government; and

(b) A Provincial Government or a Local Level Government established under the Organic Law on Provincial Governments and Local Level Governments.

ii) A Public Account established by Sub-Section (1) shall consist of:

(a) In the case of the National Government –

**i. The Consolidated Revenue Fund;
and**

ii. The Trust Fund; and

iii. In the case of a Provincial or Local Level Government –

1. A General Revenue Fund; and

2. A Trust Fund."

- 12.4 Section 11 of the **Public Finances (Management) Act 1995** directs that the Public Account consisting of public monies, shall be kept in Banks which are approved by the Departmental Head of the Department responsible for financial management or in such a manner as the Departmental Head of that Department may direct.
- 12.5 This Committee concludes that Section 3 of the **Public Finances (Management) Act 1995** places responsibility on the Minister for Finance for the supervision of the finances of the Independent State of Papua New Guinea so as to ensure that a full accounting is made to the Parliament of all transactions involving public monies.
- 12.6 Under Section 3 (3) and (5) of the same Act, the Minister for Finance is required to cause the preparation of detailed statements of the receipts and expenditure of the Public Account for the fiscal year 2005 and send it to the Auditor General for the purpose of Audit.
- 12.7 Power to audit Departments of Government is vested in the Auditor General by section 3 (4) of the **Audit Act 1986** *which states:*
- "the Auditor General shall in such manner and at such times as he thinks proper inspect and audit all accounts that relate directly or indirectly to:**

(a) the collection, receipt, expenditure or issue of public monies or,

(b) The receipt, custody, disposal, issue or use of stores or other property of the State”....

12.8 Government Departments carry out all such functions in the course of their function to deliver essential services.

12.9 The Public Account was found by the Auditor General, in summary, to not be based upon proper accounts and records and to **not** give a true and fair view of the financial position of the Government of Papua New Guinea and the results of its operation for the year ended the 31st December 2004.

12.10 More worryingly, the Auditor General has found that:

“.... the controls exercised over the receipt and payment and investment of monies and the acquisition and disposal of assets are not in accordance with the Public Finances (Management) Act 1995 and any other relevant legal obligations including the Constitution of the Independent State of Papua New Guinea”.

12.11 This Committee concludes that the Part Two Report of the Auditor General for 2005, shows serious failures in Departmental accounting, financial management, Trust management and fiscal reporting and reveals an almost

complete failure by the Department of Finance and every other agency of Government to keep or require to be kept, accurate or, in many cases, any records or accounts at all. This is an extremely serious matter.

- 12.12 There is a further matter of concern. It is clear that the Department of Finance (like all other Departments) cannot even manage its own internal accounting. How can it be expected to carry out its duties to oversight government finances in general?
- 12.13 This Committee concludes that the Department of Finance had insufficient influence and control over Government spending and has completely lost control of its oversight role. Coupled with brazen misappropriation as shown in Trust Fund Suspense Account No. 2, the Department was and is a failed entity requiring urgent and thoroughgoing restructure.

13 OBLIGATIONS OF GOVERNMENT DEPARTMENTS AND AGENCIES TO THE PUBLIC ACCOUNTS COMMITTEE.

- 13.1 The Departmental Head and Secretary of the Department of Finance is charged, by Section 5 of the ***Public Finances (Management) Act 1995***, with the responsibility to ensure that information required by the Public Accounts Committee is submitted to that Committee accurately and promptly – (Section 5 (1) (j)).

- 13.2 The responsibility of that Departmental Head is not derogated from or reduced by reason of any delegation of functions by him to another person.
- 13.3 The Committee concludes that the Secretary and Departmental Head of the Department of Finance, Mr. Gabriel Yer, is the Officer responsible for attending, liaising and co-ordinating the attendance and co-operation of his Department with this Inquiry by the Public Accounts Committee.
- 13.4 Moreover, the Secretary of the Department of Finance gave sworn evidence to the effect that he understood the statutory obligations imposed on him by the **Public Finances (Management) Act 1995** - which include cooperation and compliance with the Public Accounts Committee.
- 13.5 In his role of responsible Head of Department, the Secretary for the Department of Finance has the power to obtain full and free access at all times to all accounts and records of accountable officers that relate directly or indirectly to the collection, receipt, expenditure or issue of public money and the receipt, custody, disposal, issue of stores or other property of the State.
- 13.6 Time and again the Secretary made undertakings to this Committee to produce information or documents and failed to meet those promises. Time and again the Secretary failed to

answer questions or letters and treated this Committee and his duty to assist it with disregard.

- 13.7 The obligations on all Heads of Departments and agencies to the Public Accounts Committee are the same. All public servants are required to cooperate and provide assistance in a timely manner. Failure to do so constitutes an offence under the ***Public Finances (Management) Act 1995***.

14 DUTY OF DEPARTMENTS AND OFFICERS TO THE OFFICE OF THE AUDITOR GENERAL.

- 14.1 All persons have the duty to assist and cooperate with the Auditor General when required to do so.
- 14.2 The ***Audit Act 1986*** gives wide powers to the Auditor General – see for example Sections 2 (***power to access information or data***), 4 (***power to summon, examine, access, search and force delivery of information***) and 5 (***power to prosecute***).
- 14.3 By Section 29 of the ***Audit Act 1986***, offences and penalties are prescribed for obstructing or failing to assist the Auditor General.
- 14.4 In concert with the provisions of the ***Public Finances (Management) Act 1995***, it is clear that co-operation with the Auditor General is mandatory and enforceable. Yet

for years, public servants have failed or refused to give this cooperation when it did not suit their agenda to do so.

- 14.4 This Committee has wide experience of failure by Departmental Heads and Officers refusing to cooperate with the Auditor General and with the Committee itself. This Inquiry into the Part Two Report for 2005 is no exception.
- 14.5 In his 2005 Part Two Report, the Auditor General makes specific findings concerning this failure in National Departments and we will address this matter later in this Report.
- 14.6 At this stage we state that these failures to cooperate strike at the heart of accountability and cannot be tolerated. The Auditor General should exercise his coercive powers to force assistance and cooperation.

15. EVIDENCE RECEIVED BY THE COMMITTEE.

- 15.1 The principal evidence received by the Public Accounts Committee was the Part Two Report of the Auditor General Statement of the Public Account itself for the year 2005 and the Report of the Auditor General on the 2005 Public Accounts of Papua New Guinea – Part One of four Annual Reports for that year.
- 15.2 These Reports were supplemented by oral explanatory evidence to the Committee from the Auditor General.

- 15.3 The Committee has given very careful consideration to the contents of both Reports and accepts the Part Two Report of the Auditor General as it is presented.
- 15.4 The Committee received no evidence contradicting or qualifying the Part Two Report of the Auditor General in any respect.
- 15.5 The Part Two Report of the Auditor General together with the Public Accounts for 2005 were tabled in the National Parliament on the 8th April 2008. A copy of the Part Two Report of the Auditor General for the year 2005 is contained in Schedule 2 to this Report.

16. Other Submissions or Evidence Received from Witnesses.

- 16.1 A list of witnesses before the Committee is contained in Schedule 1 to this Report and submissions or letters received by the Committee are shown in Schedule 5.
- 16.2 On the 30th day of April 2008 the Public Accounts Committee resolved that this Inquiry should be conducted in the spirit of cooperation and with the intention of making a constructive and helpful report into the keeping of the Public Account and the standard and quality of fiscal accounting across the Government of Papua New Guinea.
- 16.3 This resolution was made after a perusal of the 2004 and 2005 Reports of the Auditor General to the National

Parliament – which clearly showed very profound problems in accountability and fiscal management across the entire span of Government and at every level of government in this country.

- 16.4 The Committee saw no point in allocating blame for what is effectively a collapse of public accountability for the use of public monies, property and stores.
- 16.5 It is clear to the Committee that the Department of Finance, Treasury and all other Departments of Government have failed in their duty to obey the law and to handle public monies with anything approaching either competence or legality.
- 16.6 The Committee intended this Report to be helpful, constructive and capable of assisting the National Parliament to identify problems and suggesting resolutions or solutions for those problems.
- 16.7 Accordingly, the Public Accounts Committee opened this Inquiry to all persons or Institutions which might have assisted the Committee in performing this difficult task and publicly advertised this intention.
- 16.8 Accordingly the Committee addressed open invitations seeking submissions or evidence to:
- all Governors of Provincial Governments;
 - all Provincial Administrators;

- the Vudal University;
- Heads of every Government Department;
- the Chief Secretary to Government;
- Goroka University;
- the National Research Institute;
- University of Papua New Guinea;
- the Office of the Auditor General;
- the Governor Central Bank of Papua New Guinea;
- Stantons International;

Copies of those letters are exhibited in Schedule 4.

16.9 The Committee issued Summonses or requests for information to the following persons or entities:

- the Secretary of the Department of Personnel Management;
- the Secretary of Treasury;
- the Secretary for Finance

- the Commissioner, Correctional Services;
- The Secretary Department of Agriculture and Livestock;
- The Secretary Department of Personnel Management;
- The Secretary Department of Education;
- The Secretary Department of Health.

Copies of those Summonses are exhibited in Schedule 3 to this Report.

- 16.10 The Public Accounts Committee received only three replies. The first reply was received from the Provincial Administrator of Sandaun Provincial Government and was helpful and timely. A copy of that letter is annexed to this Report – Schedule 5. We thank Mr. Joseph Sungi for his prompt and detailed assistance.
- 16.11 A letter of reply was also received from Ms Hitelei Polume-Kiele the Acting Solicitor General and Head of the Department of Justice and Attorney General. That letter was timely and helpful and a copy is annexed to this Report – Schedule 5.
- 16.12 A second letter was received from the Provincial Administrator of Manus Provincial Government and was helpful and informative – see Schedule 5.

- 16.13 A third letter was received from the Provincial Administrator of the Sandaun Province, Mr. Joseph Sungi. That letter was helpful and prompt and we thank Mr. Sungi for his response.
- 16.14 To the surprise of the Parliamentary Public Accounts Committee, we received no information or evidence from the Department of Finance, very little of use from the Department of Treasury, other Provincial Governments, Governors or Departments from which we invited responses.
- 16.15 In particular, letters to the Department of Finance were unanswered and requests for information to assist the Committee in its work were deliberately and intentionally ignored.
- 16.16 The Committee received no assistance from any academic institute or research institution or any other quarter.
- 16.17 The Public Accounts Committee sought submissions from the public, but received no submissions.
- 16.18 In an effort to identify the daily problems that might have led to the collapse of Departmental accountability and financial management, the Committee summoned the Heads of the five worst performing Departments (identified from the Table attached to the 2005 Part 1 Report of the Auditor General) and sought a clear statement from them of the problems within their Departments.

16.19 The evidence was helpful and we will address it later in this Report.

16.20 The evidence of the Auditor General was succinct and informative and the Committee records its appreciation for the prompt assistance it received from the Office of the Auditor General.

17. THE INQUIRY .

17.1 On the 4th December 2007 the Public Accounts Committee convened an Inquiry into the Part 2 Reports of the Auditor General for the Financial Year 2005.

17.2 The Public Accounts for the year 2005 were disclaimed by the Auditor General as being unreliable (at best) and not properly, fully and truthfully reporting the financial status of the Government of Papua New Guinea.

17.3 One of the principal reasons for that disclaimer was a failure across the entire span of all Government Agencies and entities (at every level of Government in Papua New Guinea) to make, keep, maintain or submit proper, lawful and reliable financial statements, accounts, records or, in some cases, any documents at all.

17.4 In the course of that Inquiry it became clear to the Public Accounts Committee that National Government Departments had failed for many years to comply with the terms of the ***Public Finances (Management) Act 1995***, the ***Financial***

Instructions and/or the Constitutional requirements for accounting for the use of public money.

- 17.5 This collapse of public fiscal management and accountability is a matter of first national importance.
- 17.6 The reputation of Government and of the State of Papua New Guinea is very largely dependant on the quality of fiscal management and accountability demanded by Government.
- 17.7 Further, the Social and Political Contract between the Government and the citizens of Papua New Guinea demands that public monies will be properly managed and applied to the benefit and betterment of the people who are governed.
- 17.8 Failure of accountability and management of public monies by Government Agencies is a direct breach of the Constitution and has led to a failure of service delivery and the development in Papua New Guinea.
- 17.9 This Committee has received evidence of large scale defalcation, misappropriation and fiscal misconduct by senior (and not so senior) Public Servants. This has occurred since 2002 and involves huge amounts of public money which should have been applied to other appropriated areas.
- 17.10 Parliamentary appropriation is ignored and changed, seemingly at will, by Public Servants who have no power to do so.
- 17.11 Even when money is appropriated into proper Trust Accounts the quality of Trust Management is virtually non-existent and

monies are often not applied to those developmental purposes for which they are appropriated.

- 17.12 The level, quality, pervasiveness and extent of intentional mismanagement and deliberate overriding of controls and lawful requirements, is a matter of very profound concern to this Committee and should be to the National Parliament.
- 17.13 Our Inquiries uncovered a deeper element to this misconduct and failure. There is a very real shift of sovereign power from the Executive and the Parliament to unelected and unrepresentative Public Servants who have no right to exercise the power which they do.
- 17.14 Clearly these Officers act with complete impunity and immunity and divert, misappropriate and mishandle public monies as an almost daily event.
- 17.15 Although this Report deals with the Financial Year 2005, material before this Committee has clearly shown that the quality of the failure continues to the present day.
- 17.16 In the course of our Inquiry into the Part Two Reports of the Auditor General the Public Accounts Committee summoned Secretaries of the worst performing Departments identified by the Auditor General.
- 17.17 The intention was to ascertain the reasons for the failure and to understand why the state of affairs has arisen. We will address this evidence in the course of this Inquiry.
- 17.18 This Report consists of three (3) Parts.

17.19 **PART 1**

A review of the evidence received from the Auditor General and the Part II Report of the Auditor General for the financial year 2005.

17.20 **PART 2**

A recital and analysis of the evidence received by the Public Accounts Committee from the Heads of certain Departments including and in particular the Departments of Finance and Treasury.

17.21 **PART 3**

Recommendations of and arising from the evidence received by this Committee.

The evidence received by the Committee from the Auditor General:

17.22 The Auditor General gave oral evidence to the Committee. This evidence was unsworn.

17.23 The Auditor General directed his attention to internal controls, further examinations that he considered necessary and assessments of the performance of the fiscal operations of those National Government Departments.

- 17.24 The intention of each Audit was to assess the reliability and integrity of financial data and other information produced and to determine the extent of compliance with the applicable laws, regulations and directions.
- 17.25 The Audit procedures applied were intended to also reveal system weaknesses that if not rectified, could result in losses or errors, fraud or mismanagement of public funds.
- 17.26 We now address the contents of the Part 2 Report of the Auditor General for the Financial Year 2005.
- 17.27 We intend to examine each National Government Department the subject of Audit and Report and to summarise the findings of the Auditor General. In respect of all Departments in 2005, this Committee finds:

NATIONAL PARLIAMENT

- 17.28 Parliamentary Services is, by the terms of our Constitution, separate and fiscally independent of all other Government Services. The Parliament Services is administered by the Clerk of the National Parliament under the control and direction of the Speaker.
- 17.29 The Audit of the accounts and records of the National Parliament in 2005 were undertaken on a sample basis and covered bank accounts, expenditure control, procurement

and payment procedures, salaries and wages, fixed assets, consultancy, advances and losses and deficiencies.

17.30 The main purpose of the Audit was to establish whether appropriated funds had been used properly and in accordance with law.

17.31 The Auditor General made the following findings:

- Shortcomings in the accounting as stale cheques pertaining to the Refreshment Room Account;
- Non-compliance with procurements and payment procedures.
- Sixteen payments totaling K 29, 073 were neither sighted nor made available for Audit verification.
- Twenty four contractual agreements between the National Parliament and service providers totaling K 554,197 were not made available to Audit.
- Eight payments totalling K 309,839 were processed to various suppliers for the provision of goods and services but quotations were not obtained.
- Four payments totalling K 63,926 were processed on quotations, proforma and fax copies of invoices which the Auditor General finds are "grossly irregular".

- Five payments totaling K 120,968 were processed and paid but no delivery documents or receiving reports or invoices were attached to the payment vouchers.
- Approvals to hire motor vehicles were not obtained.
- Four payments totaling K 121,629 were made to various suppliers on requisition forms contrary to Finance Regulations.
- Four payments amounting to K 72,334 were processed to Consultants engaged by the National Parliament but there was no record of tasks accomplished or performed, Consultancy Agreements were not attached and no indications or invoices by the Authorised Officers of the Parliament were made available confirming the validity of the charges made.
- K 506,207 was paid to four suppliers for the provision of Cleaning Services but no Contractual Agreements were produced to Audit.
- K 14,000 made for the hire of a motor vehicle but there was no prior approval or endorsement obtained, alterations and payment were noted on the requisition form and the cost of K 2,000 per day is considered excessive.

- Non-remittance of Salaries and Wages records and Tax Declaration forms were not lodged for tax relief for six Officers and a non-taxable allowance described as "*Senior Officers Allowance*" is paid to Senior Officers of the Parliament on a fortnightly basis.
- Documentary evidence of approval for these payments was not made available nor was approval obtained from the IRC.
- Higher Duty Allowance forms were not completed or produced for Audit.
- Weaknesses in Asset Management
 - There was no annual stocktake of fixed assets and the list of assets which was produced did not contain the price of each asset, record the model or serial numbers or the condition of each asset.
 - Losses and deficiencies were not controlled or reported properly or adequately.
 - Shortcomings in Internal Audit.
 - An independent company was contracted to perform an Internal Audit but a copy of the Contract was not made available and a total of K 77,600 was committed and paid

to the firm for the provision of Internal Audit services. This is illegal and of no effect.

17.32 In 2004 there were shortcomings recorded by the Auditor General which are replicated in 2005. However, in 2005 the Auditor General found further and other weaknesses and failures which suggest that the overall internal controls within the National Parliament are weak, ineffective and in a state of continuing and increasing failure.

17.33 A Summary of the situation shows that there was no Report concerning expenditure and a comparison of the Department of Finance records against those of the National Parliament:

- Procurement and payment procedures were not complied with.
- There were incomplete records or lack of controls in respect of Salary and Wages.
- There were thirty unacquitted advances totaling K 239,336.
- Asset management was incomplete with a lack of records. Motor vehicle records were incomplete with a lack of records.
- There was no or no adequate Internal Audit performed; and

- There was no or no adequate response to the Auditor General's queries concerning losses and write-offs.

OFFICE OF THE GOVERNOR GENERAL

17.34 The Office of the Governor General was found, in 2004, to have considerable weaknesses and failures in its fiscal management and accountability.

17.35 That situation continued in 2005.

17.36 In 2004, the Auditor General found unresolved matters as follows:

- Drawing Account lapses;
- Commitment and Funds control weaknesses;
- Salary and Wages irregularities;
- Weaknesses in advances management;
- Lapses in procurement and payment procedures and;
- Non-recording of assets purchased.

17.37 These matters have been outlined and recorded by the Auditor General for years with no apparent attempt to address them. Some of these were reflected in findings in

2005, but even further weaknesses and failures were identified in 2005 which suggests that the Office is continuing in an increasing state of failure.

- 17.38 In 2005, the Auditor General found that were considerable drawing account lapses in which in that there was no adequate security or financial records and no hard copies of financial reports such as reconciliation statements etc. The Auditor General states:

"The Management of the Governor General's Office has failed in its stewardship role to ensure safeguards of records against waste, loss and mismanagement."

- 17.39 The Bank Reconciliation Statement for December 2005 was not furnished to the Auditor and Audit could not establish if reconciliation statements were prepared during the year.
- 17.40 Failure to effect Bank Reconciliations is a continuing incident of Government fiscal management. It is unlawful, it is unprofessional and effectively removed any ability to Audit or check on the quality of expenditure of public monies.
- 17.41 A comparison of Votes Summary Ledgers maintained by the Office within the Expenditure Statement produced by the Department of Finance shows considerable variances between Expenditure balances.

- 17.42 No documents were furnished for Audit purposes to explain the material differences and this has been the feature of accounting by the Office of the Governor General for years.
- 17.43 The Office failed to undertake internal reviews contrary to Part 2 of the Finance Management Manual, and failed to comply with Part 18 of the Finance Management Manual concerning Payroll Management.
- 17.44 The Office failed to comply with procurement and payment procedures and this practice has existed for years. There appears to be no capability to address these issues.
- 17.45 Simple accounting practice and procedure is seemly beyond the capability of the Office of Governor General.
- 17.46 Two hundred and sixty two payments totaling K 267,500 were wrongly charged to incorrect expenditure vote item and this is a result of poor management practice.
- 17.47 Four payments totaling K 5,789 for hire of motor vehicles were not provided to Audit and payments totaling K 2,350 to private companies for the provision of mobile phone cards were unrecorded. These phone cards were provided as part of Salaries and Allowances over and above SCMC approved allowances thereby breaching the Public Service General Orders.

- 17.48 Payments totaling K 42,935 for entertainment were paid with no cost specifications and made against quotations instead of invoices thereby breaching Attachment 1 Part 11 of the Finance Management Manual and the requirement that an ILPOC be produced by suppliers.
- 17.49 The Management failed to furnish any documentary evidence of work supplied by contractors and payments of those contractors. There were no work specifications and costings, no work completion certificates or virtually any other document at all.
- 17.50 This frustrates and prevents Audit and is an open invitation to malpractice.
- 17.51 Nineteen payments were not examined by authorised officers, General Expense forms were raised and paid without being approved by Financial Delegates and requisition forms were raised and payments made without a Section 32 Officer and delegates approval.
- 17.52 All these matters are very basic accounting and management practice which this particular Office was unable to carry out for many years
- 17.53 Of more concern to the Committee is the fact that there seems to be no effort to address ongoing findings and criticisms by the Auditor General.

- 17.54 Irregularities in salary payments were identified in that staff history cards were not provided to the Auditor General for seven employees and neither were tax declaration forms.
- 17.55 Advances Management is an area of continuing failure in every Department but in a small Department like that of the Office of the Governor it is inexcusable.
- 17.56 Advances are paid without supporting documentation, advances are made while outstanding advances remain unpaid, advances are erroneously paid from incorrect items and cash and travel advances are not registered or acquitted.
- 17.57 This is a serious weakness in Internal Control and an open invitation to malpractice.
- 17.58 There are weaknesses in both the control of motor vehicles and in the raising of General Entries. Motor vehicles were purchased without any approval by Financial Delegates and there was no contractual agreement in place for repair, maintenance or servicing of vehicles.
- 17.59 Of the 26 Journal Entries raised during 2005, 11 were not verified by Authorised Officers, a Journal Entry was sighted in the Journal Entry Book without any supporting document, two Journal Entries were not stamped to indicate that the entries were posted into the PGAS System and in two instances Journal Entries were not certified by an Authorised Officer before posting.

17.60 Once again these matters are very basic and simple accounting and recordkeeping and these failures exist right across the span of the Government Agencies.

17.61 In general, the Report of the Auditor General on the Office of the Governor General shows considerable lapses in internal controls and weaknesses which have been evident for years but simply not addressed.

DEPARTMENT OF PRIME MINISTER AND NATIONAL EXECUTIVE COUNCIL

17.62 In 2004 and for some years preceding that, the Auditor General has found:

- Non-adjustment of reconciling items in the Drawing Account;
- Lapses in procurement on payment procedures;
- Weaknesses in payment of Salaries and Allowances;
- Weaknesses in acquittal of advances; and
- Weaknesses in Internal Audit.

17.62 In 2005 each of these weaknesses and failures continued.

17.63 In 2005, the Auditor General found:

Drawing Account.

Weaknesses in the operation of the Drawing Account in that reconciliations were not shown as having being checked by a competent authority, reconciling items were not cleared for the month of December 2005 and a list of un-presented cheques was not attached to bank reconciliation statements in a figure of K 3,948,800;

Procurement and Payment Procedures

Procurement and payment procedures were not complied with – and this situation prevailed across every Department of Government.

17.64 The following incidents were identified:

- Two payments totalling K 332,560 were split to defeat the requirement of the Public Finance (Management) Manual to call for tenders and to apply for authority to precommit. This is an extremely serious matter. The Public Finances Management Manual required all procurements by Departments above K100,000 to apply for CSTB Tender approval and to the Finance Department for authority to precommit. Payments totalling K 1,608,968 were made without compliance.
- Expenditure Requisition forms were not made available in respect of procurement totalling K 47,803;

- The Public Finance (Management) Manual requires Departments to establish special Committees such as Overseas Travel Committee, Computer Committee etc to facilitate quality decision making and promote transparency and economy. In fifteen instances the Department made payments totaling K 3,847,306 without references from such respective Committees.
- In twelve instances payments totaling K 1,257,283 were made in excess of financial delegate's limits.
- In four instances, vouchers were paid totaling K 278,738 but not made available to Audit.
- In five instances payments totaling K 849,599 were made without sufficient documentation;
- Payments totaling K 2,600,000 were paid as grants to various Organisations with no Policy Guidelines or Directives in place to control the use of grants and no accountability statements made or provided to Audit;
- The total of K 434,113 was incurred for up keeping and improvement to Morauta House but no evidence of ownership or Title Deeds were produced to Audit.
- An open tender approval process was not followed by the Department in the engagement of a Consultant who was the wife of a Senior Officer.

- No Consultancy Agreement documents were furnished to the Auditor.
- Contractors were paid K 144,003 for cleaning services but no contractual agreement was produced to Audit;
- K 1,882,183 was incurred through the engagement of nine consultants but no contract agreement was produced to Audit and there were no particulars of the work actually performed.
- Motor vehicle and asset controls were weak and this has been an incident of accounting within this Department for years.
- Weaknesses in the payment and acquittal of advances were found by the Auditor General.
- A significant number of 488 advances totaling K 2,395,891 remained outstanding as at the 31st December 2005 while advances reported in 2004 also unacquitted.
- Of more concern to this Committee is the fact that of four Trust Accounts administered by this Department, no books of account or records were made available for Audit and therefore no Audit could be carried out to establish the state of Trust Accounts.

Trust accounting across the entirety of Government has collapsed and the fact that these failures were evident in the Department of the Prime Minister is an indictment upon the professional officers employed and paid by the State to manage those Trust Accounts.

- There were considerable weaknesses in the Internal Audit Section of the Department in the management of losses and deficiencies and these incidents had been reported by the Auditor General for some years past to no effect.

17.65 There were considerable internal control weaknesses identified in the Department of Prime Minister and NEC which had existed for years.

17.66 In the opinion of this Committee, there appears to be no attempt in 2005 to address, understand, rectify or improve those failures and this is a reflection of the slow collapse of financial accounting across the whole of governance.

DEPARTMENT OF FINANCE

17.67 The Department of Finance has been one of the worst performing Departments of all.

17.68 It is completely unacceptable that the very Department responsible for managing policies, regulations and laws relating to collection and disbursement and accounting of

public monies should be unable to either conduct its own affairs lawfully or manage trust monies and public monies in a lawful and proper fashion.

- 17.69 The very Department which should set the example for other Agencies of Government had failed in its duties under the ***Public Finances (Management) Act*** and the ***Financial Instructions*** as we have outlined in our Report into the Part 1 Report of the Auditor General for the Financial Year 2005.
- 17.70 The Audit of the Department was carried out on a sample basis and covered examination of the drawing account, procurement and payment procedures, acquittal of advances, motor vehicle fleet, salaries and wages and journal entry.
- 17.71 The Auditor General identified significant weaknesses and failures in that Department. These included:
- Shortfalls in revenue and a variance between the Department of Finance records (PGAS) and TMS records of K 18,008,512 which is firstly totally unacceptable and secondly was not explained by the Department at all.
 - There were considerable delays in the banking of daily collections and the Auditor General found that collector statements and bank deposit slips were not provided to Audit and there were inordinate delays in banking ranging from 2 to 15 days.

- There were considerable weaknesses identified in the Drawing Account Bank Reconciliation. Credits in Bank Statements but not in Cash Books totalled K 477,599,854 representing reimbursement credits from the Waigani Public Account from December 2005 – which had not been journalised into the Cash Books by the end of that year.
- There were shortcomings in commitment controls which the Department neither could nor did attempt to explain.
- Procurement and payment procedures were ignored.
- No Quotation Register was maintained, no Certificate of Inexpediency for Consultants were provided to Audit, no advice from the Office of the State Solicitor was sighted, and payments were made from the wrong Vote, no evidence was produced of renewal of contracts, Certificates of Compliance were uncertain, authorities to pre-commit were not provided to Audit and Certificates of Completion were either non-existent or not supplied to Audit which is an open invitation to fiscal malpractice.
- There were irregularities in the payment recording and acquittal of advances. Twenty one travel advances remained outstanding as of 31st December 2005, delays existed in the acquittal of travel advances and acquittal forms were not signed by financial delegates to confirm

that the acquittals were correct, completed, proper and accepted.

- There were considerable weaknesses in motor vehicle and asset control as is reflected across all other Government Departments.
- There were shortcomings in salary, wages and payments notably a lack of records either in existence or produced to Audit.
- Failure to update history cards, failure to lodge or produce Salary and Wages Tax Declaration forms and failure to produce personal files when called for by the Auditor.
- There were weaknesses in the raising of journal entry. Seventy nine journal entries totalling a huge K 230,906,429 were not sighted and therefore could not be audited and forty nine journal entries amounting to K 368,557,787 were not verified by the Verifying Officer.

17.72 Of particular concern to this Committee is the fact that the Department of Finance made no attempt to respond to the findings of the Auditor General or to tender any explanation or submission either to the Auditor General or to this Committee.

- 17.73 This Inquiry was conducted in 2008 and by that time, the Department of Finance simply refused to be held accountable by any person or entity including the Auditor General and this senior Permanent Parliamentary Committee.
- 17.74 The Head of the Department, Mr. Gabriel Yer, flatly refused to appear before this Committee and ignored summons when he was served with them. When he did appear and gave solemn undertakings to produce documents – he failed on every occasion to do so.
- 17.75 As we noted in other inquiries, this is effectively a Public Service Department in open revolt against the Constitutional scheme of accountability, the Government of the day, the National Parliament and the citizens of this country.
- 17.76 Gross mishandling of enormous amounts of public money are a blatant feature of this Department and it seemingly acts with immunity and impunity.
- 17.77 We find no improvement in the Department in 2005 – in fact as our inquiry into the Part 1 Reports of the Auditor General (keeping of the Public Accounts) show by 2005 the Department was in a state of advanced administrative decay and refusal to carry out its Constitutional and lawful duties.

CORRECTIONAL INSTITUTIONAL SERVICES

17.78 The Auditor General conducted an Audit of Corrective Institutional Services on a sample basis including examination of revenues, expenditure controls, drawing accounts, procurement and payment procedures, assets advances, training college bank accounts and internal audit together with a review of internal controls.

17.79 In 2004, this Committee found that the performance of the Correctional Institutional Services in their handling of and accountability for public monies was particularly poor. The failures continued in 2005 and, in some cases, worsened.

17.80 The Auditor General finds:

- Weaknesses in the maintenance of the Drawing Account.

The maintenance and control of this drawing account is extremely poor. Cheques in bank statements are not recorded in a cash book, incorrect entries were not investigated, cleared or adjusted, reimbursements totaling K 17,396,845 were not recorded as receipts, unrepresented cheques of K 3.657 million which should have been written back to the Cash Book were not and the Cash Book was overdrawn by a huge K 21,131,772 – and this Department whose expenditure Budget was K 55,342,000 for the year.

- There was non-compliance with procurement and payment procedures and a failure to properly and adequately record losses and deficiencies.
- The questionnaire on losses and deficiencies was not completed or returned to the Auditor General and neither was a questionnaire relating to Trust Accounts.

17.81 Considerable internal weaknesses were again identified as follows:

- Numerous paid vouchers missing from files;
- Requisitions for expenditure forms not verified;
- Bank charges not recorded in the Cash Book;
- Cancelled cheques not reversed in the Cash Book;
- Bank Reconciliation Statements not checked by Senior Officers;
- Alterations made in payment vouchers not initialed by Financial Delegate;
- Assets purchased not recorded in the Asset Register;
- Assets Registers deficient in detail;
- Stocktake of assets not performed;

- Advance Register not updated;
- Inordinate delays in the acquittal of advances;
- Advance acquittal forms were not properly filled, maintained or checked by financial delegate;
- Details of advances issued were not properly recorded in the Advance Register;
- Improper control over journal entries processing;
- Losses and deficiency register not updated;
- Some employees salary history cards not made available;
- Some Contracts of Employment for Senior Officers not made available;
- Some performance assessment payments were not properly supported;
- Accountable form register was not provided to Audit;

17.82 This dire picture was compounded by the fact that the Commissioner made no attempt to explain or answer any of the findings.

- 17.83 Compounding these failures is the fact many of the weaknesses and failings have been recorded by the Auditor General for years, to no avail.
- 17.84 Correctional Institutional Services would appear, on the face of the Auditor General's opinion, to be in a state of serious deterioration at least insofar as its management of public funds is concerned. This is a matter of great concern to this Committee and unless we see a significant improvement when we consider the 2007 Public Accounts we will institute a separate inquiry into Corrective Institutional Services.

INTERNAL REVENUE COMMISSION

- 17.85 If any Government Department could be expected to maintain proper and lawful accounts and records, it would be the Taxation Office.
- 17.86 However, in past years the Auditor General has identified a number of issues which attracted adverse comment and which have not been resolved by or in 2005. These were:
- Undercollection of revenue against the estimates;
 - Dishonoured cheques;
 - Direct Tax collections in arrears;

- Losses through Tax Revenue write offs;
- Losses on Tax Collections;

17.87 In 2005 the Auditor General concludes that the Internal Revenue Commission demonstrated:

- Lack of planning processes and assessment of risks has left the Agency in a position that may not be prepared for sudden changes in the external environment;
- Lack of management control has ensured that the provision of the **Income Tax Act** were not strictly enforced and complied with in relation to collection of outstanding taxes;
- Management of the Debt Management Division does not provide a reasonable assurance that processes are in place to monitor, pursue and promptly collect outstanding taxes in a satisfactory manner;
- An analysis of receipts revealed an increase in gross receipts from direct taxes during the year 2005 over the previous four years but analysis of actual receipts against budget estimates for 2005 showed under-collection of receipts under eight items of the Vote totaling K 48.307 million.
- Analysis of the trend of direct tax arrears revealed an increase in the balance of K 419,861 million in 2001 to a

cumulative balance in the sum of K 955,629 million at the end of 2005.

- Arrears of direct tax also show cumulative errors of K 778,218 million involving 10,695 cases in 2004 to K 855,629 million involving 11,481 cases during the year ended December 2005.

17.87 The Auditor General conducted a reasonably deep and searching Audit of the Taxation Office in 2005 and made the following crucial observations arising from the review of corporate governance within the entity:

- Debtors management is a significant weakness of IRC operation;
- Some Divisions did not have Operational Plans and the Budgetary processes appeared flawed;
- IRC have not formerly undertaken an assessment of risks associated with the collection of tax arrears;
- Management controls have not been adequately pursued to meet the Legislative requirements of the Income Tax Act in relation to recovery of outstanding direct tax arrears;

- The Internal Audit Unit has not been engaged by IRC to assess the effectiveness of the operations of control activities within the Debt Management Division;
- IRC has not utilized collection reporting as provided in the Manual of Procedures to monitor outstanding direct tax arrears.
- Review of operations of debt management revealed no clear performance targets against which a meaningful measure could be made to establish progress of performance.

17.88 The Auditor General also made the following Audit observations arising from systems of debt management:

- IRC has a problem of efficiency and effectiveness in collecting outstanding direct taxes and this is increasing every year.
- IRC has no controls to provide the assurance that it was meeting its legal obligations under the Tax Act.
- IRC had withheld collection reports from Audit which are provided in the Operation Manual.
- IRC has failed to collect K 304,409,210 by simple inaction in failing to invoke Sections 257 and 258 of the ***Income Tax Act.***

17.89 So poor was corporate governance in the control environment that the following facts are evident.

- The IRC has not established a Code of Conduct but uses the Public Service Code of Conduct.
- There was no evidence that the IRC receives Management Reports and Status Reports.
- Outstanding Debtors have “spiralled” out of control by 128% to K 955,628,611 as at the end of 2005. Clearly debt management has not been a strong point of operations.

The Auditor General reports:

“Audit meetings and interviews with junior staff of IRC indicated that there is a significant lack of trust within the IRC on appointment, promotion and selection of staff for training”.

- Operating plans have not been produced by all branches of the Commission and the unavailability of a Corporate Plan means that the IRC was operating without direction.
- The Internal Audit Unit has not been engaged in any periodic assessment of the functions of control units;

- Interviews with IRC staff indicate a lack of information flow of management decisions which affects the morale and performance of staff;
- The information systems for accounting for debts is not a sound and reliable method to measure debts as total debt figures disclosed in a dissection of debts, reports and age of debt reports do not agree.

17.90 This Report is a matter great concern to this Committee. The enormous increase in outstanding tax arrears in five years clearly shows that the IRC does not have capacity or competent and effective administration in the collection of taxes when they fall due.

17.91 The Auditor General makes the following comment:

"The trend in the gross of arrears indicates:

- ***A lack of respect for IRC from taxpayers;***
- ***Inefficient and unhelpful handling of assessment work from IRC; and***
- ***IRC barks but has no teeth".***

17.92 The Auditor General sought assurance from IRC that it had controls and that they were utilised to ensure the role that the Office was implementing Tax Law and debt management

process and other control processes. The Auditor General received no reply.

- 17.93 It is the opinion of this Committee that by 2005 the IRC had failed in its duty to properly and fully enforce the Tax Laws and to collect all the taxes and revenue reasonably available to it.
- 17.94 The Auditor General made very detailed recommendations in his Part 2 Report for the year 2005 and it is the intention of this Committee to revisit the Taxation Office when we consider the 2006 and 2007 Part 2 Reports to ascertain what, if any, improvement has occurred.

THE BUREAU OF CUSTOMS AND EXCISE

- 17.95 Once again, the Committee would be entitled to expect the Bureau of Customs and Excise to be an efficient entity maintaining proper and lawful accounts and records and effective internal controls and management.
- 17.96 Unfortunately, the Report of the Auditor General for the year 2005 shows very significant weaknesses and failures within this Bureau as follows:
- Excess and shortfalls in collection of revenue estimates
 - there was a net shortfall of K 65,039,480 for the year.

- Unreconciled differences in revenue records between IRC Customs and Department of Finance in a sum of K 24,050,332 shortfalls.
- Over-expenditures were absorbed by savings under other Votes;
- The material differences for estimated revenues as per IRC records in a sum of K 80,244,354.
- There was unsatisfactory non-performance in obedience to procurement and payment procedures.
- There were unacquitted advances at the year's end.
- There were significant deficiencies in asset management – as the Asset Register only registered details of assets purchased during 2005 and it was deficient in inventory and assets identification numbers. Moreover, there was no report of an Annual Stocktake.
- The questionnaire concerning Internal Audit procedures and effectiveness was not answered.
- The questionnaire concerning Losses and Deficiencies was not answered.

- Audit findings, observations and recommendations were referred to the Commissioner General but no response had been received by February 2007.

17.97 This situation is not acceptable.

17.98 We intend to revisit the Bureau of Customs and Excise when we consider the 2006 and 2007 Part 2 Reports and if there is no marked improvement, this Committee will conduct an independent dedicated inquiry into both the IRC and Customs to establish precisely the nature and cause of these failures.

DEPARTMENT OF PERSONNEL MANAGEMENT

17.99 The detailed Audit was conducted of the Department of Personnel Management but precisely the same defects and weaknesses as were identified in 2004 continued into 2005 and these are familiar to the Committee from its consideration of all other Departments.

17.100 There were deficiencies in the Drawing Account, irregularities and procurement and payment procedures, weaknesses in advance in management of advances and Assets Management.

17.101 These are simple failings of basic accounting and management procedures and there is no explanation or excuse for them.

- 17.102 Payroll records were not produced to the Auditor General.
- 17.103 The review of 2005 manpower and the register of casual employees were not produced to the Auditor General.
- 17.104 Overtime abuses and missing records were identified and the entire control of salary and wages needs considerable improvement.
- 17.105 There were weaknesses in the management of control of motor vehicles and asset registers.
- 17.106 The summary of the weaknesses in Internal Controls shows a Department which has badly faltered in its compliance with either basic management procedures or accounting according to law. The Auditor General found:
 - 17.107 Non-compliance of procurement and procedures thereby breaching the Finance Management Manual
 - 17.108 A signed list of specimen signatures for financial delegates – not produced to Audit.
 - 17.109 The charging of expenditure to incorrect Vote Items.
 - 17.110 Inadequate maintenance of an advance registers.
 - 17.111 In 2005 the Department simply failed to make any response to the Auditor General as at January 2007.

17.112 Compounding these findings is the fact that identical weaknesses and failings were found in 2004 and for years before that, by the end of 2005 had either not understood the findings of the Auditor General or did not care. There was clearly no improvement and the weaknesses identified in previous years have become entrenched within the Department.

MAGISTERIAL SERVICES

17.113 This Committee expressed some concern in 2004 that the current weaknesses in Management and Accounting within Magisterial Services.

17.114 In 2005 the weaknesses continued and increased in frequency.

17.115 This Committee finds numerous unreconciled items in the Bank Reconciliation statement. This is simple basic accounting and management procedure but still cannot be performed by this service.

17.116 Cash Book/Bank Reconciliations were performed to October 2005 when the Audit was performed in August 2006 – this meant a delay of two months contrary to the Finance Management Manual.

17.117 It is the opinion of this Committee that in 2005 Magisterial Services had completely lost control of their internal

accounting and recording processes and that this matter required urgent and immediate attention – as the Auditor General had been pointing out for years.

- 17.118 Commitment control was equally weak and the Department needed to ensure that its records were reconciled with those of the Department of Finance.
- 17.119 The Auditor General finds considerable weakness in the compliance with procurement and payment procedures as he did in previous years.
- 17.120 There are significant lapses of control of assets and deficiencies in the motor vehicle registers. This had been a fixture of this service for some years and no attempt appears to have been made to rectify it.
- 17.121 As in all other Departments, there were considerable weaknesses and failings and the payment and acquittal of advances and weaknesses in the preparation of journal entries.
- 17.122 Once again the Chief Magistrate failed to respond to the findings of the Auditor General by February 2007 and it is clear to this Committee that the weaknesses and failings found by the Auditor General are beyond the capacity of Magisterial Services to deal with.

17.123 We intend to revisit this entity when we consider the 2006 and 2007 Part 2 Reports.

DEPARTMENT OF ATTORNEY GENERAL

17.124 This Department is a matter of concern to this Committee. We have opened an Inquiry into the Department of Attorney General which we will complete in 2009.

17.125 It is clear to this Committee that from 2004 onwards, the Department gradually disintegrated. Almost every aspect of the Law Offices of Government became seriously derelict for a number of reasons.

17.126 The risk and potential liability to the State as a result of a failure to maintain proper competent and well managed Law Offices is very considerable and we intend to ascertain the exact state of the Department in 2009.

17.127 However, in 2005 the Auditor General conducted a deeper inquiry than he had in previous years. The conclusions drawn by the Auditor General, which are endorsed by this Committee, were as follows:

- The Department's Organisational Structure does not enable adequate monitoring of activities and ensure effective flow of information.

- Environment and attitude to control is conducive to facilitating irregular activities. This is an extraordinary finding for the principal Law Offices of State and we remind the reader that this situation was identified four years ago and we do not believe the situation has improved.
- A lack of planning processes and assessment of risk has left the Agency in a position that it may not be prepared for sudden changes in the external environment and value for money may not be obtained from the procurement process.
- The Department has not addressed and introduced appropriate controls and recording in calculating salaries to ensure that payments and time work is monitored.
- There is a lack of monitoring and evaluation processes which have enabled inefficient and bad business practices to remain unchecked. There is no recording system or management information systems which links inputs, outputs and outcomes.
- Senior Management does not appreciate the importance of defining and the setting performance indicators.
- Procurement should be delegated to one year to enable more effective and consistent processes.

- There are a lack of management information systems in the management of fixed assets, property and vehicles.

17.128 This Committee finds that in 2005:

- The Department had not produced annual reports as it is required to do.
- The Department incurred a net over-expenditure of K 30,126 despite the fact that the original estimate for Budget of K 17.6 million was revised up to K 34.1 million.
- There are significant unreconciled differences between the Department's expenditure ledger and that of the Department of Finance.
- The Department's strategic planning processes did not identify or adopt policies to prescribe how things should be done and prohibited inappropriate behaviour.
- The Department had not undertaken any assessment of risk associated with operational aspects of the Department's function.
- Not all divisions and branches had operational plans.
- Management controls have not been adequately addressed by the Department.

- Management controls have not been adequately pursued by the Department.
- Organisational structure was complex and not adequate to meet the needs of the Department.
- Internal Audit has not functioned and was not involved in a periodic assessment of the functioning of control activities.
- Performance reporting was poor.
- The Department lacked an integrated purpose based financial system and a clear framework for reporting.
- The Department failed to reconcile monthly cashbook/bank reconciliation statements in a timely manner.
- Prudent cash management practices were not pursued.
- There were considerable lapses in controlling payments resulting in advance payments based on proforma invoices.
- There was no procurement plan, no documented list of approved suppliers, no unit responsible for co-ordinating

procurement and no competent authority from a dedicated Section 32 Officer.

- No attendance registers and audit review indicated a lack of work time report.
- Fortnightly payroll payments are actioned without reconciliation of the pay run.
- There is no ledger record to account for payroll and related expenditure.
- There was no form of budgetary process and no proper or updated asset register.
- Procurement of assets totaling K 354, 267 was not registered and the Department did not have a documented policy on the usage, removal and security measures for its assets.
- There was no Internal Audit Committee appointed by the Department.

17.129 This miserable litany of failure will be revisited by this Committee when it conducts an Inquiry into the Department in 2009.

17.130 All the evidence at the present time indicates a Department which has failed to fulfil its obligations and has completely

lost sight of its objectives and is incapable of managing public monies to any degree of competence.

17.131 All this was compounded by the fact that the Acting Secretary of the Department failed to make any reply or response to the Auditor General as at February 2007 and received all the outstanding matters referred to in 2004 and preceding years had not been attended to and/or addressed.

NATIONAL PLANNING OFFICE AND OFFICE OF RURAL DEVELOPMENT

17.132 The Public Accounts Committee conducted a lengthy inquiry into both the Office of the Rural Development and the Department of National Planning & Monitoring in 2006.

17.133 In short, both the Office of Rural Development and the Department of Planning and Monitoring were found to be quite incapable of managing their own internal fiscal affairs and managing development budgets to any degree of competence.

17.134 Detailed recommendations and resolutions were made by the PAC and that Report is available to all Members of the National Parliament.

17.135 However, the Office of the Auditor General made a very deep and detailed examination of the National Planning Office and Office of Rural Development in 2005 and that Report repays

careful study. The Report completely endorses the findings of this Committee in 2006 and in short the Auditor General finds:

- Management's poor attitude to controls, facilitates irregular activities;
- Lack of a planning process and assessment of risks has left the Agency unprepared to meet sudden changes in the external environment.
- The Budgetary process does not follow accepted practices and is not appropriate for Central Agency;
- Lack of monitoring and evaluation processes have enabled irregular activities to flourish and had not detected the poor state of projects managed by the Office of Rural Development.
- Management of procurement does not provide reasonable assurance but processes are in place and adequate to safeguard the assets of the State.

17.136 Both entities were, in fact, in a state of virtual collapse with no apparent purpose and no ability to manage even simple accounting or management processes.

17.137 We have basically recommended that the entire Department of National Planning & Monitoring and Office of Rural

Development be replaced by a competent, highly geared, professionally staffed agency to drive and direct service delivery and national planning.

DEPARTMENT OF LABOUR & INDUSTRIAL RELATIONS

17.138 When this Committee considered a Report on this Department by the Auditor General in the 2004 Part 2 Reports, we recorded a Department with significant problems in managing its own affairs and very considerable problems in properly managing and accounting for its use of public monies.

17.139 There were a number of very serious outstanding matters from the 2004 Audit which, upon the results of our inquiry, have not been addressed at all. Indeed, the 2005 Report of the Auditor General on this Department shows a worsening situation.

17.140 The Auditor General finds the following weaknesses:

- Lapses in recouping of dishonoured cheque receipts;
- Shortfall in receipt collections from 2004 by K 7,092,896 which represented a 56% shortfall in actual collections in a twelve month period. The Auditor reports that this shortfall was due to the creation of a Work Permit Trust Account which was required to retain 50% of fees collected.

- Lapses and irregularities in the administration of the Work Permit Trust Account.

This Department failed to provide the Auditor General with details of all Trust Accounts administered during 2005 and this alone is completely unacceptable. However, when the Auditor General examined documents relating to the Work Permit Trust Account he identified the following matters of concern:

- The Trust Instrument was not complied with in that trust transactions were not registered or processed through the PGAS system contrary to Trust Instrument requirements and the Department did not maintain proper records of receipts and payments.
- Monthly remittances of Cash Book/Bank Reconciliation Statements were not furnished to the Finance Department as required.
- The Expenditure Statements were not furnished to the Finance Department.
- Any estimates of receipts and payments for the years 2005 and 2006 were not provided to the Finance Department.
- There was no apparent Budget approved for the year 2005 for the Trust Account.

- The Trust Account was, prima facie, improperly used to buy firearms for the Secretary, a Ministerial Support Vehicle, a vehicle for the Deputy Secretary, a van for Correctional Services, computers, office equipment and photocopier. In all, K 304, 682 was expended from the Trust Account for this purpose. Why the Secretary of the Department would require a firearm and why the public should pay for it is a matter which this Committee does understand. Why it should be paid for from a Work Permit Trust Account is a matter that we do not understand but we intend to refer to the Fraud Squad.
- There was no policy or procedure to manage the Trust Account which has left those funds open for abuse – which is precisely what occurred.
- Non Trust Fees were incorrectly deposited into the account.
- Bank fees and charges were not posted to the Cash Book.
- The Cash Book was not accurate and receipts and records were not reconciled.
- There is no effective monitoring control to ensure the completeness of all receipts and payments.

- There were gross and unlawful delays in preparation of monthly reconciliation statements.
- Reconciled Cash Book balances do not agree with the Manual Cash Book.
- There was no proper and effective Cash Management Practice administered by the Department.
- The amount remitted to the Account did not represent 50% of receipts collected as it should have done under the Trust Instrument.
- Dishonoured cheques were credited to the Trust Account but there has been no apparent attempt to recover those monies.
- A total of K 130,910 in receipts issued was not accounted for and there were no corresponding banking representing this amount.
- The Department issued duplicate receipts without approval from the Secretary for Finance in breach of paragraph 17, Part 10 of the Finance Management Manual.
- The shortfall in actual banking of collections of K 32,680 and this had not been explained by the Department.

- There were shortfalls in the maintenance of the Drawing Account records;
- There was non-reconciliation of Departmental expenditure records against Department of Finance records.
- There was underspending in three items of the Vote given to the Department by K 2,057,541 and this clearly indicates that the Department may not have the capacity to implement what it has budgeted for and that management failed in its responsibility to ensure that funding provided for activities and projects for which the Department had budgeted or actually carried out and implemented.
- Procurement and payment procedures were breached and there was inadequate control over advances, personal emoluments and fixed assets.

17.141 Compounding this list of failures was the fact that the Department made no response, excuse, submission or explanation to the Auditor General at the time of the writing of the Part 2 Report in February 2007.

17.142 The Department of Labour and Industrial Relations was, by 2005, incapable of maintaining even basic accounting records in many areas of its endeavours.

17.143 Its management of Trust Accounts and its failure to provide documents and records to the Auditor General was not only unlawful but is a matter of very profound concern to this Committee representing, as it does, the general collapse of accounting across the entirety of Government.

DEPARTMENT OF PROVINCIAL AND LOCAL LEVEL GOVERNMENT AFFAIRS

17.144 In 2004 this Committee found that the performance of this Department was particularly poor. Almost every aspect of lawful accounting for the use of public monies was not effected by the Department and outstanding matters from a number of previous years have not been addressed or even understood.

17.145 In 2005, the Auditor General conducted a particularly searching Audit of this Department. He found:

- Deficiencies in the maintenance of the Drawing Account;
- Lapses in commitment controls;
- Non-compliance with procurement and payment procedures;
- Weakness in the payment of salaries;
- Weakness in the maintenance of advances records;

- Contracts;
- Weaknesses in asset control;
- Journal entries not properly or adequately maintained;
- Losses and deficiencies are not recorded properly or at all;
- Significant weaknesses in internal control.

17.146 We can record that in 2005 the Department did at least respond to the findings of the Auditor General with general assurances that processes were being developed to improve performance of the Department and this Committee can only record that those changes and reforms were long overdue.

17.147 We intend to give particular scrutiny to this Department when we consider the 2006 and 2007 Part 2 Reports of the Auditor General to ascertain whether there has indeed been any improvement in a very poor performance.

OFFICE OF HIGHER EDUCATION AND DEPARTMENT OF EDUCATION

17.148 Both these entities in 2004 demonstrated considerable weakness and failures in management of their Budgets and accounting for the use of public monies.

17.149 This Committee has opened an Inquiry into the Department of Education which it intends to hold in late 2009 with a view to ascertain precisely the state of this Department and its current inability to manage either its own affairs or its Departmental Budget and Statutory obligations.

17.150 In 2005 exactly the same findings as 2004 were made together with other identified weaknesses and failures which have not been recorded in 2004.

17.151 The Auditor General finds:

- Shortfalls in revenue collection;
- Non-maintenance of a drawing account characterised by an arrears of reconciliation;
- Inadequate recording and incomplete recording;
- Incomplete recording in Cash Books prior to the preparation of bank reconciliation and unrepresented cheques totaling K 12,372,680 not included in bank reconciliation records.

These matters demonstrate a lack of attention to basic management and accounting requirements which any competent clerk can perform.

- Witnesses in commitment control;

- School fees subsidies reports not furnished to the Auditor;
- Discrepancies in Consultancy payments;
- Failure to comply with procurement and payment procedures;
- Weaknesses in the maintenance of asset registers;
- Lack of control over payment and acquittal of advances and weaknesses in the management of journal entry records.

17.152 These simple basic procedures are not obeyed or carried out by virtually any Department or Agency of Government and the Department of Education is no exception.

17.153 These are not onerous or difficult tasks to perform and this Committee intends to ascertain exactly why the Department of Education has failed for years to do so.

DEPARTMENT OF HEALTH

17.154 This section of the Part 2 Report of the Auditor General is of particular concern to the Committee as there appears to be absolutely no attempt whatsoever to address shortfalls and failures identified in 2004.

- 17.155 The Report of the Auditor General for 2005 is virtually a repeat of that for the previous year except that the weaknesses and failures appear to have compounded and the amounts involved and the frequency of failure to have increased thereby.
- 17.156 We do not see the need to repeat every individual failure as they can be found in our 2004 Report. However, this Committee has opened an Inquiry into the Department of Health and we intend to ascertain exactly why the Department has reached a state of failure that in 2005 and its current status in 2009.
- 17.157 In 2005 we can summarise the situation as follows:
- Non-maintenance of subsidiary registers;
 - Inordinate delay in the preparation of monthly bank reconciliations;
 - Bank account overdrawn without appropriate authorities;
 - Cancelled and wrong cheques presented for payment;
 - Non-availability of expenditure records and documents.
 - Alterations noted on requisition forms;

- Cash advances were made to officers in unlawful circumstances;
- Lease agreements were not on file or produced.
- There was no segregation of duties and preparation and pasting of journal entries into the computer.
- There was failure to comply with procurement and payment procedures.

17.158 Compounding all of these failures with a fact that the Department once again completely failed to make any response to the Auditor General and it is proper to conclude that the Secretary either does not care or is incapable of understanding the seriousness of the situation.

DEPARTMENT OF ENVIRONMENT & CONSERVATION

17.159 In 2004 this Committee concluded that this Department deliberately and intentionally refused to assist or cooperate with the Office of the Auditor General and was derelict in almost every aspect of its duty to properly and lawfully account for its use of public monies.

17.160 In 2005 there was no improvement that we could identify. Outstanding matters from previous Audit had not been addressed as follows:

- Payment and procurement procedures were not adhered to;
- Trust Account records were still not maintained;
- **Financial Instructions** relating to payments and record keeping of advances was not adhered to resulting in huge outstanding amounts of advances.
- Lack of proper record keeping, management and safe custody of assets.

17.161 In 2005 the Auditor General found:

- Deficiencies in revenue collection and record keeping.
- Discrepancies in the management of drawing accounts;
- Weaknesses in budgetary controls;
- Deficiencies in the management of advances;
- Weaknesses in Asset controls.
- Weaknesses in the management of Trust Accounts was a matter of particular concern because the Department simply failed to produce any trust records at all to the Auditor.

This is the second year in a row that this attitude has been exhibited and it is not satisfactory. This Committee intends to refer the Head of the Department and responsible officers for investigation and prosecution for this failure:

- Inadequate control in raising of journal entries;
- Losses and deficiencies – a questionnaire was given to Management at the commencement of the Audit but was not responded to or delivered to the Auditor.

This is a totally an unsatisfactory situation and this Committee intends to refer the Head of Department and his responsible officers for investigation and possible prosecution for this failure.

- Internal Audit Unit – a questionnaire on the appraisal of the Internal Audit Unit was given to Management at the commencement of the Audit but was not responded to.

17.162 Increasingly, this Committee sees blatant, defiant refusal by Heads of Department and accountable Officers to co-operate with or assist either the Auditor General or this Committee and this attitude cannot be tolerated.

17.163 All these persons are required to give full and timely cooperation and assistance when it is requested and we intend to ensure that this occurs.

17.164 The state of collapse of this Department may be summarised in the following findings:

- Unreconciled differences of revenue figures between Department and Department of Finance records.
- Book Fast Copies of Official Receipts not produced to Audit;
- The Expenditure exceeded authorised funds;
- Distribution of allocated funds not supported by Cash Fund Certificates;
- Unbudgeted expenditure charged to incorrect expenditure vote items.
- Required quotations were not provided to Auditor;
- Double payment of travel cash advance;
- Lack of proper documentation of payments;
- Payments made without authorised financial delegates approval;
- Total breakdown of proper management of payment recording usage and acquittal of advance;

- Total breakdown of proper management of all forms of assets;
- Breaching the Central Supply & Tender Board instruction on disposal and purchase of motor vehicles;
- Lack of proper management of trust accounts;
- Lack of proper knowledge and understanding of the significance of the use of journal entry.

17.165 As would be expected, the Department made no attempt to reply or respond to the findings of the Auditor General.

DEPARTMENT OF AGRICULTRE AND LIVESTOCK

17.166 The Department of Agriculture and Livestock is a fundamentally important Department responsible for management of all aspects of agriculture at every level of Government.

17.167 In 2005 a full and detailed Audit was carried out by the Auditor General and significant weaknesses and failures were identified – as they were in 2004. There had been no apparent attempt to improve or address weaknesses and failures found in 2004 – which were considerable.

17.168 This Committee finds that in 2005 the Department of Agriculture and Livestock continued in its failed form and is

virtually incapable of managing any of its internal affairs or accounting for public monies in a lawful and proper manner.

17.169 The findings were as follows:

- Discrepancies in the Consolidated Revenue figures for the Department and that of the Department of Finance;
- Discrepancies in the management of the Drawing Account. This is a matter of particular concern. Bank reconciliations for December 2004 showed numerous errors some dating back as far as **1996** which still need to be investigated cleared and adjusted.
- Weaknesses in Budget and commitment controls.
- A complete inability to comply with procurement and payment procedures.
- Deficiencies in the management of payment and acquittal of advances.
- Weaknesses in the safekeeping and maintenance of assets. This is a matter of great concern as the Department of Agriculture owns a very large amount of property and assets throughout the country.
- Weaknesses in the management of Trust Accounts.

- Inadequate control in the raising of journal entries.
- Very considerable weaknesses in the internal control systems were found by the Auditor General (as they were in 2004) and all outstanding matters from previous Audits had not been addressed.

17.170 Once again, it should surprise no one that the Department made no response to any of the findings of the Auditor General.

DEPARTMENT OF PETROLEUM AND ENERGY

17.171 This Committee has opened an Inquiry into the Department of Petroleum and Energy and we will complete that Inquiry in mid 2009 – with a Report being made to the National Parliament shortly thereafter.

DEPARTMENT OF LANDS & PHYSICAL PLANNING

17.172 This Committee has tabled to the Parliament a very detailed Report on the Department of Lands & Physical Planning in 2005.

17.173 That Report was highly critical of management of almost every aspect of this Department and we commend that Report and our Recommendations and Resolutions to the National Parliament.

17.174 In 2005 the true state of the Department became even clearer when the Auditor General conducted a searching Audit and produced a scathing Report.

17.175 Salient among the findings were:

- Audit of collection and banking procedures reveal that receipts collected and banked were not remitted to the Finance Cashier Branch on a regular basis. The total of K 18,127,789 was remitted to that Branch in April 2006. The total of K 14,745 was not accounted for at all and a Collector Statement was not made available to the Auditor.
- Outstanding Lease Rentals as at the 31st December 2005 were K 92,323,178. The database was completely inadequate and total of K 5,578,573 could not be collected because there were no addresses of Lease Title Holders on that database.

17.176 The Auditor General made the following comment:

"My Office is concerned that the rate of recovery of land lease rental in preceding years has not improved at all. It is therefore appropriate to conclude the Department has failed in performing that function effectively".

a conclusion with which we agree.

17.177 The Auditor General examined land title administration which was a matter of great concern to this Committee in its Inquiry into this Department. The following findings were made:

- A cross check with files containing original source documents against the computer database records revealed the details of Land Title Holders were not in agreement with both records. Details of actual land title holders were not entered into the LAGIS System by the Department and this discrepancy was corrected when the matter was brought to the attention of the Department.
- There were inordinate delays in the updating of the database system ranging from four months to four and a half years. These delays opened the following risks:
 - That appropriate Title Transfers have not been recorded plus the Title is still under the original/previous owner – for example the National Housing Corporation is still shown as owning hundreds of properties which it should properly have transferred.
 - Billing is not done promptly and to the correct tenants and revenue is not therefore collected.

- The prevalence of a high risk of fraud, loss and tampering of both the hard Titles and distorting of information on the on-line system.
- The latest holder of the Title is not recorded in the LAGIS System;
- Titles having more than one owner;
- The discharge of a mortgage recorded on the hard copy of the Title, is not recorded on the on-line system;

17.178 Physical verification of the basement of the Aopi Centre Building was conducted. The Auditor General makes the following report:

"The basement was in an alarming state, it almost resembles a rubbish dump rather than a storage room for important documents to be kept. The Hard Files were noted to be lying all over the floor covered with dust and cobwebs. There were instances noted where certain files were rotting away.

The odour of the area was intolerable. The area is prone to fire, flooding and outbreak of serious respiratory illness since no ventilation has been installed. No fire extinguisher was sighted. The Hard Files are prone to be destroyed by fires and

flooding in the absence of a strong room being utilised in the storage area”.

- 17.179 State Titles are a valuable asset. As we found in our Report to the National Parliament the Department had been completely derelict in its duty and did not appear to care less whether the documents were secured or even in existence.
- 17.180 The Department of Lands had, by 2005, become a real estate agent for private individuals and is quite prepared to conduct itself improperly to obtain land in Papua New Guinea.
- 17.181 The Department has utterly lost sight of its role and had clearly no understanding of its crucial importance to nation building and development.
- 17.182 Corrupt dealings, fraud, illegality, incompetence and mismanagement characterise the operation of this Department and we note that in 2009 the same Officers are still managing the Department.
- 17.183 It is our recommendation that this Department should be either completely de-gazetted or rebuilt. Sweeping reforms need to be made beginning with a removal from the power of the Department the ability to issue State Leases on any basis at all until systems of accountability are implemented.
- 17.184 A specialised, trained, expert and honest agency must be vested with the responsibility of managing land issues in our

country and we once again refer the National Parliament to the Report of this Committee in 2006.

DEPARTMENT OF MINING AND DEPARTMENT OF TRANSPORT

- 17.185 Both these Departments exhibited precisely the same failures in accounting and managing public monies as every other Department in the Part 2 Report.
- 17.186 Significant deficiencies in commitment control, salary management, advance management, asset management, motor vehicle management, trust account management, internal audit and internal controls had existed for years and both Departments showed a marked reluctance to co-operate with or respond to findings of the Auditor General.
- 17.187 Both these Departments require immediate and sweeping reform beginning with the removal of Senior Management and replacement by competent and independent individuals capable of understanding the requirements of the ***Public Finances (Management) Act 1995*** and the ***Financial Instructions*** and capable of implementing and maintaining what amount to simple systems of accounting.

DEPARTMENT OF COMMERCE AND INDUSTRY

- 17.188 This Department is intended to encourage the expansion of industry and commerce by promoting internal and external trade, generating employment and the participation of Nationals, establishing standards and monitoring

performance. It has a relatively modest Budget and the maintaining of the accounting systems and the submission and provision of lawful accounts should not be a difficult exercise.

17.189 However, this Department has failed for years to conduct its fiscal affairs in a lawful and proper manner and has failed to cooperate with the Auditor General to the extent where despite serious findings of misconduct in 2004 and 2005 the Department simply refused to make any response to the Auditor General at all.

17.190 In 2005 the following findings were made by the Auditor General and they are endorsed by this Committee:

- Non-preparation of monthly bank reconciliation statements;
- High turnover of fraudulent cheques cleared at the bank, and a significant number of cheques cancelled and misprinted.
- The Bank reconciliations were sixteen months in arrears as at May 2006 and the Bank Reconciliation statements contained a list of fraudulent and missing cheques which we have not seen in any other Department.

The first fraudulent cheque was cashed on the 3rd July 1998 and the last on the 17th August 2004.

- Management were completely inactive in conducting any investigations or reconciliations into these fraudulent cheques.
- A total of 126 Cheques were cancelled during the year while 123 cheques were misprinted. Numerous cancelled cheques and misprinted cheques were not provided to the Auditor and this Committee finds that that failure was intentional and deliberate for reasons which cannot be known. The Auditor General made an uncharacteristically blunt finding as follows:

"The Management's lack of concern in addressing these defects since 1998 is of serious concern to my Office. Further, I am unable to confirm that all the monies expended have been effectively accounted as expenditure.

Further, the above matters only demonstrate the lack of attention by those who perform the accounting functions and responsibilities. These matters have been raised in my previous Audit Reports however it appears no corrective actions had been taken".

- Weaknesses and irregularities in commitment and budgetary control procedures.

- The Department failed to ensure that ledger records reconciled with the ledger records of the Department of Finance or that details of expenditure payments such as salaries were posted to ledger records;
- Non-compliance with procurement and payment procedures;
- Weaknesses in the operation of Trust Accounts characterised by a refusal to produce trust records to the Auditor General. Such records as were available reveal substantial amounts of money moved in and out of Trust Accounts with no records and no ability to trace the recipients of the money.

17.191 This Committee concludes that three Trust Accounts were operated without legal Trust Instruments from the appropriate Government Departments, for purposes which are obscure and therefore the operation of such Trust Accounts were illegal. We intend to make referrals of the Head of the Department in respect of this conduct:

- Lapses in Payroll Administration and lack of control over casual employees, inadequate control over payment and acquittal of advances and shortcomings in the maintenance of asset registers.
- Lack of controls in the passing of journal entries.

- No internal audit function and;
- Weakness in internal controls.

17.192 In 2005, this Department was incapable of producing virtually any lawful accounts or of properly and lawfully managing public monies under its control. Most worryingly, the Department intentionally refused to cooperate with the Auditor General and we intend to revisit this Department when we consider the 2006 and 2007 Part 2 Reports of the Auditor General.

ELECTORAL COMMISSION AND DEPARTMENT OF POLICE

17.193 Both of these entities were the subject of considerable adverse finding by the Auditor General in 2004 and those findings were almost exactly mirrored in the 2005 Audits. We intend to consider these entities when we open inquiries into the 2006 and 2007 Part 2 Reports of the Auditor General.

18 EVIDENCE RECEIVED FROM THE AUDITOR GENERAL AND HEADS OF DEPARTMENT.

18.1 On the 4th December 2007 this Committee sought to learn from the Auditor General why he does not use his coercive powers against Departments or officers who did not cooperate with his Office.

18.2 The transcript records the following exchange:

"Acting Chairman:

You have certain powers to summon, take evidence on oath and summon documents, so have you used these powers in the last five years? If not, then why not?

Mr. George Sulliman – Auditor General:

We have not used these powers. Basically there are two reasons why we have not used them.

Firstly, all departments have failed and if we use these powers it will have severely affected the ones that have been giving us support.

Secondly,when one organization is not ready for us to carry out our audit we then move on to another department because there are so many for us to get done. The time spent on one entity would have resulted in us not producing any audits and therefore no reports.

Thirdly, for the last three years we have not had any legal officers. It was only in July this year that we were able to secure a legal officer."

- 18.3 There is clearly a resourcing problem in the Office of the Auditor General.
- 18.4 This Committee conducted a contemporaneous Inquiry into the financing and resourcing of that Office and we have made a Report to the National Parliament recommending significant increases in funding and manpower.
- 18.5 It is our opinion that the constraints outlined by the Auditor General are a major contributing factor to the failure of fiscal accounting across all Departments.
- 18.6 Further, it is clear to us that the Department of Finance had failed to enforce or to demand the production and submission of statutory records and accounts. When questioned about this issue, the Head of that Department Mr. Gabriel Yer gave no information or answers that assisted the Committee at all.
- 18.7 Therefore, the Committee was forced to seek answers and assistance elsewhere to understand the exact day to day problems faced by Heads of Departments that may have caused this situation to develop.
- 18.8 The Committee wrote to all Departments of Government, Provincial Governments and research and academic institutions seeking contribution to this Inquiry. Specifically, we sought advice and recommendations on practical daily problems in complying with accounting requirements and suggested remedies.

- 18.9 As we have stated, we received little response. However the few answers that we did receive were constructive and of considerable assistance to this Committee.
- 18.10 We conclude that the same shortcomings and problems that have prevented lawful accounting by our correspondents, also exist in Departments and the evidence is directly applicable to the Part Two Report of the Auditor General for the financial year 2004.
- 18.11 From those submissions, the Committee has attempted to identify problems experienced by agencies in their accounting and budget management and which have led to the collapse of public fiscal accountability.
- 18.12 Some of the reasons given were:

The Provincial Administrator of Manus Province:

Day to day problems in compiling and keeping statutory records and accounts:

- Inexperienced Officers unable to properly document incoming and outgoing transactions and explanatory notes and letters which gives rise to authority for transactions to be undertaken;
- Lack of timely reconciliatory information being provided by Provincial Treasuries;

- Poor or unreliable and inaccurate records being maintained in hard copy held by Provincial Division of Finance and Provincial Treasury;
- Restricting access to records held by heads of Provincial Treasuries as some Provincial treasurers have been known to override transactions without leaving traceable evidence which could be examined and compiled for records and examination purposes;
- Records are sometimes deliberately removed or obliterated by staff of Political Officers to make tracing and accountability of transactions virtually impossible. This applies in particular to DSIP funds;
- Lack of security over release of cheques over the counter after they have been processed. This enables cheques to be collected by wrong people which has led to inaccurate or poor record keeping for compilation and audit purposes. It has also led to the ultimate destruction of hard copy records which makes tracing difficult;
- The use of wrong budget lines to transact accounts which has usually led to overdrawing of funds. This has sometimes led to records being deliberately withheld or destroyed to avoid detection.

Resources required to enable the Provincial Government to keep lawful accounts and records:

- The Province needs a properly organized and resourced Audit division. There is only one auditor at present and he is extended because he needs to give guidance on proper fiscal management to the Provincial Administration, 12 LLG's and Provincially owned entities and enterprises and to the public;
- The Province needs at least two more staff for the Audit Unit and they should be specifically assigned to certain Divisions;
- The Province needs resources to undertake six monthly or annual top up training on financial management and proper financial record keeping. These should be undertaken in the Province;
- The Province needs to provide adequate training on a regular basis to our specialized Financial Management Staff and to provide appropriate IT equipment to enable the keeping of electronic and hard copies of transactions for records and examination purposes;
- Manus Province is establishing a Strengthening Provincial Internal Audit Committee in conjunction with the Departments of Treasury, Provincial Affairs and the Office of the Auditor General. Assistance is needed in this endeavour;

- Specialised financial IT equipment is required to link the Provincial treasury with Provincial Administration. This will enable officers of both entities to check and cross check financial transactions on a regular basis so that transactions are kept open and transparent;
- There may be a need for JDBPC records on financial management to be linked with offices of Open Members, Provincial Treasuries and District Managers as the volume of funds handled by these officers has increased substantially over the past two years and this has meant an increase in accountability difficulties.

Has assistance been sought or received from the Department of Finance or any other source to improve accounting systems and performance?

- The Province has sought and received assistance on a regular basis from the Inspection Division of the Department of Finance in Waigani and from the Regional Office in Rabaul;
- However, the Province has sought assistance for manual financial tracking of transactions and has received some assistance but not as fulsome as in other areas possibly because this area would show funding deviated from Provincial Governments by the Department;

- Mentoring and training has been received, but when staff leave this ability is lost.

18.13 The Committee also received helpful information from the Provincial Administrator of Sandaun Province, Mr. Joseph Sungi. The following summary provides corroboration for the information from the Manus Province and shows a clear picture of entrenched problems at this level of Government:

Day to day problems:

- Applying proper procurement procedures and processes;
- Completing finance forms (FF3, FF4, FF10 etc.) correctly and selecting suppliers with reasonable quotes;
- Keeping manual commitment ledgers accurately and keeping records and filing copies of finance forms, invoices, receipts and payment vouchers;
- Lack of registers – mainly asset registers, investment registers, cash advance registers, loan registers and registers of consumables;
- Keeping accurate records of Internal Revenue receipts and issuing reliable and balanced Warrants and Cash Fund Certificates based on revenue receipts;

- Compiling of financial reports and statements which are often unreliable and do not conform to required accounting procedures and standards;
- Conducting daily Bank Reconciliations and Cash Book management.

Resources required to comply with lawful accounting requirements:

- The Province has sufficient resources, equipment, staff numbers and materials to keep accounts and records. However, the Province do not have qualified, trained and skilled manpower and appropriate ongoing training programs to improve staff performance.
- Qualified accountants, Finance Managers, Revenue Accountants and Auditors need to be employed with attractive conditions and incentives to retain them in the public sector.
- The Province has received assistance from the Department of Finance and has been forced to seek assistance from Waigani to clear a backlog of Bank Reconciliations and Cash Books because the Provincial and District Treasuries cannot perform this function.

18.14 The Committee believes that those two replies contain very important confirmatory information. The problems and

failures at micro level have been candidly identified and they correlate precisely with the identified failures in the Part 1 Report of the Auditor General for 2004.

18.15 It should be borne in mind that these submissions record the situation in **2008**.

18.16 This Committee also received oral evidence from Heads of Departments which we had identified as the poorest performers in the area of fiscal accounting.

18.17 Those Heads of Department were asked similar questions as the Provincial Administrators, viz;

1. For how long have you held the position of Secretary of the Department;

2. Have you read the Part I Reports of the Auditor General for the years 2004 and 2005 and the relevant parts of Part 2 Reports of the Auditor General concerning the Department of Community Development?

3. In 2005, why was the Department unable to comply with legal requirements in its performance and accountability for public money – as those failures are outlined by the Auditor General [supra].

- 4. What precise problems contributed to the failings of the Department to comply with the requirements of law in its accounting for public monies?**
- 5. What level of support, training, oversight or assistance does the Department receive from the Department of Finance to assist in complying with requirements of law in its accounting for public monies?**
- 6. In short, why have these failings occurred and what resources, assistance or training does the Department need to restore its ability to keep competent, honest and lawful records?**
- 7. What precise policies and programs have you introduced to ensure an improvement in the performance of the Department?**

- 18.18 The intention was to try to identify proximate causes for the failure of public fiscal accountability in order to assist us in making recommendations for restoring our systems.
- 18.19 The Committee heard from the Heads of the Departments (or their nominee witness) of Finance, Treasury, Community Development, Personnel Management, Education, Agriculture and Livestock, Correctional Services and Lands and Physical Planning.

- 18.20 The evidence received was not particularly helpful or candid (with the exception of Ms. Margaret Elias) and consisted of assurances that each Department had addressed their problems or had plans and projects to rectify past failures.
- 18.21 This Committee has heard this in other Inquiries spanning four years. Clearly there is an inability to admit failure or to address it when it is accepted.
- 18.22 The Auditor General clearly told this Committee that he found no improvement in performance by Departments since 2004 and we do not accept that, other than spasmodic and isolated attempts at reform, there is any overarching drive to address the problems that are so obvious by Government, National Departments, the Executive or any individual Head of Department.
- 18.23 However, the one constant excuse for failure was a lack of trained, competent officers to perform even the simplest reconciliation tasks or to keep and maintain accounting records according to Law and this Committee accepts that this single matter is a very significant explanation for the collapse of fiscal accounting in Government.
- 18.24 Combine this weakness with the absence of control and oversight by the Departmental Heads and/or the Department of Finance, the devolution of accounting functions to agencies unequipped to perform the task and collapse was inevitable.

- 18.25 Indeed, if the performance is as bad as we find, why were accounting functions devolved in the first place?
- 18.26 We can also find that the Department of Finance in recent times seems to be providing some assistance and training – and we intend to explore this matter in later Inquiries to assess the extent and success thereof.
- 18.27 We addressed detailed questions to Mr. Yer, the Secretary for Finance, on this topic but received no reply or information and we are impeded in this Inquiry by that refusal to cooperate.
- 18.28 We are therefore unable to make any conclusion on efforts to restore or rebuild our systems of accounting, except to say that in 2008, we could identify little if any such effort.
- 18.29 If the submissions from the Departments and Provincial Governments are correct, the situation is worse in 2008 than 2004.

19. PART III – ANALYSIS OF THE EVIDENCE

- 19.1 By 2005 there was a serious collapse and accountability for the use of and transactions with public money, property and stores across the entire span of Government.
- 19.2 The Committee has been deeply concerned by the revelations made during and as a result of this Inquiry.

- 19.3 One major question raised by the evidence was – how could the national accounting system have reached such a state of collapse?
- 19.4 The Committee has carefully considered the evidence and we can only conclude that the situation in 2005 represented a failed Executive control over national finances compounded by mala fides in the Officers and Departments controlling and accounting for public funds encouraged and protected by a culture of impunity that has increasingly characterized Governance and society in Papua New Guinea.
- 19.5 We say this because the Executive Government is vested with responsibility to formulate budgets and effective management, control of, and accounting for, the Budget. If this responsibility is met, responsible fiscal management and application can be expected to follow. The Executive has failed in this role for many years and the Public Service have moved into that vacuum and assumed power that it does not have.
- 19.6 Some incidents of this loss of command and control are:
- Overspending by Departments resulting from the inability of the Department of Finance to control public spending – notably in its own Department.
 - Ministers failing to demand Departmental Heads be responsible for transparent and compliant spending of Agency budget allocations;

- Considerable abuse and diversion of public monies that goes undetected and unpunished;
- Since 2005, a large and seemingly uncontrolled increase in the number of Section 32 Officers who are authorized to approve expenditure. This merely increases the pressure points for the application of blandishments, threats and intimidation for payments to be made. Only persons of proven moral and intellectual qualities should hold such designations.
- In and since 2005 there has been a worrying trend to appoint signatories to Trust Accounts who are not Section 32 Officers and could not hold such delegation in any event. There is no obvious concern or attempt to stop these illegal appointments.
- There is a real lack of qualified Finance Officers in every Department and agency, but particularly in the agencies that expend money;
- Low managerial capability and commitment resulting in declining service delivery;
- No critical analysis of managerial capacity across all agencies;
- Poor or non-existent procurement practices delivering poor value for money and quality procurement for Government;

- No action by top management on external or internal recommended changes, reforms or restructuring or on reported irregularities;
- Inadequate or no information and communication technology or infrastructure. For example, current payroll and PGAS budget management systems are not capable of preventing invalid budget codes from being attached to payroll variation advices, purchase orders or payment vouchers. This situation has prevailed for years;
- No regular or recurrent monitoring and review of budget implementation, together with timely corrective action;
- Low level of staff competency, performance and risk management failures;
- Physical separation of staff around PNG;
- Language barriers;
- Ability to hide malpractice and minimal risk of detection and less of prosecution or punishment;
- Failed lines of control and accountability horizontally and vertically across all of Government.

19.7 Every Department of Government had shown serious weaknesses and flaws in fiscal accounting for some years and

the situation worsened in 2005 when the Auditor General conducted more searching and deeper Audits than in 2004.

- 19.8 Further, the failure to keep adequate, proper, lawful and complete accounts and records of fiscal, money – and in particular of Trust Accounts – has become systemic and systematic in Government Departments and this has had a number of effects.
- 19.9 First, the Executive has completely lost control of the Public Service and of its handling of public monies.
- 19.10 Secondly, development and service delivery suffered as a result of the collapse of accountability and record keeping.
- 19.11 Thirdly, how can Government budget, plan deliver services or development, fix currency or carry out any functions of Government towards its citizens in the absence of proper, lawful and reliable accounts and records?
- 19.12 Fourthly, there has been a shift in Constitutional power from the Executive in the National Parliament to unelected and unrepresentative public servants who exercise power that they were never intended to have but which they have arrogated to themselves. The National Parliament and the Executive have allowed this to happen and have taken no steps to bring these officers under control.
- 19.13 The Executive has completely lost control of its accountability for the Management of Public Funds. Parliamentary appropriations are ignored, the rule of law is intentionally

supported and officers mishandle, misappropriate and misapply public funds as a matter of course free of any risk of detection or punishment.

- 19.14 Fifthly, the Management of the Trust Accounts both bank and non-bank and Royalty Trust Accounts has become an incidence of governance and is manifested clearly in the appalling abuses of Suspense Trust Account No. 2 by the Department of Finance in 2005.
- 19.15 Sixthly, this has led to a failure of Service and Development delivery and a brief patrol of the duties of the Public Service towards the citizens of this Country and towards the Government which employs them jointly.
- 19.16 Recommendations of the Auditor General and this Committee are ignored and that has developed a culture of impunity for those who mishandle and misuse public monies. This means, in fact, that there is a complete collapse of the rule of law insofar as Government financial accounting is concerned.
- 19.17 The Committee closely questioned the Secretary for Finance and the Secretary for Treasury to try and ascertain exactly how this collapse had occurred and what had been done about it.
- 19.18 Those two senior accountable Officers to Government completely ignored this Committee and intentionally refused to co-operate or provide documents, information or records when called upon to do so.

- 19.19 Nowhere is the arrogant and contemptuous disregard of the rule of law by Public Servants better illustrated than this behavior.
- 19.20 Both these Officers are Head of Departments which are directly concerned with the management of Public Funds and the application of monies in accordance with the directive of Government.
- 19.21 The Department of Finance in particular has misconduct itself for years and by 2005 had become a corrupt and corrupting influence in the management of public monies in Papua New Guinea.
- 19.22 Not one single National Department complies with all the requirements of the **Public Finances (Management) Act 1995** or the **Financial Instructions** and many conduct their affairs in breach of those Acts and the **Constitution**. Many of these Departments do not obey any of those requirements.
- 19.23 More worryingly, there is a very clear and concerted practice of blatantly ignoring the Auditor General and the legal obligations of Public Servants towards that Constitutional Office.
- 19.24 Further, this Committee has detected in the last four years a very clear pattern of avoidance of Audit by the simply expedient of not producing Financial Statements or records in accordance with law.

- 19.25 The Auditor General is under-funded and under-resourced and also seemed strangely hesitant to use the coercive and prosecutorial powers vested in it by the **Audit Act 1986** – at least until the Auditor General explained that failure to the Committee – See Page 127 of this Report.
- 19.26 After close questioning of the Heads of Departments we have no clear understanding why this has occurred but do find that lack of training and experienced personnel is a significant contributor.
- 19.27 However, this does not explain what is obviously an intentional and planned overriding of lawful and of legal requirements by senior (and not so senior) Public Servants.
- 19.28 We remind this Parliament that the Auditor General found very large misappropriation and financial mishandling by the Department of Finance in respect of Trust Suspense Account No. 2 in 2005 characterised and achieved by intentional and deliberate overriding of controls by Management.
- 19.29 We conclude that the gradual decline in accounting standards has been hastened by the devolvement of accounting functions to line Departments who are utterly incapable of meeting their requirements.
- 19.30 This has led to continuing failure which has been accepted as a norm. This failure has led to a veil of secrecy behind which fiscal misappropriation, mishandling, theft and fraud and corruption have flourished.

- 19.31 The situation in 2005 was bad enough but we conclude that things have got worse since that time.
- 19.32 If, in 2008, the Department of Finance could flatly refuse to assist or co-operate, explain or provide any records or documents to a senior Permanent Committee of this National Parliament, all Members has a very serious problem to deal with.
- 19.33 It can properly be said that certain parts of the Public Service are in open revolt against Government and the Constitutional scheme of accounting and financial handling and this must be dealt with immediately and by any means lawfully available.
- 19.34 We also conclude that many of the Senior Public Servants including many Heads of Department are political appointees who owe their positions to political patronage and repay that patronage when they are required to do so.
- 19.35 Clearly the evidence from Mrs. Margaret Elias showed that the NEC had political interference in the appointment of Senior Officers was a major problem but even so, we are entitled to assume that Heads of Department and Senior Officers of this Public Service are the brightest and the best of our citizens.
- 19.36 Regrettably, the evidence clearly shows that many do not exhibit the intellectual or ethical qualities required by the positions they hold – in particular by Trustees and signatories of Trust Accounts.

- 19.37 All this would be bad enough if the country had seen development and service delivery as it is entitled to expect. But it has not.
- 19.38 Huge sums of money from at least 2000 onwards were diverted from their appropriated purposes and used at the seemingly unfettered discretion of Public Servants for purposes of their own devising or on unproductive, unrecorded and unapproved ways.
- 19.39 By any measure of social indicators, this country has not progressed as it should despite the fact that the Government generally appropriates money in a responsible and well intentioned way.
- 19.40 The conduit which turns policy interaction and appropriated monies into the results has become corrupted and congested by incompetence, intentional illegality and failed systems of account or record.
- 19.41 Even this would not be so bad where there any risk of detection or punishment. For years there has been no risk of this at all.
- 19.42 There has developed a culture of impunity against and behind which Public Servants have accessed and used public monies in unauthorized ways and in huge amounts.
- 19.43 This misuse of public monies no longer involves small amounts but hundreds of millions of kina every year are diverted in this way from their intended purpose. We direct

Members to our Report on the keeping of the Public Accounts for the financial year 2005 where even Appropriation Acts were ignored.

- 19.44 The extent of that impunity can be seen by the complete inaction on the part of the National Parliament and every Law Enforcement Agency and every Government Agency toward recommendations and findings of the Auditor General and of this Committee for the last four years.
- 19.45 No prosecutions or investigations are made and there is clearly a lack of will and/or intellectual capacity to understand the seriousness and the ultimate effect of continued unlawful conduct.
- 19.46 We have said in the past the failure to deliver service and development is a breach of the contract between governed and the Government. This can only make a marginalized, impoverished citizenry become more frustrated as the years pass.
- 19.47 This Committee now intends to make certain recommendations arising from this Inquiry and urge the National Parliament to accept that these are matters of first National importance.

20. RECOMMENDATIONS.

- 20.1 This Committee has been significantly impeded in its formulation and presentation of recommendations to the National Parliament by the refusal of the Department of

Finance and the Department of Treasury to assist the Committee during this Inquiry.

- 20.2 These Departments are, we believe, the repositories of expertise and advice for Government on fiscal management and accounting and we sought that expert assistance to make practical and achievable recommendations for reform.
- 20.3 Despite this attitude, we have attempted to deliver such meaningful and constructive recommendations as we can.
- 20.4 This Committee recommends that:
1. The Government accept this Report, debate same and immediately begin the process of reform and the reestablishment of the Constitutional fiscal scheme.
 2. The findings and resolutions of the Committee, to be effective, need to be actioned by the Government, without delay.
 3. The National Parliament immediately move to rectify the collapse of accountability for the use and application of public monies by the Public Service.
 4. The National Parliament immediately reassert the Constitutional system of fiscal management by the Executive.

5. The National Parliament immediately reestablish and enforce the Constitutional power which is the sole province of the Executive.
6. The National Parliament immediately bring the Department of Finance under control and enforce accountability in that Department for fiscal management.
7. The National Parliament re-establish the political and social contract with the citizens of Papua New Guinea and bring the application of appropriated monies under control for the benefit and betterment of the people of Papua New Guinea.
8. The National Parliament of Papua New Guinea accept that the Public Service has failed to lawfully and properly manage, apply and account for public monies, for years.
9. The National Parliament accept that it has failed to enforce and demand lawful and proper fiscal accountability for the use of and transactions with public monies, property and stores, for years. It has failed to understand or fulfil its Constitutional duty in this regard.
10. The National Parliament recognize that the result of this failure has been to cede fiscal power to unelected and unaccountable officers of the Public Service.
11. The National Parliament accept that this failure has resulted in the development and protection of significant abuses of public monies by the very persons charged with

lawfully managing and applying public monies to the betterment of our country.

12. The National Parliament accept that this failure has resulted in deteriorating services to our people and a failed system of delivering development to our citizens.
13. The National Parliament accept that the Department of Finance had, by 2005, arrogated to itself power over the use and application of public monies, often in open defiance of Appropriation and Government policy and directive.
14. The National Parliament accept that it is the only entity that can remedy or rectify the collapse of fiscal management and administration,
15. The National Parliament accept that by 2008, the agencies responsible for fiscal management and which were required to be accountable to Government and the Parliament for their performance, refused to cooperate with this Parliamentary Committee and refused to respond when called to account for past performance. In short, the Departments of Finance and Treasury intentionally refused to render account or assistance to this Parliament in many instances, to the Auditor General.
16. The National Parliament accept that the Public Service, by 2005, were without control or oversight in their fiscal management and acted with impunity and immunity in their handling of public monies.

17. The National Parliament accept that the National Departments responsible for fiscal management, by 2005, acted just as they wished in respect of public monies and, in many instances, in direct defiance of Law, Constitutional requirements and Government policy and appropriation.
18. The National Parliament accept that, by 2005, there had developed a culture of impunity for Public servants in their dealings with and application of public monies such that the Accounts of the Government of Papua New Guinea were rendered unreliable (at best).
19. The National Parliament accept that there was, by 2005 and is now, a collapse of law enforcement in the application of, or obedience to, the **Public Finances (Management) Act 1995** and every other dictate of Law relating to fiscal accountability across the entire span of Government.
20. The National Parliament accept that, by 2005 and continuing to the present, not one Department of Government can, will or is capable of complying with all lawful requirements of fiscal accounting. Many could not comply with virtually any requirement.
21. The National Parliament accept that this collapse of accountability is so complete that almost no Department could by 2005, or can now, reconcile or account for its own internal financing – much less deal with or apply development or service orientated Appropriations.

22. The National Parliament accept that Government policies, directives, appropriations and funding for service delivery and development are diverted, misappropriated, mishandled or not applied and that there was not in 2005, (or 2008), any competent, lawful or proper accounting or record of the application of money for these purposes.
23. The National Parliament accept that there is a direct correlation between the collapse of public fiscal accountability and failure of service delivery.
24. The National Parliament accept that the failure of service and development delivery will, and has already, resulted in significant social unrest. In other words, the loss of Parliamentary power and fiscal control, and thereby policy implementation, has created an increasingly angry, impoverished and disillusioned citizenry.
25. The National Parliament accept that the collapse of public fiscal accountability is a failure of Government and a failure of the National Parliament and Executive to understand or fulfill its Constitutional role.
26. The National Parliament must accept that this collapsed system cannot continue.
27. The National Parliament must accept that there is no more urgent issue of national importance than the collapse of fiscal accountability and the attendant collapse of law enforcement that has allowed this to occur.

28. Government should seek assistance and expertise wherever it can to replace failed individuals, failed systems and intentional refusal by Officers of the Public Service to act properly and lawfully.
29. There is no detectable will or ability in the Public Service – particularly in the Department of Finance – to change or reform. If there was, the Department of Finance would have told this Committee. The huge amounts of money misappropriated in that Department in 2004 and into 2005, clearly displaced any ability or wish to change or to comply with the duties imposed on that Department.

Indeed, the Department had, by 2005, abandoned any pretence of lawful conduct in many areas of its operations and had abandoned its true role for the conduct of private business funded by public monies. This Committee defies that Department to justify or explain the misuse of Trust Fund Suspense Account Number 2.

30. The Department of Finance must be brought under control and be made accountable. The Department could not and cannot control public spending or fulfill even basic accounting tasks. Government should seriously consider degazetting the Department and replacing it with a specialised accounting and fiscal agency to guide and implement development and service delivery budgets.
31. Power to expend monies be removed in whole or in part from the Department of Finance pending restructuring of that Department.

32. A new and specialized agency is required to control, approve and account for the expenditure of public monies. If necessary, that agency should be recruited from private enterprise and/or from overseas if the necessary expertise cannot be sourced in Papua New Guinea.
33. Decentralised accounting has failed. No Department of Government has the expertise or capability to account for the use of or transactions with public monies. Either the devolution is revoked and made the task of a specialised and effective independent agency or a very significant training and oversight effort must be injected into public accountability at every level of Government right down to LLG, District and Board level – and even then, we doubt that decentralized accounting can succeed.
34. The number of Section 32 Officers be strictly circumscribed and that delegation to expend public monies must be restricted to officers with a proven record of honesty and who are trained and experienced.
35. Ministers must assume responsibility for transparent accounting by their Departments and not acquiesce in the current failed system.
36. The culture of impunity attending failure and malpractice in our Public Service should be addressed immediately. There is no fear of detection or sanction for fiscal mishandling – and there must be.

37. Senior management has failed to enforce standards of accounting required by Law and no analysis of capability has ever been conducted – this must change.
38. The **Public Finances (Management) Act 1995** and **Financial Instructions** be updated and modernized.
39. The **Audit Act 1989** be updated and modernized.
40. The Public Accounts Committee draft Bill be enacted to modernize and empower the PAC.
41. Executive power must be reasserted over fiscal management and power over and accountability for expenditure reclaimed by the Executive.
42. Ongoing training and supervision of accounting staff must be implemented and maintained at all levels of Government.
43. Departments and agencies that fail to make statutory records or accounts should be penalized by a reduction of funding or removal and replacement of failed staff and management. There should be zero tolerance for failure or refusal to comply with the requirements of the **Public Finances (Management) Act 1995**.
44. Inadequate IT systems need urgent attention and rectification. The fact that PGAS budget management systems cannot prevent invalid budget codes is totally unacceptable. The fact that PGAS and TMS cannot communicate is not acceptable.

45. Qualified Finance Officers only should be deployed in self accounting agencies and constantly controlled and overseen. Ready assistance and advice should be available to these Officers if it is required.
46. No agency should be designated as self accounting unless strict prerequisites are met. Departments and agencies considered by this Committee were bad enough when they were not self accounting, but since gaining this status, they have failed completely to keep even basic accounts or records.
47. The oversight and monitoring agencies should be properly and fully funded. The Office of the Auditor General is simply unable to meet its mandate due to lack of resources and this is not acceptable – or lawful.

21. RESOLUTIONS OF THE COMMITTEE

- 21.1 The following Resolutions were made unanimously by the Public Accounts Committee:
 2. This Report is accepted as the Report of the Committee.
 3. The title of the Report is approved in the form:

"INQUIRY INTO THE PART TWO REPORT OF THE OFFICE OF THE AUDITOR GENERAL FOR THE FINANCIAL YEAR 2005."

4. The Schedules to the Report are approved.
5. There is no dissenting Report.
6. The Committee will make this Report to Parliament under Section 86 (1) (c) and (d) **Public Finances (Management) Act 1995** with findings and recommendations concerning the Part 1 Reports of the Auditor General for the financial year 2005.
7. That the Committee accepts the findings of the Office of the Auditor General in respect of the Public Accounts in the Part 2 Report for the financial year 2005 and will report to Parliament on necessary changes to the keeping of the Public Accounts as set forth in Section 86 (1) (d) (i – iv) of the **Public Finances (Management) Act 1995**.
8. To accept and endorse the referrals set forth in Para. 22 herein.
9. To accept and endorse the recommendations in Para. 20 hereof.
10. To censure the Department of Finance for failing to enforce lawful and correct accounting and recording of the use of public monies, property and stores in the financial year 2005.

11. To censure and refer the Head of the Department of Finance, Mr. Gabriel Yer, for failing to cooperate with or assist the Public Accounts Committee in this Inquiry by failing to produce information, records, submissions or evidence when requested or directed and when he undertook so to do.
12. To censure and refer the Head of the Department of Finance Mr. Gabriel Yer for failing to attend the proceedings of the Public Accounts Committee when summoned so to do.
13. To censure and refer the Secretary of the Department of Finance, Mr. Gabriel Yer, for failing to cooperate with the Office of the Auditor General by producing documents, records or information when requested so to do.
14. To censure and refer the Secretary for Treasury, Mr. Simon Tosali, for failing to assist or cooperate with the Public Accounts Committee when requested so to do.
15. To censure and refer Mr. Simon Tosali for failing to attend the proceedings of the Public Accounts Committee when summoned so to do.
16. That the Chairman brief the Minister for Finance and the Prime Minister on the findings and resolutions of this Committee – and in particular on the censure and referrals of Mr. Yer and Mr. Tosali.

17. The Committee resolved that the Reports will be sent to the Minister for Finance and Treasury and the Prime Minister with a recommendation for urgent attention to its contents.
18. The Committee resolve to recommend to the National Parliament through the Chairman that a debate of National importance be called pursuant to SO 109 of the Parliamentary Standing Orders concerning the state of management of public monies by Government.
19. That the Committee resolve that the PAC will consider the 2006 and 2007 Part Two Report of the Auditor General in 2009 and Report to the National Parliament as a matter of urgency.
20. That the entire structure, function and performance of the Department of Finance be considered by the National Parliament as a matter of urgency and, if necessary, the Department be removed and replaced with a specialized, competent, controlled and accountable agency to rebuild and maintain or perform the systems of fiscal accounting in Government.
21. That the Committee resolve that the current system of Trust Accounts has failed. Trust accounting and the lawful management and application of monies by the Public Service through Trust Accounts had failed by 2005 and should be replaced.

22. That the Government give urgent consideration to the establishment of a specialized, transparent, accountable, responsive agency staffed by honest, competent and overseen experts (recruited from overseas if necessary) to manage Trust Accounts and trust monies – in particular monies appropriated for development, infrastructure maintenance and service delivery.
23. That Government accept that the fiscal management by National Departments had in 2005, and still has, failed at all levels of Government and that this is a matter of first national importance, impeding, as it does, Government service delivery and development policies.
24. That the Executive reassert its fiscal power and control by whatever lawful means are available to it.
25. That the Government reassert control over and accountability for the use and handling of public monies.
26. That the Government restore and reassert the Constitutional power and systems of fiscal management as a matter of national urgency.
27. That Government demand and enforce zero tolerance for fiscal mishandling in Government and form a specialized agency to investigate and prosecute those found to be engaged in such conduct.

28. That Government embark urgently on a program of training and capacity building for officers charged with handling or applying public monies. In particular the establishment of training colleges and ongoing courses of training and retraining throughout the country must be established.
29. That Government recognize that the failures reflected in the Public Accounts directly dictate the reputation and effectiveness of Government itself. Failed Government accounts reflect adversely on the Government concerned and the patent loss of control of public monies by the Executive is a matter of National importance.
30. Devolved accounting functions should be revoked. A central, specialised and expert accounting agency capable of timely reporting and accounting should be established. On line daily reconciliations and reports should be introduced and maintained and accounts should be open to all who require to use them.
31. Government should consider the establishment of an expert and fully funded and resourced agency staffed by qualified and effective officers capable of detecting and dealing with corrupt practices in Government and with power to prosecute. We refer to our Reports on the Departments of Planning, Lands, the Sepik Trust Account and other Reports tabled in the National Parliament in this regard.

32. Government should consider the appointment of a Minister responsible for reestablishing probity, ethical behaviour and transparency in Government – particularly in the handling of public monies, the keeping of accounts of public monies, the conduct of public officers responsible for same and the application, oversight and effectiveness of development budgets.
33. The Government should effect specialized legislation to deal with illegal conduct by Public officers and proclaim draconian punishment therefore.
34. Funding to any agency that does not comply with its requirements under the **PF(M)A** of the **Financial Instructions** should cease until those requirements are fulfilled.
35. Interference with, defalcation or diversion or misappropriation of monies appropriated for development or service delivery – especially aid donor funds - should be met with severe penalties.
36. All Royalty Trust Accounts should be immediately removed from the control of agencies and vested with trained, independent, experienced, honest and accountable professional Trustees who understand their obligations, duties and liabilities.

37. Interference with or refusal to obey or effect Appropriations made by the National Parliament, should be met with severe penalties.
38. Appointment of senior officers – particularly Heads of Departments should be finally approved by an independent Board possibly constituted of representatives of Church/State/private enterprise and aid donors with power to investigate, interview and refuse appointment.
39. Section 32 Officers should be carefully and selectively appointed and the positions should be made only where the officer is trained, competent and honest.
40. Signatories to Trust Accounts should only ever be experienced and carefully chosen. They should have clear and precise controls.
41. Every limitation and failure reported by the Auditor General for 2005, needs to be individually addressed.
42. Government must adequately and properly fund the Office of the Auditor General and the Public Accounts Committee as the **Constitution** requires.
43. Every public servant who has failed to perform his duties under the **PF(M)A** or the **Financial Instructions** should be immediately replaced.

44. Every public servant who has failed to cooperate with this Committee and/or with the Auditor General should be immediately replaced.
45. That Government immediately recruit, deploy and adequately fund and resource Internal Audit Units in every National Department.
46. That Law Enforcement agencies be immediately revitalized, improved, properly staffed and resourced and adequately funded to deal with financial failure and fraud in Government.
47. Accounting processes in all agencies should be reviewed and modernized or reformed in accordance with recommendations by the Auditor General.
48. Asset lists should immediately be established.
49. The Government should demand and obtain Guarantee Register, Loan Register, Trust Instrument Register, Trust Account Register, Asset Register and all other running records which were not produced to the Auditor General or which did or do not exist.
50. Government must immediately ascertain actual losses and deficiencies.

51. The Government (and the Executive in particular) and the Department of Finance must regain control over and demand accountability of Departmental spending.
52. Government must demand an immediate account of Investments and interest earned.
53. Government must study and implement all the recommendations made by the Auditor General and endorsed by this Committee.

22. REFERRALS.

- 22.1 There is little point in referring Public Servants for investigation or prosecution for events that occurred in 2004. The Royal Papua New Guinea Constabulary seems incapable or unwilling or both of investigating or prosecuting complex fiscal crime, time has probably elapsed for prosecution due to the gross delays in producing and tabling the Public Accounts and the Reports of the Auditor General, the Auditor General has made some referrals in the past with no success, this Committee has made many referrals in the past four years with no action taken by any law enforcement agency and if we were to refer accountable Public Servants for failure to perform their duty or fiscal mismanagement, there would scarcely be a senior officer who would remain.
- 22.2 In summary, the very culture of impunity that we have identified in this Report means that any referral by us would be a hollow gesture – and it is high time that the National

Parliament realized the extent and terrible effect that this collapse of law enforcement has had on our National Institutions.

- 22.3 However, we do refer Mr. Gabriel Yer, the Secretary of the Department of Finance to the Office of the Public Prosecutor ,the Royal Papua New Guinea Constabulary and the Speaker of the National Parliament for failure to cooperate with or assist both the Auditor General and this Committee when asked to do so and we recommend that those agencies conduct a full investigation and prosecute Mr Yer if they find sufficient cause.
- 22.4 We further refer Mr Simon Tosali to the same agencies with a recommendation that he be investigated for similar failures and prosecuted if those agencies find sufficient cause.
- 22.5 We refer Mr Gabriel Yer to the Auditor General with a recommendation that he exercise his powers of prosecution for failure of that Officer to assist or cooperate with the Auditor General in the conduct of his audit.
- 22.6 This Report and the Part Two Report of the Auditor General for 2005 is referred to the Office of the Ombudsman for consideration as to whether any breach of the Leadership Code has occurred.

23. CONCLUSION

- 23.1 The Auditor General has, for many years, in his Part Two Report on the Public Accounts of Papua New Guinea, warned the Government of the increase of deterioration and failure in the management and accounting for transactions with public monies, property and stores and condescended to specific examples. Those warnings have not resulted in any remedial action that this Committee can identify.
- 23.2 Finally, in 2005, the Auditor General, because of the significant adverse effects of the matters set out in this part of our Report, has disclaimed the Public Accounts of the Government of Papua New Guinea.
- 23.3 This Committee has accepted those qualifications and the Audit opinion. It accepts the basis upon which those qualifications and the opinion were made and thereby concludes that there was, by 2005, a very serious collapse in almost every aspect of public fiscal accounting and control in every Department at every level of Government.
- 23.4 The failure is a result of many years of dereliction of duty, negligence, ineptitude, corruption and intentional subverting of legal obligations and controls by our Senior (and not so senior) Public Servants. These are the very Officers paid to protect and manage public monies to deliver services and development.

- 23.5 These concerted and intentional failures extend to every level of Government from National to District level and every arm, entity and Department of Government including public bodies, Provincial Governments, companies, statutory bodies and individuals who may either hold public monies for or on behalf of the State or a third party or are otherwise accountable for the control of public monies, property and stores.
- 23.6 The failure and collapse is so complete that it extends to remote areas of Government operations such as Hospital Boards, artifacts and State property, Commodity Boards, academic institutions and companies or commercial ventures in which the Government is either shareholder or investor.
- 23.7 This failure by Senior Officers of Government (who could rightly be regarded as our brightest and best) must be a measure of profound National concern and a matter of priority for any Government.
- 23.8 Immediate and thoroughgoing steps must be taken to ensure that the situation in 2005 is repaired, systems rebuilt and competent oversight, enforcement and management be instituted and maintained.
- 23.9 The National Parliament must address this National state of failure immediately. The future, viability and reputation of the Government of Papua New Guinea and the welfare of its citizens demand it.

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Signature of the Chairman

Hon. Timothy Bonga OL MBE MP

Date of adoption by the Committee: 2009.

SCHEDULE ONE
LIST OF WITNESSES

30th April 2008

Names of Witnesses	Comments
Mr. Neville Devete	Acting Solicitor General
Mr. Wilson Kamit	Governor Central Bank
Mr. George Sulliman	Auditor General
Mr Gabriel Yer	Secretary of Finance
Mr. John Nero	Ombudsman
Mr. K. Mahendra	Director of Audits, Auditor General.
Mr. A. Kopi	a/Asst.Auditor General
Ms. Marina Cuetanousua	Advisor to Auditor General
Mr. Nino Sureva	A/Secretary of Treasury
Mr. Joseph Simulaeta	Manager SCMC/SRC
Mr. Aloysius Hamoi	a/Deputy Secretary – Dept Treasury
Mr. Clement Kote	FAS – Treasury.
Mr. U. Chit	Accountant
Ms. Mary Martin	A?AS CMEC
Mr. Mario Cueva	Advisor CMEC
Ms. Pauline Nuau	a/FAS CMEC
Kemas Tomola	FAS Accounting
Mr. Alfred Napon	Manager Internal Audit
Mr. Robert Kule	Manager Finance and Accounts

14th July 2008

Names of Witnesses	Comments
Mr. George Sulliman	Auditor General
Mr. Andy Vui	First Auditor General
Mr. Thomas Holland	Acting FAAG
Mr. Peter Siperau	Acting FAAG
Mr. Simon Tosali	Secretary
Mr Gabriel Yer	Secretary
Mr David Manoka	A?Deputy Secretary
Mr. Rigo Lua	Chairman PSC
Mr. Beny Popotai	Deputy Governor
Mr Robert Kule	Manager FAD BPNG
Mr. Alfred Napun	Manager Internal Audit BPNG

22/09/2008

Names of Witnesses	Comments
Mr. George Sulliman	Auditor General
Mr. Andy Vui	First Auditor General
Mr. Thomas Holland	Acting FAAG
Ms. Marina Cuetanousua	Advisor – Auditor General
Mr. Simon Tosali	Secretary Treasury
Mr. Joseph Klapat	Secretary DfCD
Ms. Margaret Elias	Secretary
Mr. Chris Kalebo	A/Dep. Secretary - Finance

Mr. Mario Cueva	Advisor - Finance
Dr. Joseph Pagelio	Secretary – Education.
Mr. Anton Benjamin	Secretary – Agriculture
Mr. Richard Sikani	Commissioner – Correctional Services
Mr. Romilly Kila Pat	Deputy Sec. Operations.

11th November 2008

Names of Witnesses	Comments
No appearances.	No comments

SCHEDULE TWO

2004 PART TWO REPORT OF THE AUDITOR GENERAL

SCHEDULE THREE

COPIES OF DIRECTIVES, NOTICES AND SUMMONSES ISSUED.

SCHEDULE FOUR

COPIES OF CORRESPONDENCE SENT BY THE COMMITTEE.

SCHEDULE FIVE

**COPIES OF CORRESPONDENCE, SUBMISSIONS ETC. RECEIVED
BY THE COMMITTEE**

SCHEDULE SIX

TERMS OF REFERENCE