9. AUDITOR-GENERAL'S REPORTS TO PARLIAMENT

9.1 As previously mentioned, the Auditor-General's reporting can be split into two phases:

- The audit work of Price Waterhouse, the agent of the Auditor-General and their reporting to the Auditor-General.
- The audit reports of the Auditor-General to Parliament, based on the audit work performed by the agent, Price Waterhouse and any additional work performed by the Auditor-General's office itself.

9.2 This chapter deals with the second part, namely the reports of the Auditor-General to Parliament. The audit work of Price Waterhouse has been dealt with in the chapter on Audit Work above. Where appropriate for the chronological flow of the report, to facilitate easy comprehension, I have included background information on the Auditor-General's reporting in detail in the Audit Work chapter and referred back to it only briefly in this chapter.

9.3 In addition I have considered the following additional reporting and correspondence of the Auditor-General:

- The Auditor-General's special report to Parliament. (The Auditor-General issued a special report to Parliament dated 31 July 1997, titled: *"Certain matters pertaining to the affairs of the SFF Association".* The report commented on the various issues raised by the Minister in Parliament relating to the SFF.)
- Various correspondence and interactions between the Auditor-General, the Minister and NSN.

9.4 A chronology of the audit reports prepared by Price Waterhouse and the Auditor-General for the period covered by this investigation, namely financial years 1991/2 to 1996/7 inclusive, and the background to

auditing and government auditing have been included in the Audit Work chapter above.

BACKGROUND

Reporting by the agent and finalisation of the Auditor-General's report to Parliament

9.5 With regard to audits performed by agents of the Auditor-General and controlled by the Auditor-General's office, the Auditor-General appoints an audit controller to each audit. Mr Wiid was the Audit Controller with regard to the SFF audit for the period covered by this investigation.

9.6 The Audit Controller liaises with the agent on an ongoing basis. In particularly the Audit Controller reviews and approves the audit plan of the agent, reviews the final reporting and finalises the Auditor-General's report to Parliament.

9.7 In years where the Auditor-General has published full SFF financial statements (1993/4 onwards), the Auditor-General has described the normal process that has been followed to finalise the financial statements as follows:

- Price Waterhouse audits the financial statements and reviews the Directors' reports and draft Auditor-General narrative for consistency. (It is the responsibility of the auditee to draft the financial statements, Directors' report and narrative.)
- The draft financial statements, Directors' report and narrative are submitted to the Auditor-General's Office, along with Price Waterhouse's report to the Auditor-General in terms of the Auditor-General's guidelines.

- The draft is reviewed by the department responsible for it in the Auditor-General's office. It is then presented to the Auditor-General personally via the hierarchical structure in the office.
- He examines the draft report and, if satisfied, initials and dates the draft copy of the report. (The "clean" copy prepared from the approved draft is dealt with subsequently in the same fashion.)
- The draft report is thereafter submitted to the Minister or Ministers concerned in the relevant consultation process.
- The draft report is usually dated on the date which the Auditor-General's initial has been placed thereupon. Should the draft be amended during the consultation process, the revised draft report would be referred to the Auditor-General for approval under a new date.
- Once the consultation process has been completed, the publishing department at the Auditor-General's Office is advised.
- The publishing department is in possession of a proof signature of the Auditor-General.
- A signature is then applied to the report under the date the fieldwork was completed.
- The report is then tabled in Parliament. All reports of the Auditor-General, as a matter of convention, stand referred to the Public Accounts Committee, which raises queries on the report which are answered by the Auditor-General.

9.8 With regard to the 1992/3 financial statements a similar process was followed, but the Auditor-General's office had more extensive ongoing input with regard to the first time publishing of limited SFF financial statements.

Relevant legislation

9.9 During the period in question the functions of the Auditor-General's office were legislated by the Auditor-General Acts 1989 and 1995.

9.10 Amongst other things, the Acts legislate on the audit to be performed, the reports of the Auditor-General and the consultation process to be followed. These auditing aspects have been dealt with in the chapter on Audit Work above.

Secrecy provisions and reporting restrictions

9.11 It is common cause that for the financial years 1991/2 and prior, the Auditor-General did not report to Parliament on the financial position of SFF, due to the secrecy provisions contained in the Central Energy Fund Act 38 of 1977 and the Petroleum Products Act 120 of 1977, restricting information on crude oil.

9.12 During the 1992/3 financial year sanctions were being relaxed and sanctions ended during the financial year 1993/4, and there was a move towards more transparency. The secrecy provisions and the relaxation thereof have been discussed in detail under the heading "Secrecy Provisions" in chapter 1 above.

9.13 In 1992/3, due to the relaxation of the secrecy provisions, the SFF financial statements were published for the first time in abridged form in the Auditor-General's report to Parliament.

9.14 The 1992/3 financial information on SFF included in the report of the Auditor-General was prepared by SFF. The information was an abridged version of the full management financial statements prepared by SFF and audited by Price Waterhouse. The main items abridged were the following:

- The loss of R170 million (described as “Result of Strategic Stock Transfers” in the full management financial statements), arising from the change in accounting policy was not disclosed separately, but included in the amount of the nett trading income from strategic and commercial crude oil. It is common cause that the bottom line profit was the same in both the full management and the abridged financial statements (ie that nothing had been omitted in the abridged financial statements), but that the financial information had been summarised. A copy ot the income statement of the 1992/3 management financial statements and the abridged income statement of the financial statements as contained in the Auditor-General’s report have been attached hereto as Annexures D and E.
- No Directors’ report or notes to the financial statements were included.

9.15 The Auditor-General’s report with regard to SFF included the note:

> *“(3b) Publication of the financial statements of the SFF Association: The balance sheet, income statement and cash-flow statement of the SFF Association are published for the first time as Statements 7 to 9.”*

9.16 Price Waterhouse reviewed the financial statements of the abridged version to ensure that it was a reasonable abbreviation of the full management financial statements, but performed no additional audit work. The Auditor-General then formulated the remainder of his report.

9.17 From 1993/4 the Auditor-General published the full financial statements of SFF.

ALLEGATIONS

9.18 The allegations can be broken down into several broad categories:

- The 1992/3 Auditor-General's report incorrectly abridged the full management financial statements to exclude the R170 million "Result of Strategic Stock Transfers" as well as the notes to the financial statements, and as such the audit opinion was incorrect.
- The consultation process followed by the Auditor-General in respect of his limiting the information provided in the 1992/3 report was not correct.
- The special report to Parliament was misleading and did not contain full information.
- The audit with respect to certain key issues was incorrect and as such the audit opinion in the Auditor-General's report was incorrect - this has been dealt with in the chapter on Audit Work of this report and is not dealt with again here.
- The correspondence/interaction between the Auditor-General/his agent and the Minister/NSN was misleading or incorrect on the formers' part.
- The Minister's suspicions were raised by the exclusion of the R170 million, which he felt was a cover-up of something.

The 1992/3 Auditor-General's report incorrectly abridged the full management financial statements to exclude the R170 million "Result of Strategic Stock Transfers" as well as the notes to the financial statements, and as such the audit opinion was incorrect

9.19 It has been stressed many times in this enquiry that 1992/3 was the first time that any information had been published on the SFF. It is clear from the correspondence between the Auditor-General and SFF around this time that the Auditor-General wished to publish the SFF financial information, but that the SFF themselves were reluctant to publish information as they were of the opinion that the secrecy provisions had not been sufficiently relaxed or lifted to allow this with retrospective effect.

Retrospectivity of the secrecy provisions

9.20 In the submissions on behalf of Mr Cilliers it is stated that the concern of SFF regarding the publication of the 1992/3 annual financial statements was that such publication would constitute a contravention of the law as it then stood, and that the repeal of the remaining restrictions in January 1994 was not retrospective. In a letter from Mr Cilliers dated 26 September 1993 it is stated, in a translated form, that:

> *"Regulation 1262 dated 16 July 1993 is attached hereto for your information. In terms thereof certain information regarding the business of the SFF cannot be disclosed. It is not possible to publish a balance sheet or income statement of the SFF without contravening this regulation."*

9.21 Another letter dated 23 September 1993 from Mr Cilliers to Messrs Vorster and MacDonald, translated, reads:

> *"Price Waterhouse pointed out that the Auditor-General can publish the statements at his own discretion. If the transactions regarding strategic stock are removed their report will contain a note in this regard."*

9.22 It is therefore clear that there were concerns of SFF which related to the legal position. Mr Cilliers denied that it related to any desire to conceal a loss or theft, and the suggestion of re-auditing was also denied.

9.23 Government Notice R1262 dated 16 July 1993 was withdrawn by Government notice R34 dated 7 January 1994, before the 1992/3 Auditor-General's report was finalised. This repeal was clearly not to be applied retrospectively, in the absence of specific provisions in this regard, and simply provides as follows:

"Government Notice No R1262 dated 16 July 1993 is hereby withdrawn."

9.24 As such certain information on crude oil relating to periods before this date, ie the financial period 1992/3, could still not be disclosed, except with the written permission of the Minister or by order of a competent court (see Government Notice R1614 as quoted in paragraph 1.98 above). However, the parties involved at the time seemed not to have been quite clear on this.

Reporting discretion

9.25 I noted, however, that Government Notice R1262 states that certain information on crude oil matters may be published if expressly authorised thereto in writing by the Minister of Minerals and Energy Affairs. The Central Energy Fund Act, in section 1E(5) quoted in paragraph 1.93 above, also gives the Auditor-General the discretion to limit the report after consultation on Ministerial levels. The Auditor-General noted that there were clear indications from the then Minister of Minerals and Energy Affairs that these provisions had at least been relaxed and that there should be greater transparency with regard to crude oil matters.

9.26 In the answers to the questions put by the Public Protector, the Auditor-General stated that:

> *"Given the changed environment, but mindful that the restrictive reporting provisions in terms of the Central Energy Fund Act were still in operation, the Deputy Auditor-General and the staff responsible in the Office, believed that a start had to be made with the publication of information concerning the Equalisation Fund and the SFF Association to Parliament. To this end, lengthy correspondence was entered into with CEF management and it ultimately also involved certain directors of SFF."*

9.27 A meeting was held on 9 February 1994 where SFF Management were informed that a start had to be made with the publication of information regarding SFF to Parliament, and that SFF were asked to motivate why no information could be published, or to propose financial statements for consideration by the Auditor-General, which could be published. The SFF Management and Directors then decided to prepare statements in the format which had up to that stage (31 March 1992) been presented to Parliament for other entities in the CEF group for consideration by the Auditor-General. Revisions made to the statutory annual financial statements by them were the omission of the Director's report and the notes to the financial statements, and the inclusion of the result of strategic stock transfers and deferred income from exchange cargoes in the trading income, as well as a combination of several items in "other income".

9.28 In evidence, when questioned by Counsel for the Minister and NSN, Professor Loots agreed that as at 16 July 1993 the regulations in respect of the Petroleum Products Act as they existed since July 1985, had been amended, and that the Auditor-General requested Price Waterhouse to review the translation, and to determine whether the financial statements, if the exclusions do take place, still comply with GAAP, to which Mr van der Nest of Price Waterhouse answered in the affirmative.

Basis for abridging

9.29 NSN stated that the Auditor-General relied inappropriately on SFF to prepare the abridged financial statements and that the Auditor-General abdicated his discretion in the Central Energy Fund Act to limit the SFF financial statements. In particular they detailed that whilst the Auditor-General's Office (the Audit Controller) did review the abridged financial statements, it is clear that all he did was to conduct an arithmetical review and did not exercise his mind to the requirements and provisions of GAGAS.

9.30 They also noted a letter from Mr Cilliers to Price Waterhouse dated 1 November 1993, in which Price Waterhouse drew attention to the fact that the Auditor-General can publish the financial statements at his discretion, but that the staff of the Auditor-General will abide by the views of CEF in this regard. They believed that this indicated an abdication of the Auditor-General's discretion.

9.31 NSN alleged that the 1992/3 Auditor-General's report should have included the full management financial statements and not been in an abridged format, as the relaxation of the secrecy provisions allowed the full financial statements to be published.

9.32 I was keen to understand from the Auditor-General the basis for the limitation and I expected that as it was in his discretion to limit the information, he would have detailed knowledge on why things were abridged as they were. However, when questioned on this area, the Auditor-General could not give specific reasons why particular items had been abbreviated, combined, etc. He replied in response to my written questions as follows:

> *"18. It should be noted that at no stage had financial statements in the format of the statutory and/or management account been published to Parliament. The financial statements were published in the format as contained in the Auditor-General's report for reasons of clarity and to keep the reporting as succinct as possible without essential information being omitted."*

9.33 The Auditor-General stated in his evidence that it was the responsibility of SFF to prepare the abridged financial statements. SFF was the party operating in the restricted environment and consequently had the best understanding thereof. His responsibility as auditor, utilising his discretion under the Central Energy Fund Act to limit the report, was to consider if the financial statements as drafted were appropriate. The

Auditor-General/Price Waterhouse further stated as follows in response to my written questions:

> *"8. Of significance in this correspondence is, in the first instance, the letter written by Mr J E van Heerden in September 1993 to the SFF management, providing some guidance on the possible format in which such a report may be prepared."*

9.34 They further stated that the Auditor-General's office, operating within their hierarchical structure, had interacted with the auditee (who was operating within their own hierarchical structure) and consulted as appropriate with various Ministers. The Auditor-General had reviewed the draft financial statements as a whole, taking into account formats used for other companies in the group in previous years to ensure there was fair presentation.

9.35 There is extensive documentation showing interaction between the SFF and Auditor-General and internal correspondence within the Auditor-General's office indicating that the Auditor-General considered the abridged financial statements. The Auditor-General in a letter to Mr Cilliers dated 23 September 1993 noted that the financial statements may exclude certain notes and refers to previous Auditor-General reports to indicate acceptable formats. Further interaction has been documented in the Minister and NSN's submissions, which highlighted the following documents:

- A letter from Mr Cilliers to the Auditor-General, dated 7 February 1994 which recorded:

  > *"Draft statement of the SFF for publication attached. Please note that I do not yet have Mr Vorster's comment thereon. In the meantime viewed in the light of the urgency to finalise the matter, can you decide in principle if the format is acceptable to you."*

- Mr Wiid of the office of the Auditor-General, appended the following notes to the aforesaid letter:

  "1. A corrected set of statements and cash flow statements should reach us today. It will be added.

  2. As a result of the meeting of the 9th February 1994 it appears the format complies with the objectives which were discussed.

  3. CEF urgently wants to know if the format is acceptable. They want an answer still today."

- Mr Frans Joubert, also in the office of the Auditor-General, to whom Mr Wiid reported, appended the following note on the aforesaid document:

  "Taking into consideration the discussions, I am satisfied with the statements and you can inform Sarel [Mr Cilliers] *accordingly."*

9.36 Based on the above, I find that the Auditor-General was acting within his statutory authority and correctly exercised his discretion, as indicated by the extensive correspondence in that regard, to limit the information published with regard to the 1992/3 SFF financial statements in terms of the Central Energy Fund Act.

Compliance with GAAP

9.37 NSN argued that the exclusion of notes meant that the financial statements did not comply with GAAP and the Companies Act as stated in the Auditor-General's audit opinion, as GAAP and the Companies specifically require certain notes. They highlighted that Price Waterhouse in their letter to the Auditor-General accompanying the abridged 1992/3 financial statements dated 18 February 1994, stated that the abridged financial statements did not comply with GAAP and the Companies Act as they did not include notes and as such did not disclose the change in accounting policy.

9.38 The Auditor-General noted that the full management financial statements included more information than was required to be disclosed under GAAP as they were prepared for management purposes. The abridged income statement, balance sheet and cash flow statement contained sufficient information and therefore fuller disclosure in this regard was not required.

9.39 The Auditor-General said that there was a move towards complying with the disclosure requirements in the fourth schedule of the Companies Act, which includes details on the disclosure of accounting policies, etc, but noted that the audit opinion detailed *"where appropriate, in the manner required by the Companies Act"* and as such it was clear that the abridged financial statements did not necessarily comply with all the requirements of the Companies Act.

9.40 With regard to the compliance with GAAP, the audit opinion states *"in accordance with GAAP".* The Auditor-General conceded that the abridged financial statements did not comply with GAAP, in terms of the Accounting Statements issued by the SAICA, as the financial statements did not include notes. However, he argued that GAAP was not just represented by those accounting statements, but was also indicated by the general accounting practice in the industry.

9.41 He noted that in 1991/2 abridged financial statements had been published for other entities in the CEF group (CEF, SOEKOR and MOSSGAS) and that the notes had been excluded for these and therefore it was generally accepted accounting practice to exclude notes when financial statements were being limited. He did concede however that the audit opinion for these financial statements in 1991/2 did not say that they complied with GAAP, but just indicated that they "fairly presented".

9.42 In addition he noted that it had been specifically detailed in the financial statements that only the income statement, balance sheet and cash flow statement had been provided and therefore the reader of the financial statements was not misled. He pointed out that in terms of the Auditor-General Act, the Auditor-General has the discretion to determine the format in terms of which financial statements are presented to them. So in that sense they also complied with GAAP.

9.43 Whilst I can understand the Auditor-General's argument with regard to GAAP, I believe that the way that the phrase was used would have specifically led the reader to understand that GAAP as stated in the SAICA Accounting Standards had been met. Particularly as it was noted that the Companies Act requirements had only been met "where appropriate" indicating that with regard to the Companies Act there was some departure from the expected norm. As such I find that the Auditor-General's audit opinion on the 1992/3 SFF financial statements was technically incorrect in that it stated that GAAP had been met, when in fact it had not because the financial statements contained no notes.

9.44 However, it was clearly detailed that only the main statements had been provided. As such the reader of the financial statements would not have been misled by this. The Auditor-General detailed that the Public Accounts Committee had been told that there had been a limitation, but concurred that it may have been clearer if the audit opinion had noted that the SFF financial statements were limited due to the provisions of section 1E (5) of the Central Energy Fund Act.

Disclosure of the change in accounting policy

9.45 NSN further alleged that because the notes had been excluded the change in accounting policy was not correctly disclosed. The Auditor-General argued that there was no requirement to disclose the change in accounting policy as the financial statements had not been published

before and hence the readers were not aware that there had been a previous accounting policy.

9.46 The motivation behind disclosing a change in accounting policy, restating the prior year comparatives under the new accounting policy and comparing this with how the matter would have been accounted for under the old accounting policy, is to ensure that the reader of the financial statements is aware of the impact of the change and can directly compare the previous years financial statements with the current years.

9.47 As such I find that as this was the first year the SFF financial statements were published (whilst 1991/2 comparatives were published these were restated under the new accounting policy), the readers were not aware of the old accounting policy and as such the change of accounting policy did not need to be disclosed.

9.48 Overall I find that whilst there were certain problems with the reporting of the Auditor-General in relation to the 1992/3 SFF financial statements, these statements were not misleading. The publication of the SFF financial statements in 1992/3 marked the beginning of an evolving process moving away from the total restriction of information as occurred in 1991/2 and ending in full disclosure in 1993/4. There were few precedents in this regard to guide SFF and the Auditor-General in respect of what information to publish. As such there was a learning curve. I commend the Auditor-General for publishing information with regard to SFF as early as he did (prior to the complete lifting of the secrecy provisions). The minor technical problems encountered in formulating the abridged financial statements should not detract from the obvious benefit that was derived from publishing the financial statements for the first time.

The consultation process followed by the Auditor-General in respect of his limiting the information provided in the 1992/3 report was not correct

9.49 In the NSN report questions were raised on whether the consultation process prescribed in terms of section 1E(5) of the Central Energy Fund Act 38 of 1977 (see paragraph 1.93 above), was adhered to by the Auditor-General. This entails whether the Auditor-General consulted properly with the relevant Ministers as well as the State President in terms of this section, before he exercised his discretion in signing and presenting the report to Parliament which contained the abridged financial statements for 1992/3.

9.50 Counsel for the Minister and NSN contended that the relevant section implies that a certain structured process should have been followed, and that this prescribed consultation process with the State President and the Ministers should have been completed, before the Auditor-General exercised his discretion with regard to limiting the report, (as is implied by the wording "after consultation with"). Counsel for the Minister and NSN argued that the specific process that should have been followed, was that the Auditor-General had to appraise:

- the State President, the Minister of Minerals and Energy Affairs, and the Minister of Finance;
- on the factors regarding the national interest that were taken into consideration by the Auditor-General; and
- what the special nature of the transactions was.

9.51 The correct process that should in NSN's view (as stated in their reports) have been followed before limiting the information in the 1993 report to Parliament, is outlined below.

9.52 The Auditor-General should have:

- reviewed the criteria for the determination of those transactions of a "special nature" taking cognisance of the environment in which crude oil procurement for the RSA takes place;
- identified transactions which could potentially constitute transactions of a special nature;
- evaluated the identified transactions against the established criteria;
- decided whether the identified transactions meet the established criteria;
- evaluated the impact of the transactions of a special nature on the report to Parliament;
- prepared the proposed report to Parliament;
- prepared explanatory notes to relevant Ministers and the State President on the limitation(s) in respect of the transactions deemed as special nature transactions;
- written to the State President and the Minister of Minerals and Energy Affairs and the Minister of Finance, respectively, to explain why in his (Auditor-General's) view the limitations are necessary; and
- on receipt of consent from the State President, the Minister of Minerals and Energy Affairs and Minister of Finance, respectively, then completed and signed off his report to Parliament.

9.53 Counsel for the Minister and NSN further raised the argument that this consultative process was not completed in terms of the Act, before the Auditor-General's signature was affixed to the report to Parliament. This can be deducted from the date that appears next to his signature on the report, in comparison with the correspondence pertaining to the consultation process with the relevant Ministers and State President.

9.54 In the second NSN report specific reference is made to five documents in support of the argument that the consultative process was not adhered to.

9.55 Firstly, a letter is quoted in support of this argument, which is a letter from the Auditor-General to Minister Amie Venter (the then Minister of State Expenditure) dated 31 March 1994, which reads as follows:

> *"REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT REGARDING THE ANNUAL FINANCIAL STATEMENTS OF … THE SFF ASSOCIATION… FOR THE FINANCIAL YEAR ENDED 31 MARCH 1993…*
>
> *The attached concept paragraphs and financial statements relating to the auditing of the above institutions have been drafted for inclusions of my next Annual Report to Parliament. I would like to know, in accordance with section 1E(5) of the Act on the Central Energy Fund, No 38 of 1977 and section 6(3) of the Act on the Auditor-General, No 52 of 1989, if you, after consultation with the State President, the Minister of Finance and the Minerals and Energy Affairs are in agreement with the proposed reporting. Copies of the letter as well as the annexures are sent for ease of reference also to the Ministers mentioned.*
>
> *I apologise for the bad quality of the financial statements. The re-print will unfortunately delay the consultative process and as my Report must be finalised shortly, it would be appreciated if the consultative process can be accelerated."*

9.56 Secondly, according to the second NSN report a copy of the above-mentioned letter was sent by the Auditor-General to Minister G Bartlett (the then Minister of Minerals and Energy Affairs) as well as to Minister D L Keys (the then Minister of Finance) dated 31 March 1994.

9.57 Thirdly, the response of the Minister of State Expenditure dated 5 May 1994 to the Auditor-General is quoted in the second NSN report as follows:

"REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT REGARDING THE ANNUAL FINANCIAL STATEMENTS OF … THE SFF ASSOCIATION … FOR THE FINANCIAL YEAR ENDED 31 MARCH 1993 …

In response to your letter 10/9/35/1 dated 31 March 1994 with regards to the above I am pleased to inform you that after consultation with the State President, the Minister of Finance and the Minister of Minerals and Energy Affairs, the proposed reporting is agreed to."

9.58 Fourthly, a letter to the Auditor-General's Office by NSN dated 27 August 1997 to follow up on certain questions asked previously from the Auditor-General in this regard, is also quoted hereunder:

"MANAGEMENT AUDIT AT THE SFF ASSOCIATION

Further to our telephonic conversation earlier today, I confirm your advices that:

1. No letters were sent to, or received from, the then President of the Republic of South Africa regarding the 1993 Report of the Auditor-General to Parliament on the SFF Association, as required in terms of the then section 1(E)(5) of the CEF Act, 38 of 1977.

2. The 1993 financial statements that were submitted, under cover of the letter from your office dated 31 March 1994, to certain Ministers of the then Cabinet were indeed those submitted to Parliament.

3. The SFF Association 1993 Annual Financial Statements audited by Price Waterhouse were not submitted to the Ministers mentioned above.

4. No motivation or explanation, for the then proposed 1993 Financial Statements of the SFF Association to Parliament was submitted to the Ministers mentioned above."

9.59 The fifth letter referred to is from the Office of the Auditor-General, where he responded on 2 September 1997 to the above as follows:

"The fact that the State President concurred with the Minister of State Expenditure with regard to the proposed Report of the Auditor-General on the CEF Group of Companies, which was eventually published, is evident from the letter under signature of the Minister of State Expenditure dated 5 May 1994, forwarded to you with our letter dated 26 August 1997, and substantiates the fact that the State President was privy to the proposed report before publication thereof.

This Office is of the opinion that it has complied with all statutory requirements, and it is our interpretation that this Office adhered to the secrecy provisions set out in the Auditor-General Act, 1989 (Act no 52 0f 1989) as amended, the Petroleum Product Act, 1977 (Act no 120 of 1977) and the regulations promulgated in terms thereof, as well as the Central Energy Fund Act, 1977 (Act no 38 of 1977) with special reference to the now repealed sub-sections, 1E(4) and (5) thereof. "

9.60 In the second report of NSN the following conclusions are drawn from the above-mentioned:

- that it is evident that the Auditor-General signed his report to Parliament on 31 March 1994, on the same day he wrote the letters to the Ministers of Finance, Minerals and Energy Affairs, and State Expenditure, soliciting their consent;
- that the Ministers gave their consent in a letter dated 5 May 1994;
- that the Auditor-General signed his report limiting the disclosures in terms of section 1E(5) of the Central Energy Fund Act, therefore before he received the required consent in terms of the said section (not after);
- that, when the Auditor-General signed the report of the SFF on 31 March 1994, the required consultative processes were not completed; and by limiting his report (which he signed that day) he acted in contravention of the said section 1E(5);
- that no direct consultations were initiated with the then State President, Mr De Klerk ;
- that the Minister of State Expenditure was not required to be consulted in terms of the section;
- that only the report to Parliament was submitted to the Ministers mentioned above;
- that no notes were included explaining the reasons why certain transactions were still deemed as transactions of a special nature despite the change in the secrecy environment, or why the limitations were necessary, were submitted to the Ministers mentioned; and
- that ”Results of Strategic Stock transfers” could be misleading.

9.61 In the written submissions handed in to me during this investigation on 23 August 1999, Counsel for the Minister and NSN further contended:

> *“It is the above-mentioned parties submission that section 1E(5) of the CEF Act as then applicable*

- *did not impose any restriction against reporting about crude oil transactions and other matters in respect of which publication was prohibited prior to the 7th January 1994;*
- *the Auditor-General had a discretion to limit the report contemplated in section 1E(4) of the CEF Act;*
- *such limitation could only take place after consultation with the State President, Minister of Minerals and Energy Affairs and the Minister of Finance;*
- *to limit the report in question had to be done with due regard to the special nature of the transaction recorded in the documents constituting his reports and the national interest which may be involved;*
- *The Auditor-General was not entitled, in the exercise of his discretion, to take into account factors that are irrelevant or fail to take into account factors which are relevant;*
- *his discretion was not unlimited or unfettered but circumscribed by having due regard to the special nature of the transactions recorded in those documents and the national interest."*

9.62 It was further reiterated in these submissions that the Auditor-General should have taken the views of the State President, the Minister of Minerals and Energy Affairs, and the Minister of Finance, into account first, and that these opinions/views should have been canvassed and expressed prior to his decision to limit his report. These considerations should have been taken into account by him before exercising his discretion regarding the extent of such limitation.

9.63 The view of Price Waterhouse and the Auditor-General on this issue was *inter alia* that the consultative process as stated in the relevant section ("after consultation with"), is to be distinguished from the more involved consensual seeking process as meant by "in consultation with". They argued that it is a much lesser concept than the latter process, or even lesser than the concept of "negotiation". This process, it was argued,

need not stretch over days and does not need to consist of face to face meetings or an exchange of letters. The consultation process as required by section 1E(5) could be constituted by a mere direct or indirect exchange of notes between the parties mentioned therein. It was further contended that the consultation process actually followed involved much more than the mere exchange of notes between parties. It was their view that the formal consultation process followed is by convention and practice, the culmination of a process which includes all the relevant players in the hierarchy headed by the relevant political functionaries with whom consultation must take place. While the Auditor-General had to give due regard to any contrary opinion expressed by the State President, the Minister of Minerals and Energy Affairs and the Minister of Finance, the Auditor-General had the final authority to determine the content of his report to Parliament.

9.64 In furtherance of the above argument, the contrast in the terms of the provisions of section 6(3) of the Auditor General Act 52 of 1989 were quoted, in terms of which the Minister of Finance could determine the extent of the reporting after reaching unanimity "in consultation with" the State President and the Auditor-General (in other words, only after a consensual seeking consultation process was followed).

9.65 The following process was actually followed in this instance, as was described in the written submissions, which also explains why the report to Parliament was signed on 31 March 1994 (namely the date on which the field work was completed, as is common practice in the audit profession):

- The actual financial statements of SFF as prepared by the auditee, as well as any narrative reporting, are reviewed and finalised.
- Once the draft report is prepared by the responsible department in the Auditor-General's office, it is presented to the Auditor-General personally via the hierarchical structure in the office.

- The Auditor-General then examines the draft report and if satisfied, initials the draft copy of the report.
- Subsequently the clean copy prepared from the approved draft is dealt with in the same fashion.
- The report is then submitted to the Ministers concerned as part of the consultation process.
- The draft report is usually dated on the date on which the Auditor-General's initial has been placed thereupon (ie the day the field work is completed).
- Once the consultation process is completed, the publishing department at the Auditor-General's office is advised (on the assumption that no amendments are required because of comments, concerns or suggestions made by the State President or the Ministers concerned).
- The publishing department is in possession of proof signatures of the Auditor-General.
- In this case a signature was then applied to the report under the date the field work was completed (31 March 1994) as no changes were necessary following the consultation process.
- Because this procedure was followed in this instance, the Auditor-General's signature was printed thereon, instead of being affixed to the manuscript.

9.66 The contention is that the report prepared on 31 March 1994 was only prepared as a draft, and this was confirmed in a letter to the Minister of State Expenditure, Mr Amie Venter, dated 31 March 1994.

9.67 It was conceded by the Auditor-General that there was no statutory obligation to consult with the Minister of State Expenditure in terms of the Central Energy Fund Act 38 of 1977, but he contended that a convention existed at the time that the Minister of State Expenditure acted as the Auditor-General's conduit to the Executive. This was so because of the fact that section 6(3)(a) of the Auditor-General Act 52 of 1989, indicated

the Minister of State Expenditure as the person to whom the reports concerning the audit of other confidential government accounts or secret government accounts were sent.

9.68 The provisions of the Auditor-General Act 52 of 1989 were preceded by the Exchequer and Audit Act 66 of 1975, in terms of which the consultation process was conducted through the Minister of Finance. During the period 1990/91, in order to alleviate the work load of the Minister of Finance, the Ministry of State Expenditure was created as a separate department, and the consultation process engaged upon by the Auditor-General was transferred to this Ministry (State Expenditure).

9.69 In the written submissions of the Auditor-General it was further contended that although the Office of the Auditor-General does not have any record of a direct communication with the then State President, it is clear that the State President was in fact informed of, and provided with, a copy of the draft report. This is evident from the letter from the Minister of State Expenditure dated 5 May 1994 quoted above. In the files obtained from the office of the Minister of State Expenditure it is further stated that the Minister of Finance as well as the Minister of Minerals and Energy Affairs were in agreement, and a hand written note dated 4 May 1994 indicates that the State President was in agreement. It further mentions that the State President queried whether there were any signs of dishonesty or something similar. This was answered in the negative, according to Minister Venter's note.

9.70 This note also indicates that the query of the State President was discussed with Dr Hugo (then Director- General of the Department of Minerals and Energy Affairs) and Minister Bartlett (then Minister of Minerals and Energy Affairs), who confirmed the negative reply to the query concerning the dishonesty, before it was agreed that the report of the Auditor-General could be sent through.

9.71 On 14 April 1994 a letter was sent by Minister Bartlett (Minister of Minerals and Energy Affairs) to the State President concerning the matter referring to section 1E(5) of the Central Energy Fund Act. It also seems that the note to instruct to proceed with the publication was dated 25 April 1994.

9.72 A letter by the Minister of Finance (Minister L Keys) to the Minister of State Expenditure (Minister A Venter) was sent on 5 May 1994 to confirm that he agreed with the report. Minister Venter then conveyed this to the Auditor-General on 5 May 1994.

9.73 The Auditor-General's report was then printed and tabled in Parliament on 29 June 1994.

9.74 It was therefore contended by the Auditor-General and Price Waterhouse that the formal consultation process took cognisance of the preparatory work done in the hierarchial structure. Furthermore, the fact that experienced and responsible Ministers do not ask and take decisions without the advice of their officials, obviates the need for the Auditor-General to provide a copy of the detailed management accounts prepared by those very same officials, to the Ministers concerned and the State President. It is indeed the officials who should supply that information.

9.75 From the above evidence, I draw the following conclusions with regard to the issue whether the "consultation" process was applied correctly and completed before the Auditor-General exercised his discretion finally:

- It is clear that relevant information was passed to and from the relevant Ministers, and that the State President concurred with the final draft report. Although it seems that no structured procedure was followed during this process, I am satisfied that this process may vary due to practical requirements. As long as relevant information was

passed to and fro, to ensure that the Auditor-General did not exercise an unfettered discretion, I am satisfied that the consultative process took place as required in terms of section 1E(5) of the Central Energy Fund Act 38 of 1977.

- Regarding the special nature of the transactions and the national interest, it is quite clear that the consultation process evolved around the publication of the 1992/3 financial statements. The national importance of oil procurement by SFF was known at the time and the importance of maintaining a certain degree of secrecy even after the lifting of the sanctions, was well known to the relevant Ministers. Evidence as given by Professor Loots in this regard to the effect that they could have been in contravention of the secrecy legislation since full disclosure might have enabled other parties to piece together in a jigsaw puzzle manner what transpired during the "sanctions busting" era, was also considered to be an acceptable explanation in this regard.
- Whether this consultation process was completed or not before the discretion was exercised (in deciding to publish the financial statements for 1992/3) is somewhat of a technical issue. The explanation of the actual process leading up to the printing of the Auditor-General's signature on the report in practice, seems to be quite a normal and acceptable process. Furthermore, the fact that this report was intended as a draft report on the date the letters were sent to the Ministers, further eliminates the suggestion that the Auditor-General exercised a premature (or unfettered) discretion.
- The fact remains that the Auditor-General had the final decision on the matter, after consultation, in terms of the Act, and it is clear that the Auditor-General was instrumental in the final decision to publish the said financial statements, despite CEF's conflicting opinion initially.
- The fact that the Minister of State Expenditure was involved in the whole process, as an extra party, is not of significance (it was also

explained against the background of the past legislation concerning the Auditor-General and SFF).

9.76 In view of the above, it is clear that any doubt as to whether the Auditor-General was exercising a premature unfettered discretion, in order to prevent disclosure of any sinister facts, as was suggested, is eliminated.

The special report to Parliament was misleading and did not contain full information

9.77 The Auditor-General noted that his special report to Parliament was designed to provide feedback on the Minister's comments. The information provided is mainly factual and appears to contain the salient facts as they relate to the Auditor-General. The Minister and NSN argued that additional information should have been provided to give a fuller picture and as it was not, the report was misleading.

9.78 It is always subjective as to what information should be included in any report and no doubt it could be argued, and indeed has been by the Minister and NSN, that more information could have been included or that the omission of certain information is misleading. However having heard extensive evidence on all the issues during my investigation and having read the special report, I am of the opinion that it was reasonable and not misleading.

The correspondence/interaction between the Auditor-General/his agent and Minister Maduna/NSN

9.79 It would be recalled that Minister Maduna included in his terms of reference to NSN, that they should investigate whether the Auditor-

General audited SFF and whether payments to Interstate were accounted for. These, the Minister stated, were included because of Mr Pithey's letter of 6 December 1996 to the Minister, which drew the Minister's attention to the fact that the accounts of SFF are audited by the Auditor-General, who submits reports on such audits to Parliament. The focus of the Minister's terms of reference to NSN was therefore not the Auditor-General, but whether the Chairman as Accounting Officer did his job properly. At that stage the Minister stated that he saw the Auditor-General as the potential victim of lies emanating from SFF.

9.80 Mr Pithey forwarded a copy of NSN's terms of reference to the office of the Auditor-General. The office reacted by means of a letter to the Minister, dated 19 February 1997. It was signed by the Deputy Auditor-General, Professor Loots. The letter *inter alia* stated the following:

- It informed the Minister of the specific responsibility of the Auditor-General for the audits of SFF.
- It read that, as reference was made in the Minister's memo (on the terms of reference to NSN) to the Auditor-General, and the reason for this reference was not clear, the office would most likely have to inform the Public Accounts Committee of Parliament about the matter. It went on to say that they would welcome the opportunity to discuss with the Minister any matter he deemed necessary with regard to the audit of the companies concerned.

9.81 The Minister regarded the reference to having to inform the Public Accounts Committee as a veiled threat. He testified that he was taken aback by the Office's reaction, since he meant the terms of reference to focus on the Accounting Officer of SFF, and not the Auditor-General. For the first time he became aware of the Auditor-General's interest in the matter – he did not even refer the terms of reference to the Auditor-General, because he thought the issue had nothing to do with them.

9.82 Professor Loots testified that the reference to the Public Accounts Committee was not meant as a threat. The Minister does not report to the Committee, nor does it have disciplinary powers over the Minister. Furthermore the Committee does deal with matters concerning the Office of the Auditor-General, and would probably have had to be informed of any negative aspect pertaining to the office. Nevertheless, the Minister was distinctly uncomfortable with the remark made in the said letter.

9.83 At the same time, the Minister received copies of correspondence between the Office of the Auditor-General, the agent Price Waterhouse, and SFF. These, according to him, were delivered at the gate of his house by an anonymous source.

9.84 One of these copies was a letter, also dated 19 February 1997, which was sent by the Office of the Auditor-General to Mr Van der Nest at Price Waterhouse, who had been responsible for the audits at SFF. The purpose of this letter was specifically stated to be to put the Office of the Auditor-General in the position to react on the NSN terms of reference. Price Waterhouse was asked the following in the letter:

- Whether they were aware of the Six Cents Agreement with Interstate and the payments thereunder;
- What the background was to the contract, and the extent of the payments;
- Whether these payments were covered in the audit;
- Whether corroborating documentation and approvals were available;
- Whether the payments were reasonable and regular.

9.85 Although this appeared to be a request for information from the Auditor-General's agent to be able to react to allegations, the Minister viewed it in a totally different light.

9.86 According to the Minister, Professor Loots was on the one hand telling him that the books of SFF had been "properly" audited, but on the other asked precisely the same questions from Price Waterhouse about the audit that the Minister was enquiring about. The Minister regarded, as he put it, the assurance he got from the Office of the Auditor-General that SFF had been audited, as inconsistent with the questions put to the agent. It was this letter to Price Waterhouse, the Minister stated, which founded his suspicion that something was wrong with the audits.

9.87 This reasoning of the Minister became understandable when it emerged that he was under the impression that an audit by an External Auditor would account for each and every transaction. He was not aware that External Auditors do not check each and every transaction, but merely test audit samples. He appeared to be under the impression that when the Office of the Auditor-General wrote to say SFF had been audited, all transactions had been audited and that the Auditor-General did not need to refer back to his agent for information. According to Professor Loots' letter he did not seek to give the assurance that everything had been tested during the external audit at SFF, but it invited the Minister to discuss his concerns so that the Auditor-General could follow them up.

9.88 The Minister expected the Office of the Auditor-General to inform him that they were asking questions from Price Waterhouse. He interpreted their failure to do so as being less than candid.

9.89 The Minister responded to Professor Loots' letter on 25 March 1997 in which he wrote that he was questioning whether the SFF books reflecting payments to Interstate, were audited as required under the Central Energy Fund Act. He requested the Office of the Auditor-General to help find him the answer to this as a matter of urgency.

9.90 Thereafter a number of press reports followed, suggesting that the Audtior-General's office would have to account for, what the press called, the "missing millions". It appeared as if these reports emanated from a

special advisor to the Minister, but the Minister denied issuing instructions for such reports to be released from his office.

9.91 These reports prompted the Office of the Auditor-General to request a meeting, which took place on 3 April 1997 between Professor Loots and the Minister. According to Professor Loots, he offered their co-operation at this meeting, including co-operation with the Management Audit. This, the Minister testified, he could not remember, but it was possible. The Minister gave the assurance that the Auditor-General was not under investigation. Professor Loots stated that they did inform the Minister that they have had difficulties in the past with the CEF group, but the Minister denied that this was said. Professor Loots indicated that he was upset about the press reports, and that he could not allow the press to find the Auditor-General "guilty" without a basis.

9.92 At the Minister's insistence the meeting was mechanically recorded, because "he wanted an accurate record" of what was said. Thereafter Counsel for the Auditor-General and Price Waterhouse repeatedly asked for a transcript of the relevant tapes, but was eventually told that the tapes had not been retained.

9.93 The perception on the part of Professor Loots was that they departed from that meeting on an amicable footing. However, the Minister stated in evidence that if Professor Loots wanted to tell the truth, he would have referred to the tension between Professor Loots and Mr Van der Nest reflected in correspondence dropped anonymously at the Minister's gate. The Minister was referring to a letter Mr Van Heerden of the Office of the Auditor-General wrote on 23 August 1996 to Price Waterhouse. This letter stated that statements Price Waterhouse submitted to the Auditor-General for publication contained a variety of unacceptable errors that could have been prevented. It also criticised as unacceptable the procedure to merely pass an Auditor-General query to the relevant companies and pass their responses back to the Auditor-General without

sufficient evaluation. To this Price Waterhouse reacted by apologising for the quality of work.

9.94 Unfortunately the Minister did not raise the contents of the correspondence he was receiving anonymously with Professor Loots at their meeting on 3 April 1997. The Minister did not raise it because he did not want Professor Loots to know that he had copies of that correspondence. Had the Minister raised the matter of the correspondence, he would have been told that Professor Loots was concerned about the technical editing of reports by Price Waterhouse and not the auditing work itself. He would also have been told that the Auditor-General never had occasion to criticise the audit work of Mr Van der Nest himself.

9.95 Another document in the Minister's possession was the letter written by Mr Cilliers dated 1 November 1993. In it Mr Cilliers wrote that Price Waterhouse drew attention to the fact that the Auditor-General could publish the financial statements of SFF at his discretion, but that the staff of the Auditor-General had indicated that they would abide by the decision of CEF in this regard. The Minister was not happy with the staff of the Auditor-General abiding by the decision of CEF. This letter could also not be put into perspective at the meeting of 3 April 1997, since the Minister did not raise it. It therefore merely contributed to the Minister's suspicions. The Minister conceded that the issues arising from the anonymously delivered correspondence were not necessarily concerned with the issue he was asking question about. However, from the Minister's perspective there were problems with SFF, the Auditor-General's Office was aware of these, but they did not share their concerns with the Minister.

9.96 The third issue arising from the correspondence, concerned a contract entered into in contravention of company policy of SFF. It resulted in a

nett loss of R5,2 million. The responsible staff were reprimanded and the loss allocated to the training reserve account.

9.97 Because these issues were not raised by Professor Loots the Minister said that the assurances of co-operation at the meeting of 3 April 1997 was an exercise in futility. He perceived it to be dishonesty on their part to "hide" these issues from him. This was, to say the least, unfortunate as one would have expected the Minister to confront the representatives of the Auditor-General with whatever information he had in his possession in order to get their responses and to evaluate them.

9.98 Asked by Counsel why he did not at least phone the Auditor-General personally when he thought that senior officials in the Auditor-General's office were hiding things from him, he said he did not think of it.

9.99 After the meeting of 3 April 1997, the Minister added another concern to those he already had. He looked at the report of Price Waterhouse of 7 February 1994 together with Mr Peterson, and specifically at the reflected loss of R170 million. He instructed Mr Peterson to find out what occasioned the loss. The Office of the Auditor-General responded to Mr Peterson's query on 11 June 1997. In this letter it was explained that the Auditor-General published an abridged version of the financial statements of SFF to Parliament in terms of the existing secrecy provisions. It was stated that the R170 million loss was the result of a strategic stock transfer. It was further explained that there had been a change in accounting policy and that the apparent "loss" could be accounted for in terms of the new accounting policy.

9.100 Counsel for the Auditor-General and Price Waterhouse submitted that circumstantial evidence showed that the Minister must have been fully aware of what the sum of R170 million in fact represented, and that it was related to a change in accounting policy. Counsel argued that the

Minister had therefore knowingly engaged in publishing untruths to Parliament, and should be declared unfit for public office.

9.101 The Minister testified that he only knew by 24 June 1997, therefore after his responses in Parliament, that there had been no physical loss. The Minister's evidence on his knowledge before 18 June 1996 was that he was still not satisfied with the explanation given. He was still under the impression that there had been an actual physical loss of money or oil. He reasoned that if this had merely been the result of a change in accounting policy, then why was it not simply disclosed to Parliament, and why was a note, explaining the situation, left out. He was of the view that it had been kept from Parliament "for some strange, unfathomable reason". It was against this background, which was clouded by suspicion and having to deal as a layman with highly technical accounting issues, that the Minister prepared his responses to Parliament on 18 June 1997. There is nothing concrete in the evidence to counter this evidence of the Minister. The circumstances do not allow only an inference of intentional misleading of Parliament on the part of the Minister. Therefore I cannot find that to have been the case.

Minister Maduna's suspicions were raised by the exclusion of the R170 million, which he felt was a cover-up of something

9.102 The Minister has stressed that his suspicions were aroused by the inclusion of the R170 million relating to the change in accounting policy in the full management financial statements and its exclusion in the Auditor-General's report to Parliament.

9.103 His responses in Parliament, which have been highlighted in the chapter on the Change in Accounting Policy indicated that he considered that the secrecy provisions, *"the fig leaf",* had been utilised to cover up the theft of R170 million.

9.104 He stated in evidence that he did not discuss this matter fully with NSN or any other accountant, except to ascertain if the brackets around the number indicated a loss. The Minister confirmed that at no time did NSN or anyone else indicate to him that the R170 million loss was a physical loss of money or oil.

9.105 I understand that the Minister's suspicions about potential wrongdoing had already been raised because of the Interstate matter and that this may have lead him to expect the worst in this matter. The Minister also was in a difficult situation in that he suspected wrongdoing at the highest level within the organisation. However, the Minister had ample opportunity to liaise with NSN, the SFF directors (two of whom are from the Department of Mineral and Energy Affairs) and staff who were not implicated in potential wrongdoing, as well as the Auditor-General to clarify these issues.

9.106 In addition if he could not resolve these issues directly with the Auditor-General he was entitled at all times to refer the matter to the Audit Commission or Public Accounts Committee, which he did not do. The Minister should have ensured that all avenues of investigation had been fully explored, before resorting to a public forum to air his views in this regard.

9.107 I am of the opinion that the Minister should have taken further steps to ascertain what the R170 million related to and why it was not specifically disclosed in the Auditor-General's report. Whilst I realise that the Minister had only a brief time to prepare his responses with regard to the questions raised in Parliament, I believe that the Minister if he was uncertain of his facts in this regard, should have limited his response to the fact that he was looking further into the matter. He should not have raised the series of "rhetorical" questions, as he referred to them, that he did. This created the impression that there was a physical loss, that the Auditor-General may have been at fault for not identifying it and more serious still, was involved in covering it up by misusing the secrecy

provisions, without having reasonable information that indicated that this was in fact the case.

9.108 Counsel for the Auditor-General and Price Waterhouse argued that the Minister's actions towards the Auditor-General were unconstitutional. On the other hand, Counsel for the Minister and NSN argued that the Minister in his evidence denied attacking the Auditor-General, and a finding of unconstitutional conduct should therefore not be made.

9.109 The Minister testified that by including a reference to the Auditor-General in the terms of reference of NSN, he did not intend thereby to investigate the Auditor-General or his Office. Having listened to his evidence in that regard and after reading the terms of reference, I accept that his intention was indeed not to investigate that Office.

9.110 This does not however settle the question whether any of his actions did or did not violate the spirit of the Constitution. Before examining the constitutional position I however need to re-iterate that in examining the whole question of the audit of SFF by the Auditor-General's agent, Price Waterhouse, this would inevitably entail examining the role of the Auditor-General in that regard.

9.111 It is common cause that the Minister did not consult Mr Petersen in order to verify or otherwise the "loss" of the sum of R170 million. On 13 August 1997 after having had the opportunity to see the effect of his responses to Parliament on 18 June 1997 and after having availed himself of the facts about the R170 million issue, the Minister still found reason to speak in an uncomplimentary manner about the Auditor-General at a press briefing. The Minister never retracted his remarks in this regard until his Counsel recorded a withdrawal during my investigation to the effect that there had never been a loss of R170 million.

9.112 The conduct of the Minister in this regard is unacceptable. Should he have had the full facts and these facts showed that the Auditor-General's office had done something wrong, one would indeed have expected him to speak out. This would however have had to be done through the proper channels and in a manner which was procedurally correct.

9.113 The Minister was already found guilty, correctly in my view, by a Parliamentary Committee of having transgressed Rule 99 of the Standing Rules of Parliament which required him to give notice of a substantive motion before criticising another institution accountable to Parliament directly.

9.114 It is appropriate to make reference to the provisions of section 181 of the Constitution in this regard which specifically enjoins all other offices and organs of State to support and protect as well as to assist the institutions supporting democracy. Section 181 reads as follows:

"(2) These institutions are independent, and subject only to the Constitution and the law, and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.

(3) Other organs of State, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions.

(4) No person or organ of State may interfere with the functioning of these institutions.

(5) These institutions are accountable to the National Assembly and must report on their activities and the performance of their functions to the Assembly at least once a year."

9.115 The Office of the Auditor-General is one of the institutions referred to above. It is clear that subsections 3 and 4 in particular place a positive legal duty on all organs of State to accord such assistance as these institutions may require to protect their independence, dignity and effectiveness, subject to the terms of the Constitution, or any other law.

9.116 In a case which dealt with an attack on the judiciary in Namibia, **S v Heita & Another 1992(3) SA 785NmHC**, O'Linn J at page 791c stated as follows:

> *"The judiciary has no own defence force or police force. They are not politicians. They cannot descend into the arena by making use of the remedy of an ordinary citizen to institute actions for defamation or iniuria. Precisely because they cannot defend themselves, unscrupulous persons may exploit this weakness by scandalising the Courts or their judges or a particular judge, even spreading untruths without fear of contradiction. The judges are, therefore, dependent on the proper functioning of the provisions of subarticle (3) .... for the protection of their independence, dignity and effectiveness and for the maintenance of the independence of the judiciary as a pillar of the Namibian Constitution, without which the Constitution itself cannot survive."*

9.117 Chapter 9 Institutions similarly underpin the viability, and validity of our Constitution and the sentiments expressed in O'Linn J's pronouncement are equally applicable. These are institutions which Justice Langa DP referred to in the case of **New National Party of South Africa v Government of RSA & Others 1999(5) BCLR 489(CC)** where he states (speaking on behalf of a 80% majority of the court) at page 518 paragraph 78:

"The establishment of the Commission and the other institutions under chapter 9 of the Constitution is a new development in the South African scene. They are a product of the new constitusionalism and their advent inevitably has important implications for other organs of State who must understand and recognise their respective roles in the new constitutional arrangement. The Constitution places a constitutional obligation on those organs of State to assist and protect the Commission in order to ensure its independence, impartiality, dignity and effectiveness. If this means that old legislative and policy arrangements, public administration practices and budgetary conventions must be adjusted to be brought in line with the new constitutional prescripts, so be it ...".

9.118 The Minister's statements both in Parliament and outside Parliament were tantamount to suggesting that the Office of the Auditor-General had either covered up the loss of R170 million or that he had not done his duty properly by ascertaining and disclosing that such a loss had occurred. This unfortunate impression could have been easily dispelled by an appropriate consultation with his Management Auditor, Mr Petersen, or by a direct in depth discussion with the Auditor-General himself. Even though there were meetings between the Minister and the Office of the Auditor-General, it does not seem to me that they were in the spirit of section 181 or section 41(1) which provides as follows:

"(1) All spheres of government and all organs of State within each sphere must -

(a) preserve the peace, the national unity and the indivisibility of the Republic;

(b) secure the well-being of the people of the Republic;

(c) provide effective, transparent, accountable and coherent government for the Republic as a whole;

(d) be loyal to the Constitution, the republic and its people;

(e) respect the constitutional status, institutions, powers and functions of government in the other sphere;

(f) not assume any power or function except those conferred on them in terms of the Constitution;

(g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and

(h) co-operate with one another in mutual trust and good faith by -

(i) fostering friendly relations;

(ii) assisting and supporting one another;

(iii) informing one another of, and consulting one another on matters of common interest;

(iv) co-ordinating their actions and legislation with one another;

(v) adhering to agreed procedures; and

(vi) avoiding legal proceedings against one another.".

9.119 With regard to protection of institutions, functional or institutional integrity, fostering good relations, supporting one another, consulting one another and adhering to agreed procedures, I find that the Minister violated the spirit of the Constitution by not upholding the principles and prescripts contained particularly in the quoted sections of the Constitution. Adherence thereto would have led to the immediate rectification of any incorrect perception which the Minister might have had.

9.120 I have not suggested and I do not suggest that the Minister acted *mala fide*. None of the evidence presented before me has suggested that he had any bone to pick with the Office of the Auditor-General prior to the reports he received which led to the Management Audit. It is however true that the Constitution can be transgressed even if the Minister's allegations were made *bona fide* and had been correct.

9.121 The Minister is duty bound to uphold the constitutional principles and follow correct procedures at all times. It is absolutely imperative for all South Africans, both in and outside Parliament to accept the consequences of the Constitution which is the supreme law of the land. One of those consequences is to uphold and protect the dignity, the integrity and independence of the institutions mentioned in chapter 9 of the Constitution.

9.122 Unfortunately, neither section 181 nor section 41 provides any sanction for their transgression. Neither is the Office which I hold possessed of any power to prescribe such sanctions. This is a constitutional weakness that can only be remedied by Parliament itself. Parliament has to provide such remedy because I consider these matters to be serious enough not even to be adequately addressed by a simple apology. Parliament therefore needs to devise a mechanism with which to deal with such matters when they arise. This is necessary also to endorse not only the fact that the Constitution is a living document but also one that is effective. The public needs to be assured that the Constitution is not a document of mere words.

9.123 The Minister is a member of Parliament and a member of the Cabinet and in this regard section 92 provides as follows:

> *"92(2) Members of the Cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions.*
>
> *(3) Members of the Cabinet must -*
> *(a) act in accordance with the Constitution; and*
> *(b) provide Parliament with full and regular reports concerning matters under their control."*

9.124 I accordingly recommend that the Speaker of the National Assembly takes the necessary steps to ensure that not only this report but also more specifically matters regarding sections 181 and 41 of the Constitution be raised in the Legislature with a view to a pronouncement regarding the accountability of the Minister and any possible sanction which the Legislature might consider appropriate.

OVERALL FINDING

9.125 I have been requested by the National Assembly to pronounce on whether or not the reports of the Auditor-General to Parliament on the affairs and financial statements of SFF were correct and proper. Having considered all the relevant issues and reports of the Auditor-General, I am of the opinion that these reports were indeed correct and proper, with the exception of one minor technical issue dealt with in paragraphs 9.43 and 9.44 above, which is of no practical consequence.

10. THE NSN'S REPORTS

BACKGROUND

10.1 During this investigation there has been much discussion on the reasonableness of NSN's management audit work and the reports arising therefrom. There has also been discussion as to commenting on this.

10.2 Whilst my mandate does not specifically ask me to investigate this matter, the NSN reports formed one of the primary bases for the allegations of irregularities at the SFF and against the Auditor-General. As one of the primary sources of allegations, the reasonableness and reliability of the report was of key concern to me and therefore I have commented specifically thereon.

10.3 The Auditor-General and other parties have argued that the standard of work of NSN is such that no reliance can be placed on it or on Mr Petersen's evidence and as such this evidence should be rejected in its entirety. As I have stated on numerous occasions in this enquiry, the reasonableness or otherwise of any of the evidence including the NSN reports and Mr Petersen's evidence cannot be tested in a vacuum, but must be tested against the actual facts as they emerge. Further, this enquiry is an inquisitorial rather than adversarial enquiry and as such I would not want to exclude evidence purely on technical grounds.

10.4 Mr Petersen was appointed by the Minister of Minerals and Energy Affairs on 12 February 1997. His terms of reference are quoted in paragraph 1.6 above. Mr Petersen described the methodology of the work performed in his first report, as follows:

> *"**Methodology***

South African Auditing Standards

In performing the management audit we were guided by the South African Auditing Standards.

Planning

Our planning included the following:

- *A review of the founding documents of the SFF Association;*
- *A review of the accounting policies and procedures in order to obtain an understanding of the operations of the Association;*
- *Discussions with Management and staff; and*
- *A review of relevant documentation and correspondence between EGPC, Interstate, Amoco, the Association* [SFF]*, the Minister of Minerals and Energy, as well as internal correspondence of the Association.*

Research and Investigating

Our procedures included the following:

- *Interviews and/or discussions with*
  - *certain past and present Directors;*
  - *past and present employees of the SFF, involved in the Crude procurement cycle; and*
  - *Minister P M Maduna and members of his staff.*
- *Enquiries, written and verbal, directed at*
  - *Egyptian General Petroleum Company (EGPC);*
  - *Amoco Petroleum Company, including a visit to their London Offices;*
  - *Management at the SFF;*
  - *The Office of the Auditor-General; and*
  - *The Department of Minerals and Energy.*

- *Observation of*
  - *The level of interaction between management and staff at the SFF; and*
  - *The nature of interaction between management and staff of the SFF.*
- *Obtaining sworn affidavits from certain past and present members of staff;*
- *Review, verification and analysis of information and documents relevant to the management audit according to the terms of reference;*
- *Meetings and discussions with Internal and External parties, relevant to the conduct of the management audit."*

10.5 On completion of his work, Mr Petersen issued two reports, on 26 August 1997 (the first report) and 13 October 1997 (the second report). In the main, Mr Petersen did not testify on these reports during his evidence (although he confirmed the contents of these reports), but provided additional information, primarily on the audit work performed by the Auditor-General and his agent.

10.6 The Auditor-General and Price Waterhouse in their submissions noted that Mr Petersen as a Chartered Accountant and auditor needed to abide by the SAICA Code of Professional Conduct. Mr Petersen himself confirmed that as a Chartered Accountant he had complied with the Code of Ethics.

10.7 The key concepts of the Code of Professional Conduct were summarised as follows:

- The need for independence, integrity and objectivity.
- The need to avoid irresponsible criticism of a fellow professional.
- The need to ensure that any report issued expresses conclusions, which are supported by sufficient, appropriate audit evidence.

- The need to act with professional competence and due care.

ALLEGATIONS

10.8 The main allegations raised by the other parties with regard to the conduct and reasonableness of his work and reports are as follows:

- Mr Petersen did not act independently and objectively as he allowed the work and the views expressed to be biased by the Minister. In particularly Mr Petersen excluded evidence that did not support his view.
- Unnecessary work was performed in order to try and justify the Minister's statements and either should not have been performed or should have been performed by others.
- Mr Petersen's conclusions consisted of wild allegations that were not supported by the evidence.

TERMS OF REFERENCE

10.9 All audit work is performed in terms of some mandate/terms of reference. The External Auditor is mandated in terms of the Companies Act and various other Acts. The Auditor-General is mandated by the Auditor-General Act. The Internal Auditor is mandated by Management. Mr Petersen, as a Management Auditor, was mandated by the Minister of Minerals and Energy Affairs.

10.10 Particularly with regard to management/forensic auditing it is often not clear at the outset exactly what will be found and as such the terms of reference may be amended, extended, reduced, etc, during the course of the work. Whilst these terms of reference are set by the person employing the auditor (in this case the Minister), the employer will usually place reliance upon the expertise of the auditor to assess what work should be done and if that work should be extended or amended. In

setting and amending the terms of reference both the employer and the auditor need to consider the costs and the benefits of doing additional work. The costs are generally the costs of employing the auditor, but may also include other more indirect costs, such as the time of the employer and the people being investigated, etc. The benefits may be financial with regard to recovering funds or assets or may not be directly financial, such as ensuring that correct controls are in place, deterring future problems, etc.

INDEPENDENCE

10.11 It was argued that it was inappropriate for NSN to liaise as extensively as they did with the Minister and that this liaison showed the lack of independence of NSN. Generally the extent of the liaison will depend on the requirements of the employer and the auditor. However the auditor must maintain his independence and objectivity and not be swayed by the employer's view of the situation unless borne out by the facts. In fact extensive liaison is desirable as long as independence and objectivity are maintained by the auditor, as it allows the employer to be more aware of what is happening and therefore make an informed decision about the work and the results thereof. In particular it allows full and informed discussion with regard to the benefits of continuing/extending the work being performed. Therefore, I find that there is nothing improper about NSN liaising extensively with the Minister to inform him of their findings and to discuss additional work to be performed.

COMMENTS

10.12 Without going into every allegation and issue and the reasonableness of NSN's work and report for each, I have the following overall comments with regard to the reports:

- The key aim of any auditor is to investigate matters and present factual findings. The auditor is not a judge. Generally the report of a management or forensic auditor will be predominantly factual and will leave the reader to draw his or her own conclusions from the evidence presented. The auditor may suggest that certain evidence may lead to certain conclusions, but should try to make it clear where these are subjective or require additional information to be confirmed.
- Mr Petersen raises serious allegations against the SFF Directors, Management, Price Waterhouse and the Auditor-General, eg that the Directors breached their fiduciary duty, the Auditor-General was not independent, etc. Whilst this may have been the opinion of Mr Petersen, these were subjective opinions with the facts being open to interpretation, as has been clearly demonstrated during this investigation. It has often been these allegations, rather than the basic facts, that have been in contention. Whilst I am aware that the NSN reports were not formulated with this investigation in mind, generally I would have expected reports of this nature to have limited the subjective opinions and comments and concentrated on the factual elements.
- Mr Petersen conceded that whilst he had significant oil industry expertise, he was not an expert with regard to the Strategic Fuel Fund or the Auditor-General's audit thereof. As such I would have expected that he would have tested his opinions by consulting with relevant experts or at least ensuring that he had received comments from the affected parties so that his opinions were sufficiently tested and he could take into account any valid arguments.
- None of the affected parties were asked to comment on his first report. I note that the Auditor-General was asked to comment on the second report, but that due to the advice from his legal representative

he did not in fact comment. Mr Petersen did note in his first report that:

> *" 3.10 The auditors have treated this assignment as an internal investigation and have worked on the basis that Minister PM Maduna will, if he so wishes, take further action. To the extent that this report is critical of the conduct of certain employees and past Board members, such persons will likely be afforded an opportunity to respond in the appropriate forum to the findings of this report."*

However, given that Mr Petersen had not given the various parties against whom he made the allegations an opportunity to respond, I would have expected that his report would have been more factual and included less subjective opinion as those opinions had not been tested.

- Whilst overall I do not find fault per se with Mr Petersen's factual findings, I do not consider that he weighed all the possibilities in arriving at his subjective conclusions. In addition, his subjective conclusions were often couched in aggressive terms, which gave the impression that they were backed by stronger facts that they were, particularly with regard to the Corporate Governance and Audit issues.

11. SUMMARY OF RECOMMENDATIONS

11.1 Based on the evidence gathered during the investigation, I have identified problem areas and made recommendations with regard to those issues. In conclusion I would like to summarise them as follows below. It should be noted that one must refer to the body of this report for details and findings.

THE PURCHASE OF EGYPTIAN CRUDE OIL AND THE RELATED PAYMENTS TO INTERSTATE

11.2 With regard to the failure to record the Six Cents Agreement with Interstate in writing, and the issues raised with regard to the *causa* for the payments to Interstate, I found it to be untenable that the *causa* for the payments was not recorded in the facsimile of 2 July 1992 and that the term contract was not in writing in accordance with the Company Policy RO2. I found the policy with regard to term contracts, namely that they had to be in writing, a salutary one, and that all contracts should be formalised and authorised at the appropriate levels, as a written contract would probably have gone a long way to allay the suspicions that had arisen around the US $0,06 payments to Interstate. I also stated that it is unacceptable that this matter was not addressed by internal controls such as Internal Audit, which is an indication of a material defect in the organisational structure.

11.3 I therefore recommend a strict application of the written contracts policy and that this has to be drawn especially to the attention of Internal Audit of SFF and specifically incorporated as one of the imperatives into the rules and regulations in terms of which they approve payments (see paragraph 3.65 above).

11.4 With regard to the absence of reference in minutes of the Board/Crude Oil Committee for 1992 and 1993 to the Six Cents Agreement with

Interstate, and the fact that minutes of the Crude Oil Committee meetings were kept by a member of the crude oil department, and not by the regular Board secretary, I noted that no relaxation or laxity of standards should be tolerated in any State entity, and particularly one which deals in billions of rands on behalf of the tax payer. Further I take it that minuting is now undertaken by a competent person trained to do so. If not, I recommend to the Board of SFF that this be effected (see paragraph 3.97). I also recommend that the Directors and Committee members, when checking minutes, ensure that they fully record the matters of importance with regard to the management of the business as well as key decisions in this regard (see paragraph 7.33).

11.5 With regard to the issues arising from the alleged absence of Board approval for the EGAM contract and the level of authorisation needed for an evergreen contract, I noted that contracts longer than a year should go to the Board. As an evergreen contract is intended to last for more than a year, it is recommended that evergreen contracts also be reviewed by the Board in future (see paragraph 3.127).

11.6 With reference to the delay in bringing the EGAM contract to the attention of the Board, I recommend that such delays be strongly discouraged, since it is improper not to keep the Board informed at all times (see paragraph 3.131).

11.7 With regard to the Ivory Coast payment it appears to have been an isolated incident representing a classic case of political manipulation of a state-owned company for political gain. It is indeed hoped that this case represents an aberration which will never again be repeated within the CEF group or any similar organisation (see paragraph 3.19). It is a lesson about what ought never to be allowed to happen by all State institutions and para-statals.

THE SALEM RECOVERY

11.8 With regard to the Salem issue, and the incorrect posting of monies received: This practice ought to be deprecated as inappropriate. Though it did not have any practical negative consequences, it ought not to have been done and reflects a practice that should not be repeated in the future (see paragraph 4.6).

CHANGE IN ACCOUNTING POLICY (R170 MILLION ISSUE)

11.9 With regard to the change in accounting policy, I am of the opinion that the process followed and the expertise utilised in considering the change and its disclosure, were reasonable. However, should there still be concerns, the Minister is entitled to request the Board to review the matter further and to obtain further expert advice (see paragraph 5.30).

R1 450 MILLION PAYMENT ON 1 APRIL 1997

11.10 With regard to the old Company Policy RO5 which was silent on whether funds for return cargoes should be retained: The new policy is explicit that the funds must be set aside from the original sale. Therefore I have no further recommendation in this regard, other than to say that this is more desirable. As it was common cause that there was no actual cash shortage caused by these payments (cash transfers to Government based on oil sales which had not yet occurred), and in view of the fact that the cash flow forecasts are subjective projections into the future, I did not go into too much detail on the various cash flow forecasts prepared and the differences between them. I do recommend however, that if a cash flow shortage is forecast, even a short term one, this should be clearly communicated to the Board so that the matter can be addressed in whatever manner deemed appropriate by the Board (see paragraph 6.19).

11.11 With regard to company policy on whether strategic oil reserves should be held in wet or paper barrels, I am of the opinion that Company Policy R02 was in fact not complied with, as 11 million barrels were held in paper barrels. Consequently the required reserves were below the minimum standard required at the time. At that stage (31 March 1997) the breach of the policy did not have any serious consequences for the SFF or South Africa. In saying so, I do not seek to justify the aforementioned breach, which potentially could have had serious consequences for the country. Such breaches of company policy should never be countenanced or allowed to occur in future (see paragraph 6.26).

CORPORATE GOVERNANCE

11.12 With regard to the Interstate payments, the change in accounting policy and the R1 450 million payment to Government, and the allegations raised by NSN that the General Manager acted without the appropriate authority and knowledge of the Board, and did not provide them with adequate information regarding the key issues: The position would have been different had the SFF had both Executive and Non-executive Directors, in that the flow of information would not have been open to potential limitations by one person as was alleged.

11.13 I therefore recommend that SFF and other similar Government organisations should have a Board of Directors consisting of Executive and Non-Executive Directors, as suggested by the King Report. This would not necessarily require additional people. I would expect that the non-executive Board would remain, but that the General Manager and Deputy General Managers be appointed Executive Directors. This would prevent the Board being dominated by an individual or individuals whilst ensuring that it is fully informed on all matters at all stages. The Chairman would however continue to be independent and non-executive (see paragraph 7.37).

11.14 With regard to other Corporate Governance issues: I am of the view that State institutions should form the model for good Corporate Governance. Whilst these institutions do not always operate in the same way as a normal business, the Corporate Governance principles outlined in the King Report are still applicable. Given the highlighting of fraud in business today, it is vital that as a part of this Corporate Governance fraud be specifically addressed. I therefore recommend that all State Institutions should have a formalised fraud strategy as part of their overall strategy, which should include:

- How fraud risks will be assessed on an ongoing basis;
- An ongoing methodology for ensuring that the controls in place correctly identify, deter and prevent fraud;
- A fraud response plan to ensure that any fraud detected is responded to appropriately;
- Specific responsibilities for ensuring that the fraud strategy is implemented and followed up on an ongoing basis (see paragraphs 7.59 to 7.62).

INTERACTION BETWEEN MINISTER MADUNA AND THE AUDITOR-GENERAL

11.15 With regard to the interaction between the Minister and the Auditor-General, I stated that I find the Minister's conduct in regard to the accusations made with regard to the implied cover-up of a loss of R170 million by the Auditor-General to be unacceptable. In this regard, I recommend that not only the Minister, but all officials of the State should take heed of the prescribed relationship between institutions and organs of State as spelt out in the Constitution. Section 41(1) and section 181 of the Constitution specifically deal with this. Section 41 provides that organs of State must respect the Constitutional status, the one of the other. They must not exercise their powers in a manner that encroaches on the institutional integrity of another. It furthermore provides that

organs of State should co-operate with one another with mutual trust and in good faith by consulting one another on matters of common interest, and by adhering to agreed procedures. The correct channels and procedure must be followed when addressing concerns one might have about a Chapter 9 Institution. Further I accordingly recommend that the Speaker of the National Assembly takes the necessary steps to ensure that not only this report but also more specifically matters regarding to sections 181 and 41 of the Constitution be raised in the Legislature with a view to a pronouncement regarding the accountability of the Minister and any possible sanction which the Legislature might consider appropriate (see paragraph 9.124).

ANNEXURE A

GLOSSARY OF ACRONYMS AND TERMS USED IN THE REPORT

AMEP:	African Middle East Petroleum Company
AMOCO:	AMOCO Oil Company
CEF:	Central Energy Fund
EGAM contract:	Egyptian General Petroleum Corporation/AMOCO Contract
EGPC:	Egyptian General Petroleum Corporation
Financial year:	The SFF financial year was from 1 April to 31 March (e.g financial year 1992/3 is the period 1 April 1992 to 31 March 1993).
FOB:	Free On Board
GAAP:	Generally Accepted Accounting Practice
GAAS:	Generally Accepted Auditing Standards
GAGAS:	Generally Accepted Government Auditing Standards
Gender:	Any reference to the male gender is to be read as to include the female. Since the relevant legislation still referred to the male gender only, and the occupiers of the relevant positions happened to be male, it was decided to refer to the male form
GOSM:	Gulf of Suez Mix (crude oil)
IDC:	Industrial Development Corporation of South Africa Ltd
NSN:	Nkonki Sizwe Ntsaluba (Chartered Accountants) SA
OGSP:	Official Government Selling Price
Reports of NSN:	The report of 26 August 1997 is referred to as the first report and that of 13 October 1997 as the second report.
SAICA:	South African Institute of Chartered Accountants
SFF:	Strategic Fuel Fund Association
VLCC:	Very large cargo carrier

ANNEXURE B

MINISTER'S RESPONSES IN PARLIAMENT ON 16 JUNE 1996

"…it would indeed be interesting if one day this House was told what these secrecy provisions were; what laws, if any, contained them; how, and to what extent, they applied to the affairs of the SFF Association; to whom, in the place of this House and this Parliament, full, true and accurate reports were made; and to whom those who were made privy to such reports accounted.

It would also be interesting to know under whose discretion the question of what was affected by the so-called secrecy provision fell, and what criteria or guidelines were followed in deciding what to disclose or, as the case may have been, what not to disclose to Parliament. In other words, is Parliament expected to have full confidence in an office which may be tempted to think that it has a discretion to selectively disclose matters, and yet present such matters to Parliament as though they are complete, accurate and flawless?"

"We now know, in fact, that this fig leaf called secrecy provisions has been thrown aside ….. I have cast it aside."

"One of those questions relates to the so-called loss of the sum of R170 million. This loss, I discovered was part of this investigation when I actually collided with a document, which was submitted to my predecessor by Price Waterhouse as a report – an audit report, in fact – to the shareholder.

I then decided to go into it systematically, in conjunction with the auditor. That one says that there was a loss of R170 093 000, and that the loss was ascribable to the transfer of oil stock reserves. It is dated 7 February 1994. The Auditor-General, who was given this report, because the audit was done by Price Waterhouse, an agent of the

Auditor-General, then did some nimble footwork in the report. I then checked why there was a difference between what was reported in the Price Waterhouse report dated 7 February 1994 and the report of the Auditor-General dated 31 March 1994, weeks before our election."

"In conclusion, the sum represents 21,34% of the trading income of the SFF for the relevant financial year. According to the Price Waterhouse Meyernel report, which I have referred to, the said loss was occasioned by strategic stock transfers. The questions that this averment immediately begs are: Who were the recipients of these transfers of South Africa's strategic oil stocks? Why were the stocks transferred at a loss of this magnitude? What consideration, if any, was given in exchange for such transfers, and to whom? If nothing illegitimate, illegal or untoward was being done with these stock transfers. The questions that this averment immediately begs are: Who were the recipients of these transfers of South Africa's strategic oil stocks? Why were the stocks transferred at a loss of this magnitude? What consideration, if any, was given in exchange for such transfers, and to whom? If nothing illegitimate, illegal or untoward was being done with these stock transfers, why did the Auditor-General's office deem it fit, at that time, not to disclose this so-called loss to Parliament? And, especially, under what statutory authority was that decision made? I rest my case."

"They will have to say exactly what happened to our money in the fiscus; they will have to account for that. As I have said, they still have to come up and say how, short of a big fire, they lost stock to the tune of R170 million. They have not accounted for that as yet."

"We can now see what lay beyond the fig leaf, ie the theft of R170 million."

"If nothing illegitimate, illegal or untoward was being done with these stock transfers, why did the Auditor-General's office deem it fit, at that time, not to disclose this so-called loss to Parliament?"

"I had read the Auditor-General's reports. For instance, the relevant report, RP 63/1994, reads as follows:

> *'In my opinion the financial statements of the institutions referred to in paragraph 1, with the exception of CEF (Pty) Limited, fairly present the financial position, at the dates given in the statements, and the results of the operations and cash flow information for the year/period ended on those dates, in accordance with generally accepted accounting practice and, where appropriate, in the manners required by the Companies Act.'*

Needless to say, the institutions referred to included the SFF Association, If, at that point, the Office of the Auditor-General and people who work with him found nothing wrong with these moneys, how could I, …., rely on them? I would then have to look for people who would indeed look for that which they refuse to see, when they had it in front of them."

"Furthermore, they will also have to say why they paid 7,5 American cents to certain people in respect of Egyptian crude when those moneys were not due and payable.

My research has taken me all the way to Amoco, it has also taken me all the way to the Egyptian General Petroleum Company, and I am in possession of letters of people in charge of those two companies which tell me as Minister that those moneys were not due and payable."

"Madam Speaker, I do not want to prejudice the people affected, or prejudice their interests, but I will read only one letter to this House, if it pleases you. It is a letter which is handwritten and which is dated 24 October 1994. To be specific, it reads 24/10/94. It is addressed to a person called Roy. The next word is "Salem" and it is underlined. It reads as follows:

' Roy Salem. We (Shell and myself) had agreed on the following:

1) They will write you a letter explaining the matter. This letter will be hand-delivered.

2) We will then advise them what to do with the money. In view of transparency, we must find a way, which will not disclose the origin of the money.

3) We again agreed on secrecy. No one will disclose anything.

4) If you agree, we can inform Minister Botha. He can then thank (or whatever) John Drake over the telephone. Nothing in writing. In doing it this way, Shell gets acknowledgement from the top that we have the money, but we do not disclose the origin in the books.' "

ANNEXURE C

PRESS CONFERENCE OF 13 AUGUST 1997

"Next point is the very first paragraph in the report to Parliament. The Auditor-General concedes that this is a response to me. Par 1 says: the Minister of Minerals and Energy, brought …during an interpolation in the National Assembly on 18 June 1997, made certain statements in respect of the Office of the Auditor-General. He furthermore suggested to the House that I should respond to these statements, (cell phone noise) which I am pleased to do in this Special Report to Parliament.

So this is a response to what I said, rather than a report to Parliament.

2nd paragraph.

I will just ignore the rest and just say to you that there is a concession again here quote, in the second line quote 'a complete re-audit of the matter in question has not been done by my Office or my agent' in other word therefore the report is not a re-audit. It is a response to me because to the credit of the Auditor-General, let me say ladies and gentlemen that he says 'that sufficient work has been done to address the principal issues raised by the Minister in the House'. So he concedes that. But essentially you are dealing therefor with a response to me rather, rather than a re-audit of the matter that we've raised. I think it's critical that you bear that in mind.

Now the next thing is the next page. I raised, Ladies and Gentlemen, the authority to do what I will describe to do…to you this afternoon. And, after some toeing and froing I decided that in fact we should go to the Office of the Auditor-General and ask why in fact these figures differed each from the other. If you look at the Price Waterhouse report dated the 7th of February 1994, page 8. And if you compare page 8 thereof with the report to Parliament of the

Auditor-General dated the 31st of March 1994, page 32 thereof, you will see what as Minister I was worried about.

If you look at the Price Waterhouse document, there is a figure just below the words in bold 'other income', 'other income' once you stated "Result of strategic stock transfers" in brackets (170 930 000). You will see. You will see that you don't see that figures in the other document, that is the Auditor-General's report.

Now surely Ladies and Gentlemen, confronted with that, I then as Minister said but I must ask questions what was happening here? The little things that I was taught in accounts for lawyers, told me that you reflect a loss this way. So I then asked questions internally. But I must also underline this. That for me this was basically incidental to a major audit, management audit that I had commissioned. Eh time allowing us, we'll go into why I commissioned it but for now let me tell you that this was incidental. But when I saw it, I then asked questions. How did I see it. I asked in connection with the main audit. And I was asking my staff – by the way this had nothing to do with the Office of the Auditor-General –asking my staff – by the way this had nothing to do with the Office of the Auditor-General – asking my staff, how were the books of SFF audited, because in terms of the CEF Act which I as Minister am responsible for, the Accounting Officer has,

One : the responsibility for accounting for all monies received by the entirety of CEF and particularly in this instance, SFF Association. So how are these accounted for?

And secondly in terms of the Act, and I'm sure that my staff has provided you with copies of the Act, free of charge, needless to say. In terms of the Act, the Accounting Officer shall keep full and true records of all transactions, etc. This is the law. Now as Minister I am entitled to know how these things have been done.

The answer I get is a very interesting one: Minister, yes, they are audited appropriately (sorry Sir, you have your cover there so you won't be able to get a picture of me) now let me tell you, that the answer I get is a very interesting one: yes, Minister the auditing is done by an Agent of the Auditor-General, Price Waterhouse. So you see, my starting point is Price Waterhouse there – incidentally, ladies and gentlemen, I was not pre-occupied with anything that had happened prior to the lifting of the UN oil boycott. I was merely looking at what happened subsequently. So I then said, let's start with the year 93-94 and look at it. What does Price Waterhouse report about this matter? Indeed what I get is, the document that I've referred to and I look at this and I say but, its interesting but I say does the Auditor-General take these, wrong as they are, to Parliament? Then I am told, Minister well you'll have to look at what the Auditor-General has reported to Parliament. I look at the two. To me they look different, ladies and gentlemen. If you want to take a pause and look at your own copies, you will see what I'm talking about. They are indeed different. So, then we ask questions and the thing is thrown around for some time, within our ranks, without the public knowing that this Minister was asking questions. I'm telling you, if I got the answers, satisfactory answers at that point, you would not even have know about the matter. There are so many matters we deal with here. Right, when I get a satisfactory answer, I thank those who give me the answer and thank the lord Almighty for the answer. And that, but in this instance, I had to dig deeper.

Now ladies and gentlemen, let me tell you, eventually we then wrote a letter though Mr Petersen again because he's a technical man helping me here, struggle (?) auditor or not – wrote a letter to the Auditor-General. The response we got on the 11th of June 1997 was a very interesting one. Where is it sisi, here, I've got to show let me read it to you. A very interesting one, I won't bother to find it, but it says two basic things – one, that we are dealing here with a summary , or an abridged version, of whatever statements that have been given. Now if you take a little pause right there. Why summarise one page in one page? That's right. Why summarise one page in one page? But then again it says: "The extent of the disclosure was subject to the secrecy

provisions which pertained at the time, as well as the goal presenting information to Parliament in as concise a form as possible".

Okay, right. So Parliament has been given a summary. I want to say, gentlemen, that if you look just at one small sum of the figures that Mr Barend Petersen has gone into the technical details, there are differences even within the figures. Now then I say, but what secrecy provisions would allow you to do this? I asked that question in Parliament. The answer, in fact, I get in the Report to Parliament, that is the next page that I am referring to now, in the report if you look at it. The answer that I get in paragraph 2.1(b), tells me that the fact that secrecy provisions did still pertain at the time. These provisions were contained in subsection (5) of section 1E of the Central Energy Fund Act, 1977 (Act No. 39 of 1977 in brackets again act, which reads as follows – then you can read what it says. But, I did say to Parliament this was a mere fig leaf, and I am going to tell you why I said so. I tell you. If you look carefully at it, it says that whatever discretion that is being mentioned here has to be exercised first and foremost with due regard to the special nature of the transaction recorded, in those documents and the national interest. Take a little pause there.

So, what exercise in legislation is then required to show that indeed there is a special nature of the transactions – underline that word, <u>transactions</u> – and that in fact it is in national interest to report about these transactions – underline <u>transactions</u> again, in a particular manner.

Now that is very interesting. If you read further in the document here, the report to Parliament, there is no suggestion that we are dealing with transactions here, the best that we are told by the Auditor-General is that we are dealing in fact with "book entries". Sophisticated calculations, etc., etc. And therefore the discretion is inapplicable, in my opinion! Because you are not dealing with transactions but simply with book entries. That's there. Now, book entries and transactions are different things in English, and certainly in any Bantu language, it's as simple as that.

But now, the 2nd aspect is that you exercise this discretion after consultation with the State President, the Minister of Mineral and Energy Affairs and the Minister of Finance. Take a little pause again, read further down, paragraph (C), subparagraph (C), it says, and these are not Penuell Maduna's words, that consultations in terms of the secrecy provisions in respect of the 1992-1993 financial statements were initiated by a letter dated 31 March 1994 to the Minister of State Expenditure, of Mineral and Energy Affairs and of Finance. The acquiescence to the proposed reporting by the State President and the Minister referred to was formally conveyed to my Office – underline this – on 5 May 1994.

Now, interesting indeed. After 27 April 1997, eh 1994 elections? That's the first part. And secondly, five days before the induction of His Excellency, Nelson Rolihlahla Mandela as President of the Republic, as head of state. But, that's not major point to take. But what this tells you is, that in any event the discretion was not exercised after consultation. Because if you look at the date of the Auditor-General's Report to Parliament its 31st March 1994. The same date as when the letter initiating the consultations was, according to this report to Parliament, signed. Now, that's very interesting, if you care to look at facts in the face. Very interesting.

This was done ex post facto. And therefore, you can't rely on this again. But more than that, I'm coming to this part:

If there were people who were consulted in respect of this financial statement who were not supposed to be consulted in terms of the Act. These people are the following:

I refer now to you an Afrikaans letter from the Office of the Auditor-General, addressed to 'Mnr D.R. Vorster', dated 21 February 1994, If you look at it again it purports to be ' 'n Opsomming van Vergadering 9 Februarie 1994.' Now, the Price Water report is dated 7 February 1994. Two days later these people had

a meeting, if you just go to the next page, 'OORHOOFSE OPSOMMING VAN VERGADERING OP 9 FEBRUARIE 1994 OM 09:00 IN DIE KANTOOR VAN DIE ADJUNK OUDITEUR-GENERAAL'. That's what it says.

'1. TEENWOORDIG:

Prof.	*J.A.J. Loots*	*:*	
Mnre	*F.J. Joubert*	*:*	*Ouditeur-Generaal'*
	L.C.Wild	*:*	

I suppose this is from the Office of the Auditor-General.

'Next lot:

Mnre	*D.R. Vorster*	*:*	
	S.J. Van Zyl	*:*	*CEF Edms' – or whatever – 'Bpk'*
	S.A. Cilliers	*:*	

Right. Now, if you look at paragraph 2.3, which relates specifically to CEF, it says: '2.3 Publikasie van SFF Vereniging finansiële jaarstate. Die Adjunk Ouditeur-Generaal het die Kantoor se posisie rakende die publisering van die SFF Vereniging se state geskets. In die lig van die opheffing van die VN Olieboikot en die beleid van deursigtigheid wat nagestreef word, sal die Kantoor beswaarlik redes kan aanvoer waarom die state nie gepubliseer kan word nie, aangesien dit in terme van Artikel 1E(5) van die SEF Wet die keuse van die Ouditeur-generaal is om state en paragrawe na oorleg met die Ministers van Minerale en Energiesake en Finansies, asook met die Staatspresident te publiseer, is' – and please underline – 'is SEF Bpk gevra om in die lig van die huidige omstandighede redes aan te voer waarom die state nie gepubliseer mag word nie of om alternatiewe state op te stel wat wel gepubliseer kan word.' You've got it.

Now, this is why, this is why then this Minister duly asked Parliament this question – in the report again its summarised for you, its in bold, 'If nothing

illegitimate, illegal or untoward was being done with these stock transfers, why did the Auditor-General's Office deem it fit at that time, not to disclose this so called loss to Parliament'.

The answer is on the next page.

'Response:

(a) The fact of the matter is that non-disclosure was – underline – due to there being no indications of irregularity. In brackets (see explanation given in the previous paragraph)'.

Then again – why change the Price Waterhouse report, why summarise it, because there's nothing it tells you, and why hold that special meeting two days after the 7th if there is nothing scary about this and why, if you look at the 'opsomming', do you then ask CEF to give you reasons for non-disclosure or an alternative 'wat wel gepubliseer kan word', which can be published?

Surely, ladies and gentlemen, as Minister sitting at my desk, confronted with this document, I was constrained to ask questions. And I did ask questions, internally, in fact. CEF has correspondence from me about a whole lot of matter. This issue of this money R 170 million was raised in writing. Barend Petersen will show you more correspondence. Its not as though I rushed to Parliament. For a long time I did not even report to the Head of State and his Deputy about this, because I thought I was competent enough as Minister, to deal with the matter purely internally and sort it out. Little did I know, that today I would be bedevilled by the Business Day which calls for my blood, which is baying for my blood. Which says I'm incompetent, I must go, etc. etc. But I ask questions and these are the answers that are now being given to Parliament.

Now, because I want Barend to deal with the rest of the matters, I want to conclude by also then telling you this. Ladies and gentlement, I also raised the matter of SALEM, not because I was vindictive, not because I was raising

phantoms from their graves. That was not the intention. (Eh Barend, my documents have gotten mixed up now. Please………The white and yellow, etc. etc. Oh, no, no, no, I've got it here). Now, gentlement, I've given you copies of this letter, the letter to Roy. I have done that deliberately. For God's sake, if the letter does not tell you what problems I was dealing with as Minister, then you can go ahead and bedevil me, besmirch me, who cares?

But the letter which I read to Parliament, it's not in my handwriting. I read to Parliament, because I said to Parliament, its high time you got to know about these. And I cleared this matter with the Head of State and his Deputy. I showed them these subsequently. I said, you know, President and Mr Deputy President, I am dealing with this problems……… the letter in Mr Kobus Van Zyl's handwriting says its dated 24 February 1994, and says, you can read it. Roy. The Roy referred to was then the Chairman of the CEF Board and in that capacity, according to this act, CEF Act No. 37 of 1977, this section, Section 1E (1), had this responsibility and I read it to you in full – we have given you copies of this .'The Chairman of the Board of Directors of CEF (Pty) Ltd shall be the Accounting Officer charged with the responsibility of accounting – underline – for all money received da da da da on the SFF Association by CEF or the SFF Association'.

Now, ladies and gentlemen, this note says, among other things, in view of transparency – the Afrikaans word for transparency which is given in the 'opsomming' is 'deursigtigheid' – it says, 'in view of transparency we must find a way in which we will disclose the origin of the money. We again agreed on secrecy, no one will disclose anything. We don't disclose the origin in the books'.

Now what Minister, confronted with that reality, will then still say: No, no, no I won't say anything about this matter. I will keep quiet.

Now, the Auditor-General, as luck would have it, says this to Parliament, if you can find the relevant page, its very interesting, if you look at that to SALEM, and it says:

Response:

(the one I'm reading from is the one he gave me before he filed the report to parliament, so it has no page numbering. But I have no reason to think that he subsequently amended theses after he ha given it to me before I left for Greece last week.)

The Auditor-General says in response to this:

'a) My office became aware of the new "Salem" issue during june 1997 in the weekly press. The specific transaction which is referred to – underline this – was not included in the normal audit tests performed and underline this one or bold it – and was not brought to the attention of my office or my agent."

Now, in the box, look at the law again. The law says, very interesting, next page of the law, the law says:

'The Accounting Officer shall:

a) keep full and true records of all the transactions entered into da da da da da da by the SFF Association.'

Then, and then it states, in subsection 3: 'The books, accounts, statements and balance sheets referred to in subsection (2) shall be investigated, examined and audited by the Auditor-General.'

Now the Auditor-General says that these matters were not brought to his attention. He says so in Parliament. So in other words, whatever was given to him for that period was minus these amounts.

Now the next paragraph in the Auditor-General's Report to Parliament:

'b) According to the information received, the proceeds referred to, amounted to US $1.9 million – you can read the figure yourselves – (R6.7 million) and were reflected as income from Shell in the account for the sale of strategic stock in the books during 1994/95.'

Now, this is a very interesting statement to Parliament:

'Although fully accounted for" – I don't know how he comes to this conclusion, because he says this was never brought to his attention at all – 'Although fully accounted for, this should not have been recorded in the books as sales.' So in other words it was wrong not only to report them as sales, but also to violate this law, namely to keep full and true records. So whatever was given, was not true records. Because among other things, there was this R6.7 million, tucked away neatly under sales.

Now, as though this is not enough. Then there is this statement in the Report to Parliament: 'However, within the context of total sales of R1.7 billion in that year - underline this thing in bold – the amount was so small, less than one percent, that it did not give rise to further query.'

Now stop there!

Eh its very interesting coming as it does from the Auditor-General, who – quite rightly, keeps us all on our tender hooks. Last year for instance, my department was rapped over its knuckles, quite correctly so, for unauthorised expenditure to the tune of R119 094. But six million, in my humble Bantu calculation, is way bigger than R119 000. I am not saying therefore he should

have ignored R119 000. But you pay more attention to bigger amounts, particularly because a deliberate and a flagrant violation of the law has been committed, and not only that – remember that, ladies and gentlemen – not only that, the amount has been hidden, you should then – in my opinion – be in a position to say, "Wait, if this small amount – because to me it is small – could be hidden, what more did they hide from me?

He said: Oh sorry, this is too small to warrant a further query.

And then, next statement, next statement in the Auditor-General's Report to Parliament:

'c) A very important matter here is whether the State received all the moneys that were due to it. At the time of writing this Special Report, there was no evidence at my disposal to verify the reasonableness of the payment to Shell, and this matter is being followed up.'

Now, in other words, - don't look at the flagrant …flagrant violation of the law. The amount has been accounted for in full. No further queries. Everything is hunky-dory.

But then this is consistent with an earlier attitude, expressed in a letter to me, dated the 19th of February 1997, by J A J Loots, Deputy Auditor-General. Out of the blue I get this. You must remember, ladies and gentlemen- I told you that for me this was an internal matter. A case of a Minister saying to his people: account for this, explain that to me. And I was very much still at a learning curve in this department, a very complex department. So I had to rely on people I was working with. So if I didn't understand, their's was the duty to make me understand it. So I say then – oh, by the way, they said to me you can go ahead and ….in writing and …- you this thing – your management audit, because you don't want to trust what we are saying to you. So I said, OK, gentlemen, then we go ahead and appointed Barend in writing, on the 12th. Then on the 19th of February this year, I get this letter. Again, I am sure that

my staff has provided you with copies. No matter how you want to read it, it a letter that seeks to reassure me that there is not problem to worry about, so there is no warrant, no … need for a management audit. But in order to inform myself as Minister, I had to do it, and I did it. And I don't regret having done it. That's that.

And I don't think I owe anyone any apology for doing it, because situated where I am, located where I am, confronted with this document which I didn't understand and without the necessary internal assistance, - (end of recording on side A) (Continues on side B) that much I am told in writing by somebody he said: 'that as a result of a delay occasioned by – I don't want to mention names, right – we managed to save a lot of money'. The date and everything and the name of the ship, etc. they are given. Now then this Minister says: what did they exactly do to delay the ship?

Now, all they were saying: No man, they went in, they went out, they went in, they went out, but you don't get a true picture of what they did. Because then, I am supposed to … to sanction payment. They are asking for money. Pay us for services rendered. And I say: What are these services? Why, you know, I then said, I want to look at the shipment file. In this office let me say, there are files in respect of each shipment. Now, for God's sake, this Act says that the Minister shall receive information from time to time from them. So I ask for it. Give me the file because I now want to study the file. The file has a note from the Vessel Master in which the Vessel Master says – underline this – 'The delay was occasioned by the fact that the ship has broken down'.

Now, you wouldn't go onto that other, I mean you wouldn't go into sea, break a ship at our insistence. The owners would never allow you to do that. I then said to go to confirm what this file says let me get hold of the owners of this ship in London and say to them: 'Kindly tell us why your ship could not load on date x and only loaded on date y'. They humbly responded and said: 'The ship had broken down.'

So no intervention by anybody. So then I refused to pay the person. I said no payment is due. Because you didn't do anything, unless you claim that you broke the ship. That's that.

But then I went one better. I approached the two relevant companies, AMOCO and EGPC through, in one instance, the Egyptian Ambassador here, Madame Khattab, I said: 'I want to know exactly what these people do for us for which we pay'. Because, you see, the prices of oil are declare public, they are public knowledge. Right? And in respect of Egypt that is what they call the OSP, the Official Selling Price, which is known to everybody. So, whether or not you get some little fixer, the price is known and you pay that price. Why should you choose to pay more? That's that. So I ask these questions. We must pay more, because there are things done for us. And I must know, as Minister, what those things are before I sanction payment. Nothing wrong with that, unless you say that in fact its wrong to ask these questions.

Right. Now. Then the answer is very interesting. AMOCO says, no, we don't know what you're paying for, because they never do anything for you. Now that is in writing, its coming as part of my report. EGPC says we don't even know them. The same thing. And they then tell me that the ship in fact had broken down. That is why it could not load. They say a whole lot of other things then.

So, in other words, for me, whether the amount is small or not, the issue is, this government shall not pay one bronze penny which is not due and payable. Its as simple as that. If anybody then says I am wrong, let them say so. I won't sanction payment on behalf of the state when payment is not due. Its as simple as that.

I may be wrong about this, ladies and gentlemen, but your are going to pass judgement. That's exactly the nature of the thing. So, then in a nutshell the auditor-General's Report says with regard to SALEM: the amount is so small that we shouldn't bother about it further, please.

I think I would bother. I'll ask even more questions. I would even ask why the whole thing was never brought to the attention of this Officer or its agent. And ask myself, what else was never brought to his attention.

I know, ladies and gentlemen, that in 1992, for instance, there was an unauthorised amount of about 5 million – not so Barend? Yes – which was spent much against company policy. Bertie Loots told me in April in my office that in fact they didn't know anything about it, but the papers are there. That's another small amount in my report which shows, that's there.

So ladies and gentlemen, I am forced to say this, to go through this document, because I have discerned that while I was away in Athens, trying to see some of the people who got to decide whether or not we get the bid. I was also being rubbished in the media and I studied a lot of papers. I said: but what is this? What wrong have I done? Is a Minister wrong to ask questions? Business Day says: This is equivalent to Sarafina. This is equivalent to Motheo.
I hold a slightly different opinion. I want to tell you, that it's the duty of a Minister to ensure that those who work with and under him observe the law to the fullest. But, this law – this is a parting shot for you – has criminal sanctions by the way, for people who do certain things, for people who do certain things. I tell you, right, again it will have to be studied to see whether or not deliberately falsified records, is not bothering on the verge of committing a crime.

If you write this letter to anybody and say let us not do what the law says we must do. And if that person then acts in connivance or in collusion with you, then surely this country is not affronted by it, we are living in something way below the new South Africa that we are so proud of. And as long as I serve as Minister I shall always try to ensure that those who work with and under me fully comply with the law. And I took an oath when I was inducted into this Ministry and before to Home Affairs, that I shall respect the Constitution and the laws of the Republic to the teeth. I won't deviate from that at all, come rain, come sunshine. Doesn't matter what it costs me personally. I think it's the

duty of all of us. If in fact those small criminals who steal bananas and potato peels around the corner have to be chased by us, then those who say let us not disclose the origin of six million also have to receive our attention, if we are to salvage this crimed country from crime. Blue collar, white collar.

Thank you."