VICTORIA

Report of

THE ROYAL COMMISSION INTO
AUSTRALIAN MEAT INDUSTRY

September 1982

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CHAPTER 1
SUMMARY OF MAJOR ISSUES

(a) The adequacy of administrative arrangements and procedures for the supervision of the handling of meat for export

1.1 Evidence put before the Commission shows clearly that, before August 1981, arrangements and procedures for export meat supervision were seriously deficient in a number of ways and for a variety of reasons.

1.2 As a result of the new security measures introduced following the meat substitution scandal of August 1981, administrative arrangements and procedures are now adequate for their purposes; but there is still considerable room for improvement.

1.3 In my view the chief deficiency in the arrangements before 1981 was that the Department of Primary Industry (DPI), which administers the meat inspection service, was too trusting about some areas of activity of the export meat industry, while giving industry managers too little responsibility for self-regulation in other areas.

1.4 The Department undertook an oversight role which, by using a large number of officers in abattoirs, placed little reliance on the ability of managers to produce a safe, good quality product. In other parts of the export chain, such as boning-rooms, coldstores and transport, oversight was very limited, even in the case of operators who were under suspicion. In the result, many malpractices flourished unseen.

1.5 Penalties provided for breaches of the relevant regulations were ridiculously low and served as no deterrent to wrongdoing.
1.6 Following the events of August 1981, the inspection arrangements for all parts of the export chain were tightened up in such a way that they became comprehensive and generally effective, but they also became inconvenient to the industry in a number of ways and appreciably more costly. They can still be circumvented by combinations of ingenuity and human error or human weakness.

1.7 I believe that, although present security measures must be retained for the time being, better results could eventually be achieved with arrangements that required industry managements to accept more of the basic responsibilities for the soundness, accuracy of description, and security of their products. At the same time there must be a high probability that any default would be detected and severely punished.

1.8 Another major deficiency of the export meat arrangements before August 1981 was that the DPI and the Australian Federal Police (AFP) paid too little attention to those malpractices which did come to their notice. Those which the Department handled were often dealt with in a weak and indecisive fashion. On most occasions when police were called in, their work was ineffective.

1.9 There were a number of reasons for the deficiencies in DPI's administrative arrangements and procedures. Probably the chief among them was the very fact that the meat inspection service was placed in the Bureau of Animal Health (BAH) and administered almost entirely by veterinary officers. This meant that heavy emphasis was placed on the detection of diseased animals at abattoirs and the hygienic handling of meat up to the time of export. The accuracy of trade descriptions was given much less attention, and any suggestion of serious wrongdoing in the industry - such as substituting local for export meat or operating a meatworks out-of-hours in the absence of inspectors - was seen as a matter to be handed straight over to the police, for them to prosecute or not as they were advised.
1.10 A second important reason for the inadequacy of the arrangements was the dominance accorded to the United States Department of Agriculture (USDA) in the Australian approach to export meat inspection. The United States is a vital market for Australian beef, and the USDA takes a strong line in demanding that various detailed conditions be met before it will approve individual export establishments as suppliers to USA. The result has been that US requirements have been generally accepted as the basic standards for export establishments, and the energies of the Australian service have been, in no small measure, devoted to keeping the USDA content. Since that Department can only judge Australian performance by looking at meat actually received in USA, or by what its reviewers see in their periodic visits to Australian establishments, its level of contentment is clearly an inadequate yardstick for the overall performance of export meat inspection in Australia.

1.11 I believe that, instead of applying US standards to all export establishments, and having many different standards applying to domestic meat production, a uniform Australia-wide standard for all meat establishments and meat inspection systems should be developed. Efforts should then be made to have this Australian standard accepted by as many importing countries as possible, and those countries which insist on different standards should be catered for in specially designated and inspected establishments.

1.12 Another reason why past arrangements for export meat inspection have proved inadequate has been the lack of good communication and co-ordination between the head office of the Bureau of Animal Health in Canberra and those responsible for administering the inspection service in the regional offices and at meatworks. A good deal that was known in regional offices about malpractices was never conveyed to Canberra. Material that did reach Canberra was never properly co-ordinated and no firm lead was given to regional offices as
to how such problems should be tackled. All too often the regional office showed a preference for the easier path – particularly when dealing with wrongdoing within the service itself.

1.13 To sum up what I might call the internal weaknesses of the Bureau's meat inspection service I can put the matter no better and would not wish to be any more harsh than the Department in its own frank self-appraisal contained in its final submission to me. The meat inspection service, in the words of that submission "has proved to be inefficient, costly, poorly managed, overstuffed and .... in some respects corrupt".

1.14 Turning then to the external problems of the Commonwealth service, the first point to note is the existence of the so-called dual system of meat inspection, whereby Commonwealth and State services operate side-by-side with overlapping responsibilities. There is general agreement, in which I concur, that a unified system of meat inspection is highly desirable, and perhaps even essential, to the well-being of the meat industry. Certainly the lack of co-ordination, and imperfect passage of information, between the various services has contributed to the general deficiencies of administration of meat inspection.

1.15 Because of the deficiencies to which I have referred, the DPI meat inspection service performed poorly in detecting and preventing malpractices in the industry. It missed opportunities to avert the major crisis which occurred in August 1981. Details of the ways in which those opportunities were missed can be found in Cases 1 and 2 in Appendix H to this report. The Australian Federal Police must also bear a share of the blame for those missed opportunities.

1.16 This leads me to refer to the other great external weakness of the DPI service, and that is its relationship with the AFP. Not enough cases were passed to the police for
action, and those that were handed over were not conveyed with any sense of urgency, importance, or great interest in their outcome.

1.17 On the other hand it must be said that the Department had little to show for those occasions when matters were referred to police. There were no grounds for confidence that police inquiries would achieve worthwhile results.

1.18 The lesson which has been learnt from these experiences, and the very different results achieved since August 1981, has been the need for close co-operation between the meat inspection service and the police, both at headquarters level and, even more importantly, at the regional level. Also, the inspection service could usefully employ some former police officers to assist with its own investigations.

1.19 Returning to the Department of Primary Industry itself, it is only fair to say that, under instructions from its Minister, it acted promptly and effectively when the meat substitution scandal erupted.

1.20 The steps taken were drastic, but appropriate to the situation. There was some confusion as a range of new measures were hurriedly introduced. Not all the detailed rulings made amongst the pressures of that time were sensible, but the Department did succeed in restoring the confidence of the USDA in a comparatively short time and without excessive disruption or cost to the Australian industry.

1.21 Since then, and during the Commission's hearings, the Department has, for the most part, reacted promptly and appropriately to problems that have been brought to light. It has not, as it might have done, sat back to await the Commission's recommendations. Instead it has, while keeping the Commission appropriately informed, continued to carry out its proper functions of administering the service and forward
planning. This has culminated in the proposals set out in the Department's final submissions, which reflect the determination of the Minister and the Department to resolve the problems which now stand revealed.

1.22 I believe that, in consequence of the strong reaction of the Minister and the Department, and the establishment of this Royal Commission, the current level of malpractice in the industry is lower than it has ever been. This desirable situation should be vigorously maintained.

(b) The adequacy of administrative arrangements and procedures for the supervision of the handling of meat for human consumption in Victoria

1.23 The Victorian Department of Agriculture operates a meat inspection service which is very much smaller than the Commonwealth service. Although a significant proportion of meat produced in Victoria is consumed locally, much of it is produced in export works and the Victorian Government has been content to leave meat inspection in those works very largely to the Commonwealth.

1.24 Although run by veterinary officers, the Victorian service has a much lower percentage of such officers than the DPI. More reliance and responsibility is placed on meat inspectors themselves. This seems to have worked well in the Victorian context and I have no fault to find with the way in which the service has, in general, performed its duties. In particular the Victorian service has been prepared to do more of its own detective work than the DPI and this more inquisitive approach has, I believe, paid dividends. On the other hand there have been times when the Victoria Police should have been called in and were not. There is a need for better co-ordination between the inspection service and the police.

1.25 I should make it plain that, in drawing comparisons between the two services which are favourable to the Victorian
service, I am conscious of the fact that the Commonwealth service faces problems of distance, seasonal mobility and complex overseas requirements which go far beyond anything the State service has to face.

1.26 In place of the dual inspection system now operating in Victoria (see para 1.14 above) there should be a combined inspection service along the lines which have already been proposed in negotiations between DPI and the Department of Agriculture.

(c) The adequacy of administrative arrangements and procedures for the supervision of the handling of meat for human consumption in the Northern Territory

1.27 The NT Department of Primary Production operates a very small meat inspection service which has performed reasonably well in spite of a most inadequate legislative base. The relevant legislation should soon be amended to cover the various deficiencies.

1.28 There should in future be a combined Commonwealth/NT inspection service in the Territory. The precise form it should take will have to be negotiated by the respective Governments, having regard to the need for it to work closely with other organs of the NT Government while at the same time providing reasonable career prospects for those few present members of the NT service.

(d) Malpractices in the Australian meat industry

1.29 In summarising my findings on this subject, it is convenient to consider the export and domestic meat industries together.

1.30 The main question which the Royal Commission has been asked to answer is how widespread have malpractices been in the meat industry in recent years.
1.31  Unfortunately there can be little comfort for the industry or the community in that answer. It is clear that malpractices in the nature of commercial cheating have been widespread in the export industry. In saying that I bear in mind that the Commission has concentrated on wrongdoers and their misdeeds and has therefore studied a biased sample of the industry's transactions, the great majority of which are no doubt perfectly honest.

1.32  However I am also conscious of the fact that a longer and more detailed investigation than has been possible in the time available, would undoubtedly have revealed many more transgressions; and the prevalence of commercial malpractice disclosed by the evidence - at all levels of the industry - constitutes a very serious problem. In particular, large quantities of meat, from animals killed more cheaply at non-export abattoirs, have found their way onto export markets, and the quality, age or other characteristics of export meat have often been falsely described.

1.33  I have not been asked to consider what effect this serious level of commercial malpractice may have had on the export meat industry itself, or on Australia's reputation as a trading nation. That would, in any event, be difficult to judge in the absence of any knowledge of the meat industries of other countries.

1.34  Certainly there will need to be a change of attitude amongst export meat processors generally, and a much firmer line taken by government regulatory bodies, if Australian meat is to attain the high international reputation which it ought to enjoy.

1.35  So far as meat for human consumption in Victoria and the Northern Territory is concerned, there is little to suggest that consumers have been cheated when buying fresh meat from their local butcher or supermarket.
1.36 On the other hand it is clear that purchasers of some meat products have not always been eating the meat they expected and have sometimes been eating an unwholesome product. There has been, particularly in the last few years, quite a large quantity of pet meat which has found its way into such products in Victoria and been consumed throughout Australia. I am speaking here of hundreds of tonnes of kangaroo, buffalo, donkey and horse-meat which was not killed or processed in the manner prescribed for human consumption, but which nevertheless found its way into the human food chain.

1.37 It is necessary to keep a sense of proportion about this matter. There is no evidence linking this use of pet meat with any deaths or outbreaks of disease in Australia. Although many Australians would find it distasteful to eat some at least of these animals, there is nothing inherently dangerous in doing so. The risk lies in the methods of slaughter, transport and preparation which are used. They may be appropriate for pet food, but not for meat intended for human consumption. The factor which greatly reduces the risk of illness from eating such meat is that most of the harmful organisms which would undoubtedly be present are killed in the cooking process.

1.38 I suspect that it was the successful infiltration of pet meat into the human food chain in Victoria which gave several unscrupulous people the idea that the same thing might be done on a large and very profitable scale in the export trade. I believe that this has been a comparatively recent development, that only a handful of operators have attempted it, and that the amounts involved have not been very large – amounting in total, perhaps, to several hundred tonnes.

1.39 Although there have been some connexions between the operators involved, I have found no evidence of a master-mind behind the schemes. I think several people decided independently to accept the risks involved, for the sake of the potential rewards, although the idea may have been spread by contacts between them.
1.40 Another area of malpractice which has caused particular concern, because of its potentially very serious repercussions in a vital market, has been that involving halal slaughter and certification.

1.41 Evidence given to the Commission in private sittings (because of the sensitivity of the subject) showed conclusively that industry arrangements for securing proper religious slaughter and certification for Muslim markets have not worked.

1.42 There have been widespread abuses of the system by industry, considerable inefficiency on the part of the major Muslim group claiming to ensure the religious nature of the slaughter and some corruption among Muslim slaughtermen. Costs to the industry have been far too high.

1.43 Government authorities have, naturally enough, been reluctant to become involved in religious matters, but it is now clear that, up to a point, they must.

1.44 The position is greatly complicated by the differing requirements of various Middle Eastern countries and by divisions within Muslim communities in Australia.

1.45 In my view the following principles should, so far as possible, be observed in the arrangements which will be worked out in the months ahead -

(i) the overall integrity of the system for halal slaughter and certification must be guaranteed by the Australian Government; Government inspectors must supervise the mechanical and objectively assessable aspects of the system;

(ii) the religious aspects of the system must be arranged and periodically checked by a Muslim person or body believed, on past record or other evidence, to be acceptable to at least
some importers of halal meat; a monopoly in such Muslim oversight should be avoided; and (iii) the Muslim persons or bodies involved should be permitted to make reasonable charges to cover wages and out-of-pocket expenses for their part in the system; such charges should not be seen as a way of raising revenue for other Muslim purposes unconnected with the meat industry.

1.46 I should make it clear that I have no reason to believe that there has been any malpractice in relation to halal slaughter and certification in recent months, or that there is likely to be any in the future, if arrangements along the lines recommended are adopted.

1.47 The final issue which I need to deal with in this summary of malpractices relates to the corruption of government officials.

1.48 The most disturbing evidence to emerge from this inquiry has concerned bribery and corruption of a number of DPI meat inspectors and some DPI veterinary officers and Australian Federal Police officers. It is impossible to avoid using words such as 'bribery and corruption' in this context, although it is important to understand that, with a few exceptions, the value of bribes was not substantial and the corresponding neglect of duty not heinous.

1.49 In many cases the bribe has taken the form of valuable quantities of free meat or very cheap meat not available to employees of the meatworks concerned. In a number of cases cash payments or fraudulent overtime claims have been involved. In each of the cases I have in mind, there has been a regular, valuable benefit on which no tax has been paid.
1.50 Sometimes such benefits have been extracted from unwilling operators by the abuse of inspectors' powers.

1.51 Most often the meat has been given, or the payments made, to ensure that the meatworks will not be subject to unusually vigorous supervision by inspectors - that it will be treated at least as leniently as its competitors.

1.52 However in some cases payments were made to ensure that a blind eye was turned to clearly improper practices. In the case of police officers, and a senior meat inspector, meat was given and payments were made respectively in order to secure advance warning of troublesome inquiries.

1.53 The really disturbing feature of these revelations was that the people concerned were not evil - many of them would have been regarded as reliable and effective officers. They were ordinary Australians, in positions of some responsibility, who were either demanding, or at least accepting, clearly improper payments which could only have the effect of compromising them in the performance of their duties. The surprisingly widespread nature of these abuses suggests the need to watch all areas of government licensing and control where the decision of an inspector on the job, or similarly placed official, can make a significant commercial impact on persons in business.

1.54 These practices in the meat industry must of course be stamped out.

(e) The handling of allegations of malpractices

1.55 Each of my Commissions requires me to consider any allegations concerning malpractices in the meat industry that, in recent years, have been made publicly or to Ministers, departments or authorities of the Commonwealth or the State of Victoria. I am asked to say whether such allegations were
dealt with in a manner that was adequate and effective, or, on the other hand, whether any illegality or corruption occurred.

1.56 There have been a number of complaints from overseas, about particular consignments of Australian meat, which have come to the notice of DPI. Some of them could be said to have amounted to allegations of malpractice but, until August 1981, they were no worse than the malpractices which the inspection service was discovering for itself. The same general criticisms which I have already made, of DPI's inadequate handling of such matters, would apply.

1.57 The same could be said about general allegations concerning the substitution of local for export meat, which have been made in the Commonwealth Parliament and elsewhere from time to time. Both the Department of Primary Industry and the Australian Federal Police had, in 1977, a fairly accurate idea as to where the trouble might lie - in certain independent boning-rooms in Melbourne. But, due partly to a lack of determination in either body, and partly to an absence of co-ordination between them, their efforts were inadequate and ineffective.

1.58 I am bound to record the possibility - I put it no higher - that another contributing factor to the failure of these investigations may have been the corruption of certain police officers with free meat or of a senior meat inspector with cash payments, which I have referred to in paragraph 1.52 above.

1.59 I have no fault to find with the response of the Victorian Department of Agriculture or of the Northern Territory Department of Primary Production to allegations coming to them from outside sources.

1.60 So far as ministerial responsibility is concerned, some allegations of malpractice did come to the attention of
Ministers responsible for departments administering meat inspection in the Commonwealth, Victoria and the Northern Territory.

1.61 In the case of the Commonwealth, I think it fair to say that not enough of the allegations which came to the attention of DPI were referred to the Minister and that, accordingly, successive Commonwealth Ministers were not sufficiently informed by DPI of allegedly illegal activities in the industry or of complaints about the efficiency, and in some cases the integrity, of elements of the meat inspection service. Generally, such matters as were referred to Commonwealth Ministers were dealt with adequately and effectively.

1.62 However, I do consider that the findings by the Hon C.R. Kelly and Mr W. Buettel about the state of the industry and the DPI inspection service, in their Report of their inquiry into meat inspection services in 1978-80, received insufficient attention from the Minister, the Hon P.J. Nixon.

1.63 In presenting their report those gentlemen expressed strong views about the industry and meat inspection. Although they did not give specific details to the Minister when making their report, they described conduct amounting to bribery of, and blackmail by, inspectors which in my view should have been the subject of a much more vigorous response from the Minister and his Department than in fact occurred. Senior officers of the Department had available to them a good deal of detailed information which was not passed on to the Minister. They must bear the major share of responsibility for inaction.

1.64 But I believe that the Minister, having heard from a responsible source that there had been cases of bribery and abuse of power in his Department, should have taken positive steps to investigate the matter. In my view he did not deal with this allegation in a manner that was adequate and effective.
1.65 So far as Victoria and the Northern Territory are concerned, I consider that such allegations as were referred to the responsible Ministers, concerning the handling of meat for human consumption, were dealt with adequately and effectively. I have been critical of the delay in legislating to control pet food in the Northern Territory, but this has not been the fault of any particular Minister and, on a strict interpretation, may not be covered by my terms of reference relating to the Northern Territory.

1.66 Apart from the matter touched on in para 1.58 above, there is no evidence to suggest that there was any illegality or corruption on the part of any Minister of the Crown, or any official, in response to any allegation of malpractice in the meat industry.

(f) **Pet Meat**

1.67 Pet meat is only directly covered by my terms of reference when I come to consider its export. However the huge quantities of wild animals in this country, which can be used for pet meat, constitute a very real threat to the integrity and reputation of the beef industry. It was the use of pet meat as a substitute for beef which gave rise to the Royal Commission.

1.68 It has thus proved necessary to devote a good deal of time to evidence relating to the pet meat industry.

1.69 This has demonstrated that it has been insufficiently controlled in all States and particularly in the Northern Territory. Even those States which have had reasonably strict controls over the sale of pet meat within their own borders, have been lax in controlling its production for sale to other States.

1.70 Virtually no records have been kept of the interstate movement of pet meat, and there has been no general requirement that such meat should be dyed.
1.71 Over a number of years this was seen, by many people in the Northern Territory in particular, to be a serious problem; but nothing was done.

1.72 It is essential, for the protection of public health and of the meat industry, that pet meat be dyed as soon as practicable after slaughter. It would be a great advantage if dyeing were uniform, and so readily recognized throughout Australia for what it was. Uniform packaging would be helpful for the same reason. I endorse the decision of most States to adopt brilliant blue as the dyeing medium for pet meat, and to require all surfaces to be generally and visibly coloured. Meat being sent under controlled conditions from an abattoir to a pet food factory can properly be exempted from such requirements.

1.73 Even pet meat for export should be dyed, in the same way as local pet meat, unless the exporter can demonstrate a cast-iron security system for the particular shipment.

1.74 Governments should try to assist the fresh pet meat industry by stressing, in public statements, the safety and reasonable handling qualities of brilliant blue dye.

1.75 States, and the Commonwealth and Northern Territory, must keep each other promptly informed of any suspicious or untoward developments concerning pet meat.

1.76 Meat inspection authorities, and police forces, must be prepared to give reasonably high priority to any inquiries concerning the possible misuse of pet meat.
CHAPTER 2
THE CONDUCT OF THE ROYAL COMMISSION

(a) Setting up - terms of reference - first sittings

2.1 On 27 July 1981, a food inspector in San Diego, California became suspicious of three frozen blocks of Australian meat. They looked "darker and stringier" than beef - which they were supposed to be. Samples of the meat were sent to a laboratory for testing. On 6 August preliminary screening tests indicated that the meat concerned was horse-meat. Further tests on 10 August produced the same result, which was formally confirmed on 13 August.

2.2 On either 10 or 11 August the news of these findings by the US Department of Agriculture (USDA) first reached the Australian Department of Primary Industry (DPI). Immediate steps were taken to retain, both in USA and in Australia, meat from the establishment concerned. Further quantities of horse-meat from the same establishment were found at Los Angeles and in Australia. Other meat from the same source, found in Australia and later in New Jersey, proved to be kangaroo-meat.

2.3 Meanwhile, on 14-15 August, the fact that horse-meat had been passed off as beef in Australian shipments to the USA became public knowledge in both countries. The meat substitution scandal had broken and there was a public outcry, particularly in Australia.

2.4 On 25 August USDA took steps to locate, examine and sample all Australian boneless beef then in the country. This proved to amount to 30 000 tonnes. As a result of this testing, which continued until 30 October, two other Victorian establishments were delisted by USDA, because horse or kangaroo-meat was found in consignments of beef.
2.5 Following these developments, allegations were made in the media, and in Commonwealth and State Parliaments, of widespread malpractices in the meat industry. It was also quite widely suggested that the existence of such malpractices was well known to Commonwealth and Victorian Government authorities, who had failed to take adequate steps to put an end to them.

2.6 In the light of these discoveries and allegations, it was thought appropriate to introduce stringent new security measures and to establish both a short-term, independent, administrative review of those security arrangements, to be carried out by Price Waterhouse Associates Pty, a firm of management consultants, and a longer-term Commonwealth Royal Commission of Inquiry. The Royal Commission was to inquire into certain aspects of the export meat industry, which could be summarised as

- whether existing administrative arrangements and procedures are adequate to ensure that export meat meets all legal requirements,
- whether malpractices have occurred in the exportation of meat, and
- whether past allegations of malpractice concerning export meat have been dealt with adequately and effectively or, on the other hand, whether investigations into such allegations have been tainted with corruption.

2.7 The full text of this Royal Commission, which was issued to me by His Excellency the Governor-General on 12 September 1981, is set out as Appendix A(1) to this report.

2.8 A few days later, on 15 September, His Excellency the Governor of Victoria issued a Royal Commission which complemented the Commonwealth Commission, but related to meat for human consumption in the State of Victoria.
2.9 The only other difference between the two Commissions which is worth noting is that the Commonwealth Commission set an arbitrary limit of ten years on past malpractices to be investigated. The Victorian Commission set the cut-off point at the coming into operation of the Victorian Abattoir and Meat Inspection Act 1973.

2.10 The full text of the Victorian Commission is set out as Appendix A(2) to this report.

2.11 In November 1981 His Excellency the Governor-General issued a further Commission which related to meat for human consumption in the Northern Territory. A copy of this document, which is in the same general terms as the Victorian Commission, is Appendix A(3).

2.12 No difficulty has emerged in conducting these three inquiries jointly and concurrently, since there is a considerable degree of overlap between them. This same overlap has led me to conclude that a single report is the only practical way in which to discharge my three separate obligations. However my concluding recommendations have been carefully segregated.

2.13 I understand that the other States of the Commonwealth were also invited to issue complementary Royal Commissions, but they decided not to do so unless some cogent requirement emerged from the Royal Commission's inquiries. (For convenience I shall refer to the Commission in the singular).

2.14 In the event, no such circumstance arose and, except on one issue (see paras 5.50, 5.60 and 5.61), I have not felt inhibited by the absence of such Commissions. Indeed any further extension of the limits of my inquiry would have made it impossible to conclude it by the prescribed date - originally 1 September but extended in August to 22 September 1982. As it is, I have been grateful for the
assistance of authorities in the other states - who have given it whenever requested - and I hope that my findings and recommendations in relation to Victoria and the Northern Territory may be of use in suggesting possible lines of inquiry and courses of action elsewhere.

2.15 After the Royal Commission had been formally set in train, it naturally took some time to appoint secretarial staff, find and furnish premises, retain counsel to assist the Commission, and establish contact with likely sources of information and opinions. However a formal sitting was held on 13 October 1981, informal inspections were made of some 30 premises over the next two weeks, and the calling of witnesses commenced on 5 November.

(b) Collecting and selecting the evidence

2.16 The findings and recommendations made in this report are based upon the submissions received by, and the evidence led before, the Royal Commission. The evidence led was that part of the whole range of material available to the legal staff of the Royal Commission, relevant to the terms of reference, which was selected by them as appropriate for presentation at hearings of the Commission. I think it is desirable that I should describe the method of collection of that material, and the selection process by which some of it became evidence and some of it did not. I am indebted to Senior Counsel assisting the Commission for some of the information which follows.

The Commonwealth Royal Commission

2.17 Broadly, the terms of reference of the Commonwealth Royal Commission called for inquiries in two areas. The first term concerned the adequacy of existing administrative arrangements for the handling of export meat. The remaining terms concerned past malpractices and allegations of malpractice. The two areas are, of course, closely related. The existing administrative arrangements were in part designed
to prevent expected malpractices. And it is by the study of past malpractices that the efficacy of the existing arrangements, and the adequacy and cost-effectiveness of suggested changes to those arrangements, can best be judged.

2.18 In response to the substitution scandal, DPI immediately made a number of changes to the then-existing administrative arrangements. Later, further changes were made in response to the Price Waterhouse review. The Price Waterhouse Report, and the experience of government and industry in dealing with those changes, provide most useful material for any consideration of appropriate administrative arrangements for the physical control of meat exports.

2.19 Views on this subject were sought from a wide range of interested persons; and little difficulty was encountered in obtaining evidentiary material and submissions in this general area.

2.20 By way of contrast, obtaining material as to past malpractices proved to be a more difficult matter. Initially, both government instrumentalities and industry had been much shaken by the substitution scandal. However, by the time the Royal Commission commenced hearing evidence, there seemed to be a general satisfaction that the new administrative arrangements were fully adequate to prevent a repetition of that scandal, that the USDA had been appeased by the introduction of the new security measures, and thus the export industry was free from any immediate threat. There was concern that nothing further should occur to 'rock the export boat'. There was thus little general enthusiasm for any detailed public investigation by a Royal Commission of past malpractices, either in the area of species substitution or elsewhere, because of the publicity that would inevitably ensue.

2.21 Lack of official interest in meat industry malpractices was not new. In the decade before the substitution scandal, a
total of seven persons had been successfully prosecuted under various Commonwealth Acts for offences relating to export meat handling. Only one successful prosecution had been brought under the Exports (Meat) Regulations. In January 1981, the Bureau of Animal Health (BAH), the branch of the DPI then responsible for meat inspection, sought information and assistance from regional directors to aid a review of those Regulations, because of the considerable difficulties said to be experienced in proceeding with prosecutions. However, with one exception, the responses to this request revealed little enthusiasm for any such review.

2.22 The files of the Australian Federal Police (AFP) revealed a handful of police investigations conducted over the previous decade, most of them being unproductive. There had been no concerted effort by BAH and the police to detect and prosecute offenders. Indeed, the difficulties of prosecution inherent in the then-existing regulations, and the trivial penalties prescribed for offences, provided little incentive for any such effort.

2.23 Nor did the files of the BAH reveal any systematic attempt to collect or disseminate information about malpractices, either in Canberra or at regional level. When the setting up of the Royal Commission was announced, steps were taken by DPI to secure the files of the BAH and to search them to provide information for the Royal Commission. To that end a Royal Commission Information Centre (RCIC) was established.

2.24 The labours of the RCIC over several months produced a bundle of 164 files relating to allegations of malpractice. In no sense did these files represent a comprehensive body of information previously available to BAH in the area of malpractices. They were specially constructed files, consisting of copies of documents gleaned from an examination of some 30 000 DPI files in Canberra and regional offices and
of 'off file' material. This process was necessary because it was apparent that no comprehensive system of recording allegations of malpractice as such existed either in Canberra or in the regions. I had occasion to comment on the BAH files in giving my ruling on certain allegations that documents had been improperly destroyed at the time the Royal Commission was announced. (I found there was no substance in the allegations). Attached as Appendix E to this report are some relevant extracts from that ruling.

2.25 Despite the painstaking efforts of the RCIC staff to produce an intelligible collection of files for the assistance of the Royal Commission, the result was disappointing. Often there were obvious gaps in the sequence of events recorded in the documents on the file. Some files lacked either a clear starting point or a conclusion. Some lacked both. In many cases it was impossible to ascertain what action, if any, had brought the matter to finality. Nonetheless, these files did provide a useful starting point for a number of significant investigations conducted before the Royal Commission. It should be recorded that the RCIC was in no way to blame for any defects in the material provided.

2.26 Official indifference to, or ignorance of, the true state of affairs in the industry was reflected in some of the evidence given in the early stages of the Royal Commission. The Director of the BAH testified that he had heard rumours of local meat going for export, but never one that could be substantiated. He knew of no occurrence, and had not heard persistent rumours, of the substitution of mutton for lamb. He had heard no persistent rumours of the substitution of cow-beef for ox, nor of the use of pet food in smallgoods nor of the substitution of local offal for export offal. The Chairman of AMLC testified that he had never heard of the relidding of cartons for any underhand purposes in his 44 years in the industry. The Australian Meat Exporters Council stated that "the Council is not aware of any previous incidence of
malpractice in the preparation and marketing of export meat", and the Executive Director testified that the question of blatant malpractice had never been raised at a Council meeting in his 19 years in office.

2.27 As to the meat inspection service, the provision of free or discounted meat had been seen as a problem from time to time, and some desultory but unsuccessful efforts to control the practice had been attempted. The notion that illegal benefits were being obtained by meat inspectors on any large scale, whether by cash payments or claims for excessive overtime or otherwise, was apparently regarded as so unlikely as not to require any mention.

2.28 It was against this stance by government and industry officials of real or professed ignorance of malpractices that the legal staff commenced to search for evidence of past misdeeds in the industry. That search was to reveal a serious situation that should have been known to, or at least suspected by, the officials concerned.

2.29 Late in September 1981, the terms of reference and first sittings of the Royal Commission were extensively advertised in newspapers circulating in capital cities, in regional areas, and in the rural press. Later, there were a number of press releases relating to interstate sittings of the Commission. The evidence given at the Royal Commission received widespread and consistent media attention. The publicity given to the Royal Commission by these means resulted in considerable public response.

2.30 All government departments and statutory bodies which it was thought might conceivably have relevant information as to malpractices, were requested to search their files for the past decade and provide such material as they had. This they did, and I am very grateful to those bodies for the considerable effort involved in that task. The relevant files of police
forces, and of the Deputy Crown Solicitors' offices, were obtained. The Hansards of the last decade were examined and those Members of Parliament who appeared to have relevant information were contacted. The files of the major daily newspapers and of the rural press, where available, were searched. Transcripts of public statements made on television and radio were obtained.

2.31 Producer and trade organizations and trade unions were requested to provide such material as was available to them. In addition, the legal staff selected a number of persons in the industry, thought to be typical of its various aspects, and requested their individual contributions. Some hundreds of persons whom it was thought might have useful information were interviewed by the legal staff. Eventually, some were called to give evidence and some were not. There are listed in Appendices B and C to this report the names of those organizations which provided submissions and those persons who made submissions or gave general evidence to the Royal Commission.

2.32 Direct evidence of past malpractices was slow to emerge. As the Hon C.R. Kelly had found in conducting a previous inquiry, industry managers professed to be "proud of the fact that their behaviour was above reproach, but they all cast grave aspersions on the behaviour of their competitors". However, when pressed for specific information about their competitors' activities, these managers showed a general reluctance to identify individuals or to provide specific information for the use of the Commission. This approach was consistent with previous industry practice. Eventually it was revealed that there had been widespread malpractices in the industry, and that this was well known, but the industry had usually preferred to remain silent. Only rarely had industry leaders reported known or suspected malpractices, and then only when the activities of some competitors were seen as being so outrageous as to constitute a serious threat to the whole industry.
2.33 To this general attitude of reluctance to assist the Commission, there were a few notable exceptions. These were persons who believed that the long-term interests of producers and of law-abiding processors in the industry would be better served by frank disclosure than by secrecy. These persons provided valuable starting points for investigations by the Royal Commission, and it is to their credit that they did so.

2.34 Shortly before the commencement of the Royal Commission, a joint police task force had been set up to investigate the substitution scandal and related events. It was commanded by a Chief Inspector of the Australian Federal Police and consisted, in due course, of 37 detectives from the Australian Federal Police and the Victoria Police, together with support staff. A public appeal by this force for assistance resulted in a very considerable response, reflecting the widespread community concern about the substitution scandal. However, much of the information supplied initially was little better than rumour, and in the early stages the police task force had hundreds of bits and pieces of information, but little direct, usable evidence.

2.35 Nonetheless it was the combined efforts of this police task force and the legal staff of the Royal Commission that, in the end, produced the evidence most useful to the Royal Commission on the question of malpractices.

2.36 In recent years, Royal Commissions have become increasingly the vehicles of investigation into areas of great public concern where other modes of inquiry have seemed to be inadequate. The appropriate relationship between police forces and the investigative arms of Royal Commissions has received little attention, and deserves more. In the case of this Royal Commission, by a mixture of good will and hard work on both sides, a proper and effective relationship was established.
2.37 Often, an investigation commenced by one side would be handed over to the other to pursue and, eventually, a joint presentation would emerge. Commonly, agreed areas of investigation were pursued concurrently in hearings of the Commission and through further police investigation. This proved a particularly effective approach in certain areas of inquiry. Constant liaison was necessary to ensure a continuing exchange of information. The result of this co-operation was rewarding in terms of the evidence it produced.

2.38 A good deal of the hearing time of the Commission was devoted to the examination of specific instances of malpractice. It is important that the approach of the Commission to this question be understood.

2.39 The terms of reference of the main Commonwealth Commission theoretically encompassed all malpractices in the export industry, Australia-wide, over the the previous ten years. In practice, what the Commission was concerned to do was to establish generally whether a malpractice existed and whether it was likely to occur with sufficient frequency to be significant; to consider the ease or difficulty with which the malpractice could occur having regard to current administrative arrangements; and to obtain sufficient knowledge of the method of the malpractice to be able to recommend effective measures to prevent or deter its repetition. It was clearly not possible to deal with all the allegations of malpractice made during the decade.

2.40 Nonetheless the detailed examination of some specific instances of malpractice and of allegations of malpractice was seen as important. Not only did such examination provide the necessary information about the malpractice itself, it also provided considerable insight into the attitudes of industry, the meat inspection service and other government agencies to the particular case. This was much more revealing than general statements about malpractices provided from those sources.
2.41 The Royal Commission had available to it about 100 sitting days. As the flow of information about malpractices increased, it soon became obvious that it would be impossible to deal thoroughly in the hearings with all of the material coming forward. In consequence, those instances of malpractice which were dealt with in evidence constituted only a selection of that material. Many factors affected that selection. Generally, those instances which provided the best and the most easily accessible evidence of a particular malpractice were selected. The more recent instances were selected in preference to the old. Further proof of an already demonstrated malpractice was generally avoided.

2.42 The location of the hearing played a part. Although the Commission also sat in Sydney, Perth and Darwin, Melbourne was its home base, most of the sittings were held there, and it was in that city that the main thrust of the police effort was available. Experience showed that effective evidence was much more readily available in those places where the Commission sat.

2.43 Chance also played its part. On several occasions, persons previously unco-operative in providing information to the police, or to the legal staff of the Commission, gave revealing evidence when required to testify on oath. This sometimes opened up unexpected lines of inquiry.

2.44 In Appendix H to this report there are findings of fact, and some comments, on nearly all the specific instances of malpractices investigated by the Royal Commission. A few have been omitted as being of too little value to include. Although most of them have not been named, the identity of the persons who have been the subject of those investigations will be readily ascertainable in the public records of this Commission after the Appendix is published. It needs to be understood that the affairs of those persons, and the firms with which they are connected, fell under the spotlight of the Royal Commission as a result of the selective process outlined
above. In particular, it must not be inferred that they alone were guilty of malpractice in the past decade, nor that their conduct has necessarily been any worse than that of others whose affairs have not been similarly investigated.

2.45 To this general proposition, there is one exception. This Royal Commission had its origin in the discovery that pet food had been substituted for export meat, a practice so obnoxious as to stand apart from other malpractices. In consequence, the legal staff brought before the Commission all allegations of pet food substitution in respect of which they considered there to be sufficiently credible evidence to justify a public allegation that some particular person had knowingly and wilfully engaged in the substitution of pet food for export meat. Appendix H details the parts played by those most closely involved in pet food substitution. They are referred to by name to avoid any possible confusion in identification.

2.46 This report was required to be presented by 1 September 1982 - later extended to 22 September. This necessitated setting a deadline beyond which no further substantive evidence could be heard. This had two consequences. First, there were a number of persons who made information available to the Commission which could not be pursued at hearings of the Commission. I am nonetheless grateful to them for their co-operation. Secondly, a number of lines of investigation, that had been opened up in evidence before the Commission, remained incomplete when the evidence ceased. The follow-up of those matters, where appropriate, must be left to others.

The Victorian Royal Commission

2.47 As the control of Victorian meat inspection services now belongs almost exclusively to the Department of Agriculture, access to that Department's senior officers and files became necessary from an early stage of the proceedings. The Department conducted a thorough search of its files
registries and provided the Commission's staff with detailed analyses of the files, which assisted in the identification of those matters which fell within the terms of reference. In due course, many of those files were produced to the Commission and either became exhibits or formed the bases for segments of evidence. Other departments such as the Health Commission and Law Department (Crown Solicitor's Office) also searched their records and provided files to the Commission.

2.48 Reports and files from such bodies and agencies as the Public Service Board of Victoria, the Victorian Ombudsman, the Fisheries and Wildlife Division of the Ministry for Conservation and the Bureau of Consumer Affairs were also examined.

2.49 Where available, searches of the files of the major Victorian newspapers were conducted. The object of such searches was to locate public allegations of malpractice in the meat industry in order to enable the Commission's staff to inquire whether such allegations had come to the attention of the appropriate authorities, and thus to determine whether such allegations had been handled adequately.

2.50 A search of Victorian Hansards for the period 1974 to 1981 enabled Members of Parliament who appeared to be in a position to contribute to the Commission to be contacted and, where appropriate, invited to give evidence.

2.51 All Ministers and ex-Ministers of the Departments of Agriculture and Health and the Health Commission, and an Attorney-General, were contacted with a view to ascertaining if they had, since 1974, received any allegations of malpractice relevant to the terms of reference. Several ex-Ministers ultimately gave evidence on this and other more general matters.

2.52 Advertisements placed in the daily press announcing the formation of the Royal Commission resulted in a good response from various sections of the meat industry and the
public generally. Information obtained as a direct result of such publicity often proved to be valuable.

2.53 At the time of the setting up of the Royal Commission, there were some 300 licensed meat establishments in Victoria (excluding meat inspection depots) which in the twelve months ending 30 September 1981 processed over 15.5m animals for human consumption. Despite the Victorian meat industry's size and dispersal throughout the State, efforts were made to contact representative operators of all such types of establishments, no matter where they were located. Operators of export and local abattoirs, slaughterhouses, boning-rooms, coldstores, smallgoods and pie factories and retail outlets, as well as operators of knackeries and pet food establishments, were contacted and invited to make a contribution to the Commission. Many such operators eventually gave evidence and provided important information.

2.54 As one would expect to find in an industry as large and diverse as the meat industry, there are many trade and industry organizations and unions covering the widespread views and interests of the industry's various components.

2.55 Many such bodies responded to the open invitation to make submissions which was contained in the public advertisements. In other cases, submissions were made after discussion with the legal staff of the Royal Commission. In very few cases did these organizations decline to participate in the workings of the inquiry.

2.56 As with the Commonwealth Royal Commission, it was apparent from an early stage of the proceedings that it would be impossible to present in evidence all relevant material which had come to the attention of the legal staff. The same sort of criteria were applied to the selection of Victorian material as those which were applied in the Commonwealth inquiry. In a number of cases, the help of members of the
police force was sought in the conduct of further enquiries before a particular matter was aired in the public hearings. At the time when a decision was made to call no further evidence, some of these matters were still under investigation and will need to be pursued by the appropriate authorities.

The Northern Territory Royal Commission

2.57 At the beginning of these proceedings, there was a widely held view in the Northern Territory that no malpractices in the meat industry had occurred there in the past ten years. However, once the Royal Commission established an office in Darwin, little difficulty was encountered in securing the co-operation of industry representatives, government departments and their officials and the Northern Territory Police Force in obtaining and marshalling material suitable for presentation to the Commission. On the other hand, it was probably the Territory belief about malpractices which resulted in virtually no unsolicited public response to the widespread media publicity which both preceded the public sittings in Darwin and occurred during the actual hearings.

2.58 The recent constitutional history of the Northern Territory necessitated requesting assistance from, and file searches of, a number of Australian Government departments which used to have responsibilities in the Northern Territory meat industry, as well as the Departments of the Chief Minister, Primary Production, Health and Law in the Northern Territory Government. Many dozens of files were received from the various departments, some simply providing useful background information, whilst others formed the basis of segments of evidence led before the Darwin sittings of the Royal Commission.

2.59 Because of the decentralized nature of the meat industry in the Territory, the process of searching departmental registries for the purpose of locating material relevant to the terms of reference often proved to be a difficult and time-consuming exercise, involving extensive
travel around the Northern Territory. This, coupled with the loss of and damage to some files and other material in Cyclone Tracey in 1974, added to the difficulties in collecting and collating evidence.

2.60 The Commissioner of the Northern Territory Police Force provided valuable assistance to the Royal Commission by permitting the secondment of the two members of the stock squad to assist the staff of the Commission in the preparations for the hearings. They also conducted searches of the Force's file registries in Darwin, Alice Springs, Tennant Creek and Katherine and provided valuable background information on the Territory's meat industry.

2.61 The corporations of the main towns and cities in the Northern Territory were contacted with a view to ascertaining whether they wished to make submissions to the Commission or had any material relating to malpractices occurring or alleged to have occurred in the past ten years.

2.62 All major industry, producer and union organizations were similarly written to and invited to participate in the Royal Commission's hearings. A number of representatives of these bodies ultimately gave evidence at the Darwin sittings of the Commission.

2.63 Appropriate Ministers of the Crown and politicians who, as revealed by a search of the records of parliamentary debates, had spoken on matters of interest to the Commission and appeared to have useful information were contacted. One Minister of the Crown, the Minister for Primary Production, and one Member of Parliament ultimately gave evidence before the Commission.

2.64 A wide range of individuals involved in the meat industry and thought to be representative of its various facets, including pet meat producers, abattoir proprietors,
operators of mobile slaughtering facilities, station owners and managers, exporters, retailers, coldstore managers, transport operators and their drivers, meat inspectors and veterinary officers were selected by the legal staff and requested to make their individual contributions. Many of these persons were called as witnesses, some travelling many hundreds of kilometres to attend conferences with the staff of the Commission and to give evidence at the public hearings.

2.65 The files of the major newspapers were examined for information on malpractices and on the industry generally.

The decision of the High Court concerning a witness before the Commission

2.66 There is a matter to which, with some diffidence, I think I ought to refer; and it is convenient to deal with it at this point.

2.67 One of the witnesses called before me objected to answer questions on the ground that his answers might tend to incriminate him. He had been charged with a criminal offence arising from the events about which Counsel assisting the Commission wished to question him.

2.68 When the witness, acting on legal advice, objected to answering any questions, beyond giving his name, address and occupation, I took the view that, provided the further hearing was in confidential sittings, there was no reason why it should not proceed and the witness be required to answer. I indicated that I would entertain an application that all copies of the transcript should be retained by the Commission and police officers excluded from the hearing-room.

2.69 I need not go into my reasons for taking the view of the law which I did, because the High Court has held that I was wrong, and the relevant law is now to be found in the judgments given by the Court.
2.70 However I believe that I should say something about the practical results of this decision. The effect of it is that a person who has been charged with a criminal offence and is awaiting trial cannot be pressed to answer questions, about matters relating to the circumstances of his alleged offence, by a Royal Commissioner appointed by the Executive. It may be that even a willing witness in such circumstances cannot properly be questioned. It seems further that the impropriety of pressing questions applies even if the persons present at the hearing are strictly controlled or, indeed, if only the accused person and the Royal Commissioner were present. Nor, it seems, would it make any difference if the Royal Commissioner had no intention of reporting any findings until after the trial had been held.

2.71 The Court also appears to take the view, although it was not necessary to the decision, that the Commonwealth Royal Commissions Act 1902 does not take away the right of the individual to refuse to answer any question asked of him at a Royal Commission on the grounds that the answer might incriminate him. All the Justices seemed to be of this view, and it was not suggested that the hearing of the evidence in private would alter the situation.

2.72 The main effect of the decision will be that, in any future inquiry into wrongdoing in some area of community or public life, the Executive will have to choose between instituting criminal proceedings promptly, and delaying relevant parts of the inquiry until those proceedings have been completed, or delaying the criminal proceedings until after the inquiry has been completed.

2.73 A more difficult problem arises from the expressed views of the Court about the need for explicit legislative over-riding of the privilege against self-incrimination before that right can be lost in proceedings before a Royal Commission. I am bound to say that, in the light of my experience in this
Royal Commission, I consider it would, more often than not, be a waste of public money to set up a Royal Commission to inquire into an area of suspected malpractice in society if a right to refuse to answer questions on grounds of self-incrimination exists and is maintained. It would not be possible to engage upon effective inquiry, except in cases where the Commission had available to it a quantity of useful documentary material.

2.74 I shall illustrate this by reference to the course of the evidence at this Commission. As I have pointed out, in the early stages the proffered view of government and industry officials was that there was little or no malpractice in the export meat industry, and most individuals involved in the industry showed a marked reluctance to identify anyone who might be engaged in any malpractice. By the last week of March all major industry and Commonwealth submissions had been received, a number of allegations had been investigated and half the sitting days had gone. I can only recall one witness up to that time (apart from a central figure whose evidence I have commented upon in Case 2 Appendix H) who had volunteered evidence about his part in a malpractice.

2.75 If this report had been written in April of this year instead of September, on the basis of the evidence then available, I would have reported that malpractice in the industry was rare, and felt compelled to recommend that, in the light of that finding, many of the present security measures were unnecessary and that no fundamental change in administrative arrangements was required to prevent or detect malpractices. Such a report would have been totally misleading.

2.76 However, between late March and July, the Commission concentrated on hearing evidence of a number of individual allegations of malpractice. In almost every case malpractice was proved and the vital evidence came from some witness who had himself engaged in the malpractice or who was a party to it. It was rare for a person to have direct knowledge of a
particular malpractice without himself having played some role in its execution. In only a few cases was there documentary evidence relevant to the malpractice.

2.77 Whether or not those persons would have been entitled to refuse to answer the questions which revealed the truth about the malpractices, even in a very rigidly controlled private sitting, if that were necessary, must await further judicial pronouncement. But if such a right did exist, I have no doubt that it would have been exercised by most, and perhaps all, of the relevant witnesses at the Royal Commission hearings. It provides an easy way out for those whose real concern about giving evidence is not their own part in the transaction, which may have been minor, but the effect of that evidence on their associates or their employer. The granting of indemnity in such cases is, in my view, an awkward and invidious process. I do not see it as a practical solution to the problem posed.

2.78 There would have been a number of consequences if such witnesses before the Commission had chosen this way out. First, I would not have been able to reach any clear conclusion about the probable level of malpractice in the industry. Secondly, I would have been deprived of the knowledge of the mode of execution of various malpractices and, in the absence of that evidence, I would have been unable to make constructive suggestions as to how they might be prevented in the future. Thirdly, whatever I might have suspected to be the true position, I may nonetheless have had to base my ultimate findings on the first proffered views of the government and industry officials. As I have said, those conclusions would have reflected a quite different situation from that which I now report - and which is now generally conceded - to be the actual state of industry malpractice.

2.79 The question of whether or not Royal Commissions should be established from time to time to investigate allegations of wrongdoing in Australian society, raises
political, social and legal issues which are no concern of mine in this report. However, my experience of this Royal Commission obliges me to say that, had an absolute right against self-incrimination been known to exist and been exercised, I would have been unable to write a useful and accurate report. I feel sure that the same observation would apply to most Royal Commissions enquiring into any general area of suspected malpractice. The only solution in such cases would appear to be special legislation to abrogate the right against self-incrimination, coupled with confidential settings whenever the possibility of such incrimination arose.

2.80 The question of confidential settings calls for some comment before I leave this topic. If the objection to self-incrimination rests only upon the potential effects on a possible trial of criminal charges to be brought against the particular witness, then I believe a Royal Commissioner can readily devise practical measures to overcome those difficulties. The potential effects could include the publicity given to the witness's admissions delaying or even preventing a fair trial; the possible unfairness of having to give evidence in the presence of a police officer, who might make use of it to gather incriminating evidence not otherwise available to the police; the risk that the witness's version of events may become known to the prosecutor in advance of the trial; and the risk of unfair publicity as the result of a report by the Royal Commissioner being made public before the criminal trial is held.

2.81 All these possible results could be prevented. The hearing of evidence from a witness which may have the tendency to incriminate him can be held in private, in the presence only of the Royal Commissioner, the shorthand writers, Counsel assisting, possibly other Counsel, the witness and his legal advisers. Appropriate undertakings could be obtained as to non-disclosure of the evidence. Procedures of this type are used in other areas of the law where confidentiality is seen as
important, for example court hearings involving secret trial processes. Apparently these procedures are successful in achieving the desired result. I see no reason why the same result could not be reached at a Royal Commission hearing. Similarly, the confidentiality of any part of a report by the Royal Commissioner reflecting evidence given in private could be maintained as long as was necessary.

2.82 Steps such as these may not be entirely satisfactory, particularly where there are several malefactors who contradict each other, but they would at least allow each witness's testimony to be received, and tested up to a point. The public interest in the openness of such inquiries could be served by release of the transcript at the end of all criminal proceedings, if that were thought appropriate in the particular case.

(C) Limitations

2.83 I have already referred, in paragraphs 2.8-14 above, to the fact that the Commission has been limited to the State of Victoria and the Northern Territory, so far as meat intended for human consumption in Australia is concerned. Although a good deal of evidence relating to other States has been received incidentally, it must be stressed that no assumptions concerning meat intended for human consumption in those States can properly or safely be made on the basis of the findings of this Commission.

2.84 As I have suggested in paragraph 2.14, the findings I have made in relation to Victoria and the Northern Territory may suggest lines of inquiry for other States. Similarly, recommendations made may be of interest to authorities and the industry in other States. But that is as far as this Report can be taken in dealing with the domestic consumption of meat outside Victoria and the Northern Territory.
2.85  In addition to the geographic limitation described, it must be said that the Commission has worked against a limitation of time. I make no complaint about this, because it is obviously a matter of prime importance that the doubts cast over the export meat industry by the events of August and September 1981 should be cleared up as soon as possible. On the other hand those doubts would not be dissipated by anything less than a thorough inquiry.

2.86  The result has been that I have had to arrive at a compromise between investigating all allegations which have come to notice, and dealing only with those of major significance. In the event, Counsel assisting the Commission have put before me a cross-section of complaints and allegations, including all the more serious ones and a sufficient selection of others to give a fair overview of the industry and its regulatory problems. I have reviewed the matters which have not been investigated in detail, have taken them into account in a general way (without trying to determine the truth of the matters alleged), and have concurred in their omission from detailed investigation.

2.87  In addition to limiting the number of allegations and complaints investigated, the time factor has also influenced me in determining how wide an interpretation I should give to the word "meat" in the respective terms of reference. I have been guided in my decision on this point by the circumstances in which the Royal Commission was established and by the way in which material has come forward to the Commission.

2.88  In particular, no organization or person has sought to involve the Commission, to any significant extent, in the affairs of the poultry or rabbit industries. Thus, although it may seem strange that the very large chicken industry appears to attract so much less attention and regulation than other meat-producing industries, I have not thought it appropriate to spend any of the available time on this subject. With this
exception, I think it is generally true to say that the
attention given to different types of meat broadly reflects the
numbers slaughtered - whether for human consumption or pet
food. Thus cattle, sheep, pigs, kangaroos, buffaloes and
horses have attracted most of the Commission's time, and deer
and goats very little. Donkeys have been looked at closely in
relation to one producer only.

2.89 Finally, in stating the limits within which the
Commission has operated, it is desirable to point out that the
Commission has not been asked to consider the economics of the
meat industry nor the appropriateness of any of the basic laws
which govern the industry.

2.90 The financial repercussions of any recommendations
made obviously require consideration, but the Commission cannot
be concerned with production or marketing methods, prices, wage
levels, employment opportunities or other economic or industrial
factors. In particular the Commission is not asked to express
a view on what proportions, if any, of the cost of meat
inspection should be borne by the industry or by State or
Federal Governments.

2.91 Although 'administrative arrangements and procedures'
may be given the force of law by regulation-making processes,
it is necessary to distinguish between them and the basic laws
which they are designed to protect and enforce.

2.92 Thus it is no part of the Commission's task to
determine whether game meat (for example, from kangaroos or
wild pigs) should be available in Victorian butchers' shops or
allowed to be exported for human consumption. Nor can the
Commission properly involve itself in determining what diseases
should cause a carcass to be declared unfit for human
consumption.
2.93 What it is called upon to do is to determine whether such laws as exist in these areas are being properly observed and whether policing measures are adequate.

(d) Evidence and opinions
2.94 The Commission has collected information and opinions in several different ways. It began with the informal inspection of some 30 differing types of meat premises. The purpose of these inspections - to assist in the understanding of later evidence - was fully achieved.

2.95 The great bulk of the material put before the Commission has been in the form of sworn evidence, given at public hearings and subject to cross-examination by Counsel assisting the Commission or appearing for other parties. Much of this evidence was volunteered, or given in response to requests from Counsel assisting the Commission.

2.96 However in the case of investigations into alleged malpractices, many witnesses were called on subpoena.

2.97 One witness gave some evidence after being subpoenaed, was advised to seek legal representation and, having done so, refused to answer any further questions. He was fined $700 in a Court of Summary Jurisdiction, and then he failed to reappear before the Commission. He could not be found by the police and may have gone abroad.

2.98 He is the only witness who failed to answer a subpoena. Two other witnesses refused to answer questions on the grounds that their answers might tend to incriminate them.

2.99 Some evidence was taken in confidential sittings. This was true of evidence relating to halal slaughter and certification; the reasons for this are explained elsewhere in this report (paras 7.77-78). Two other witnesses who, I accepted,
were in genuine fear of physical violence, also gave brief evidence in private.

2.100 I also heard evidence in confidential sittings concerning one episode which could have been thought to involve malpractice, though I am now satisfied it did not. The evidence was heard in private because time did not permit a full examination of all the facts of the case. Its interest to the Commission lay in the way in which the incident was handled; and publicity for facts not fully explained or ruled upon could have resulted in adverse commercial consequences for the company.

2.101 Since I am satisfied that the company was innocent of any deliberate wrongdoing or culpable negligence, I believe that the evidence on the matter should lose its confidential status at the same time that that part of my report (Case No. 10 in Appendix H) is published.

2.102 Some other evidence was taken in private in order to prevent possible prejudice to pending criminal proceedings. The High Court's ruling on this question is referred to in paras 2.66-82 above.

2.103 In the final result, a total of 497 witnesses gave evidence on just over 100 sitting days. Those who gave general evidence about the industry, or made submissions as to the Commission's findings and recommendations, are listed in Appendix C.

2.104 Over the same period a total of 891 exhibits were received in evidence. Those which contained information of a general kind are listed in Appendix D.

2.105 A number of exhibits were received on a confidential basis. In many cases this was done because persons or companies were being named as possible malefactors, and it
seemed unfair to publicise their names before they were in any position to respond. In some instances these allegations were followed up in evidence, and there is no need for exhibits referring to them to remain confidential. In other cases the matters alleged were, for one reason or another, not pursued. All the exhibits received in confidence were so designated by adding 'C' to their respective numbers. At the final sittings of the Commission I directed that a number of exhibits should lose their confidential status for the reason given.

2.106 The remainder should, in my view, remain confidential to all but those police and other authorities who need to determine whether further investigations should be undertaken with a view to criminal prosecution. I do not believe that they should be available to regulatory authorities for any other purpose, since they involve, for the most part, uninvestigated allegations against persons who have had no oppportunity to defend themselves.

2.107 In the case of other types of documents received in confidence (apart from those returned to their source on grounds of convenience) any further disclosure of them should, in my view, be a matter for their originators, or others having a proprietary interest in them, in each case. They should not be published simply because they were made available to the Commission. In some cases confidential trading information is involved.

2.108 In addition to the formal evidence and the exhibits placed before the Commission, there were two days on which seminars were conducted as a convenient way of receiving opinions and submissions.

2.109 I take the view that examination and cross-examination of witnesses is a slow and inefficient way of eliciting opinion evidence about future courses of conduct in general and possible regulatory and administrative measures in particular.
2.110 Accordingly I took the chair at separate discussions of new and proposed Victorian legislation and regulations, and proposed DPI arrangements for a totally new system of meat inspection. The transcripts of these seminars have been marked as exhibits.

2.111 These discussions were held in public and bodies likely to have an interest were invited to participate in each case. There was a full opportunity for each participant to express points of view and question other participants. I regarded the use of this procedure as being highly successful.

(c) Specific allegations

2.112 As I have already said, Counsel assisting the Commission selected all the more serious allegations of malpractice, and a representative sample of others, to bring before the Commission.

2.113 So far as possible, each allegation was dealt with at one time and pursued either to conclusion or to a point where it seemed that any further investigation would not be in the public interest - having regard to the cost of the Royal Commission, the relative seriousness of the allegation, and the lessons to be learned from it. Some complex matters, involving a number of parties and spreading over several states, had to be dealt with in parts.

2.114 As soon as it became clear that allegations would be, or were being, made that a company or individual had broken the law, the opportunity to obtain legal representation was given. Many persons and companies were so represented.

2.115 In no case was the name of a person or company, against whom there was an allegation, made public before the Commission began to deal in open hearing with the issues involved.
2.116 I have not been asked to make recommendations about prosecutions or other punitive action against persons or companies referred to in this report, and I have not made any such recommendations.

2.117 A decision whether to prosecute or not will depend upon a number of factors - the seriousness of the allegation, the time which has passed since its occurrence, the extent to which guilty persons have already been punished in one way or another (for example by loss of income or reputation or superannuation entitlements), and the likelihood of a prosecution being successfully concluded. In many cases I do not have all this information.

2.118 I hope that it will be possible to publish most of this report within a reasonable time after it is presented. Because of the possibility of criminal proceedings, any detailed findings against named individuals or companies could lead, in the interests of justice, to delay in publication. I have accordingly segregated all those detailed findings into Appendix H.

2.119 In addition, because I am conscious of the fact that persons against whom allegations have been made have not had, before the Commission, all the protection afforded by the laws of criminal procedure, I have decided to avoid using names of offenders in the body of this report and, except in pet food substitution cases and one or two serious instances of corruption, in Appendix H. The identity of those concerned will be clear enough to those having the responsibility to consider further action and, when Appendix H to the report is published, to anyone who takes the trouble to check the public record of the Commission's hearings.

2.120 Another reason for following this course is that I am satisfied that, as I have said earlier, there have been many more instances of malpractice than the Commission has been able
to identify. To castigate publicly those persons who have come to notice for reasons other than the substitution of pet food or serious corruption - particularly those who have admitted their faults - would be unfair. It could, in some cases, give advantage to others who are equally guilty.

2.121 Each of the allegations investigated is dealt with in appropriate detail in Appendix H to this report. The lessons to be learned from these cases have been incorporated in the findings and recommendations in the body of the report. In my view Appendix H to the report should not be published until any criminal or quasi-criminal proceedings against persons referred to in it have been finalized. I might add that I had determined upon this method of presentation and this recommendation before the High Court gave its decision in the case referred to above (params 2.66-82). That decision makes it essential that this course be followed.
(a) Quantities, types and destinations of exports

3.1 In order to provide a back-drop against which the results of the Commission's inquiries can be properly understood, it is necessary to describe briefly the Australian export meat industry.

3.2 The industry is, of course, subject to considerable fluctuations in production and potential markets, and thus in prices. This may be relevant to the development of malpractices in the industry. With this thought in mind it is worth recording the broad trends of recent years. These do not include the effects of the 1982 drought. (All references are to years ending 30 June).

3.3 The national cattle herd has stood in recent years at about 25m. Some 8.5m are killed each year. The national sheep flock is about 135m, and some 30m sheep and lambs are killed each year.

3.4 Over the last decade, the numbers of cattle slaughtered per year rose sharply from 1972 to 1978, apart from a dip in 1974. Since 1978 they have declined just as sharply - although not yet back to 1972 levels. Sheep and lambs, on the other hand, reached a peak in 1972, declined sharply to 1974 and have maintained a slight upward trend since then.

3.5 Cattle prices were low in 1977, rising steadily through 1978 and sharply in the first half of 1979. Since then they have tended to decline but are still well above 1978 levels. While fluctuating considerably, sheep and lamb prices have maintained a steady upward trend since 1977.
3.6 So far as the most recent history of the industry is concerned, the following figures can be taken as describing the general size and importance of the industry.

3.7 Australia exports about 0.9m tonnes of meat each year, representing about half its total production and almost $1600m worth of export earnings. Some two-thirds of this export trade comprises beef and veal, while mutton and lamb make up most of the balance. The other exports (amounting to roughly 10% of the total) are, in order, fancy meats (mainly offals), canned products, smallgoods, goat-meat and pig-meat.

3.8 In recent years a little more than half of Australian beef and veal production has been exported, while about three-quarters of mutton production and about one-sixth of lamb production has gone abroad.

3.9 Generally speaking, beef exports have been declining in recent years and mutton and lamb exports increasing.

3.10 Australia's largest markets for meat are found in USA, Japan, the Middle East, USSR and Canada. In 1981 USA took 60% and Japan 18% of Australia's beef exports. In the same year, 32% of our lamb and mutton went to the Middle East and 38% to USSR.

(b) The organization of the industry

3.11 The Commission is, of course, only concerned with that part of the export trade which lies between the point of slaughter and the point of shipment. About half of this trade is in the hands of ten large companies. Most of the exporting is done by companies which are themselves integrated producers. By this I mean that they own abattoirs, boning-rooms and coldstores, usually on the same site. However there are also a number of independent boning-rooms operating, particularly in Victoria. They purchase carcasses, or parts of carcasses, from export abattoirs, break them down to their
component parts according to the specifications of the importer, then pack them in cartons for freezing before export. The freezing is usually done by independent, export-registered coldstores. Some of these boning-room proprietors are licensed exporters. Others sell their product to meat brokers, who handle a significant part of the trade. Meat may change hands several times before being exported.

3.12 It must be noted that the beef and veal exports are almost entirely of boneless product, while the opposite is true of mutton and lamb. Beef exports are generally from poorer, manufacturing quality, animals.

(c) The regulation of the industry

3.13 The Department of Primary Industry has the main role in regulating the export meat industry. It registers export premises and provides an inspection service, at all those premises, for all meat produced, whether it ultimately goes for export or is sold on the local market. In some states, particularly NSW, the numbers of DPI inspectors are augmented by state inspectors, particularly where a good deal of the product goes to the local market, but they all work under the ultimate control of a DPI veterinary officer.

3.14 The Australian Meat and Live-stock Corporation (AMLC) has a parallel regulatory role to that of the DPI. It issues licences to meat exporters (to the business, not to the premises) and is responsible for quality controls over those exporters which it licenses. Over 200 licences are issued each year.

3.15 The Customs Bureau is responsible for ensuring that no meat is exported without appropriate documentation from DPI.

(d) The steps in the export process

3.16 In order to make later segments of this report easier to follow it is convenient now to give a brief description of the main steps in the meat export process.

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3.17 Animals are brought to a registered export abattoir. They are then inspected before slaughter, usually by a veterinary officer of the Department of Primary Industry but sometimes by an experienced meat inspector working under the general supervision of a veterinary officer. Only those animals which appear to be fit for slaughter for human consumption are allowed to go forward to the killing floor. Any which are suspect are segregated for special examination after being killed. Others may be deferred until their condition improves or, if they are found to be dying or seriously diseased, they will be killed in the yards and either burned or rendered down for fertilizer.

3.18 Sound animals are slaughtered and dressed under the supervision of meat inspectors employed by the DPI or, in some cases, by the relevant State Government department. All these officers are in turn supervised by a veterinary officer of the DPI. An interesting point about the work of meat inspectors is that most of them are directly involved in work on the production line, known as a meat chain, which, if they were not there, would need to be done by employees of the abattoirs. In effect, they perform a number of functions related to quality control. They examine the head of the animal for signs of disease. They similarly examine various glands of the animal and, in the case of the viscera (which includes all the edible offal) they determine, in the course of their examination, whether that offal is fit for human consumption, suitable for pet food, or should be condemned. In carrying out these tasks, they are not merely checking the work of others; they physically perform the examination and sorting functions.

3.19 If the head, glands or viscera of the animal, or the carcass itself, show any signs of a disease that could be passed to man, or any other defect that could affect the quality of the meat, then the carcass is segregated until a final decision can be made as to whether all or part of it should be condemned entirely or used only as pet food.
3.20 At the end of this process a stamp is placed on the carcass to indicate that it has been approved for export. The carcasses are then, in most cases, placed in a chiller.

3.21 The next process for most export meat is boning. Only a very small proportion of beef exported goes in the form of whole carcasses or smaller sections with the bone left in; and, as already noted, beef represents about two-thirds of the export meat trade. On the other hand, most mutton, lamb, goat and pig-meats are exported bone-in. When meat is exported in this form there is less scope for breach of the export laws, because the nature and quality of the carcass can be inspected and the original export-approved stamp should be evident.

3.22 When the bones are removed, however, the meat itself no longer carries a brand and its original form and quality are less recognizable. Thus, for reasons of both volume and opportunity, any inquiry into breaches of the law relating to export meat will be mainly - but not entirely - concerned with boneless meat.

3.23 Some boning-rooms are integral parts of abattoirs; some (particularly in Victoria) are entirely independent operations - though often sited next to an abattoir; and some are part of a cannery or smallgoods operation. In all cases they are covered by a registration for export and are now subject to full-time inspection by a meat inspector. Before August 1981 some boning-rooms were only inspected on a part-time basis.

3.24 After boning, the meat is placed into appropriately labelled cartons (normally 60 lbs/27.2 kgs) which are stamped as being approved for export. This is done under the supervision of the inspector.

3.25 The meat in cartons, and usually on pallets, is then placed in a coldstore, awaiting instructions for shipment or,
in some cases, delivery to a smallgoods factory or cannery. This coldstore may be part of the original abattoir/boning-room complex, or attached to a smallgoods establishment or cannery, but it will often be an entirely independent storage place. Carcass meat intended for export may similarly be retained in a coldstore attached to the original abattoir or consigned to an independent coldstore for freezing and retention until required for shipment.

3.26 Next, such export meat as has not found its way into smallgoods or cans will either be loaded into a container at a coldstore or will arrive at a container depot, wharf or airport for loading. After it has been finally checked for temperature, and for the hygienic state of the area into which it is to go, the inspection responsibilities of the Australian authorities are concluded.

3.27 It will be seen from the description of meat handling which has already been given, that there may be several occasions on which meat for export has to be transported from one place to another. The meat in one group of cartons could be moved several times - from abattoir to boning-room in carcass form and then in cartons, first to a coldstore and then to a vessel. There could be a further move between different coldstores in order to assemble a shipment or because the ownership of the meat has been transferred from one exporter to another.

3.28 Any movement of export meat must be accompanied and evidenced by a transfer certificate - signed by a meat inspector at the point of departure and checked against the load by another inspector on arrival at its destination.

3.29 The ability to tamper with these certificates and add non-export meat to the load during transit, has provided one of the largest loopholes in export procedures in the past. More careful preparation of the certificates, and the sealing of loads, have recently been introduced to combat such practices.
3.30 Finally it is necessary to produce appropriate export documents before the Customs Bureau will pass goods for export and importing countries will receive them. These certificates are given by officers of the Department of Primary Industry and are based on the sighting, by inspectors at the point of loading, of the appropriate 'Australia Approved' stamps on carcasses or cartons, and the export and transfer documents from the registered export establishment where the meat was last held.

3.31 The firm exporting the meat must hold an export licence from the Australian Meat and Live-stock Corporation. Not all export meat processors have such licences and not all licence holders are meat processors - some operate merely as brokers.
CHAPTER 3B
THE MEAT INDUSTRY IN VICTORIA

(a) The size of the industry - recent trends

3.32 The meat industry in Victoria is important to the State's economy. Latest available figures before the 1982 drought showed that there were 4.3m head of cattle in the State (compare Queensland's 9.7m and NSW's 5.3m). There were 25.3m sheep and lambs (compare NSW's 45.1m and WA's 30m).

3.33 The cattle numbers in Victoria have declined considerably since the peak year of 1975, but have been steady for several years. Sheep and lamb numbers declined from 1975 to 1977, but have risen steadily since.


3.36 In 1981, Victoria was responsible for producing just under 40% of Australia's mutton and lamb and exporting just over 40%. In the case of beef Victoria produced 25% and exported 18% of the Australian totals.

3.37 So far as prices are concerned, cattle prices slumped in 1975, due to the collapse of major export markets. They recovered a little between 1976 and 1978, then rose dramatically in 1979 and 1980 (reaching a peak in June 1979) before declining to some extent in 1981. Sheep prices have tended to follow cattle prices, but have remained higher in the last year or so, thanks to overseas demand.
(b) The organization of the industry

3.38 The Commission's interest in the industry in Victoria lies between the point of slaughter and the retail butcher's shop, supermarket or delicatessen.

3.39 The first point to be made is that the major part of the meat consumed in Victoria originates in export-registered abattoirs. (This is particularly so in the case of mutton and lamb). Much of it is also processed in export-registered boning-rooms, smallgoods factories and canneries.

3.40 In June 1981, the following establishments handling meat for human consumption were licensed to operate in Victoria -

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Export abattoirs</td>
<td>19</td>
</tr>
<tr>
<td>Local abattoirs</td>
<td>85</td>
</tr>
<tr>
<td>Slaughterhouses</td>
<td>29</td>
</tr>
<tr>
<td>Meat premises</td>
<td>165</td>
</tr>
</tbody>
</table>

(Meat premises, for this purpose, include boning-rooms, coldstores, smallgoods factories and canneries).

3.41 Approximately half the animals slaughtered in Victoria are killed at metropolitan abattoirs.

3.42 The latest available Annual Report of the Animal Health Group of the Department of Agriculture (1980-81) noted the growth in the number of boning-rooms and cold-storage facilities, to keep pace with the increasing number of take-away food outlets. There is now less direct movement of meat from abattoir to wholesale or retail butcher than in the past.

(c) The regulation of the industry

3.43 The regulation of the meat industry in Victoria is in the hands of the Victorian Abattoir and Meat Inspection Authority, the Department of Agriculture and the Health Commission.
The Victorian Abattoir and Meat Inspection Authority

3.44 The Authority is comprised of senior officers of the Department of Agriculture, representatives of the Health Commission and of municipal councils and industry representatives. Its chief function is the licensing of abattoirs and other meat establishments, having regard to the requirements of the industry and the standards of construction and equipment of the particular establishment. It is also responsible for controlling the training of meat inspectors and issuing them with a certificate of competency.

The Victorian Department of Agriculture

3.45 The Department is responsible for the day-to-day running of the meat inspection service. Its officers inspect almost all meat establishments and knackeries. In recent months those responsibilities have been extended to cover pet meat wholesalers and retailers.

3.46 With the application of stricter standards since about 1975 the number of local abattoirs has risen from 74 to 85 but the number of smaller slaughterhouses has dropped from 84 to 29.

3.47 The only meat establishments not falling within the responsibilities of the Department are those covered by the Health Commission.

The Victorian Health Commission

3.48 The Commission, which (under another name) used to be generally responsible for meat inspection, retains control over retail butchers' shops and certain smallgoods manufacturers, canneries and other processors which produce goods only for local consumption.

(d) The steps in producing meat for human consumption

3.49 As already noted, the larger part of the meat consumed in Victoria comes from animals killed in export-registered establishments. The procedures at those places have been
described in Chapter 3A. It is appropriate at this point to set out the differences between the production of such meat appropriate for export and the remainder of the process of providing Victorians with meat for human consumption.

3.50 Most animals intended for slaughter in Victoria are purchased at a saleyard, although some are bought in the paddock. They are either purchased by the abattoir owner or sent to a service abattoir by the purchaser.

3.51 Thus animals headed for the domestic market may already be the property of a retailer before they are killed at a service abattoir. More often they will be purchased after slaughter by buyers for the big retailers - such as supermarkets - or sold to a meat wholesaler, from whom smaller butchers, restaurant owners and other users will make their purchases.

3.52 Whatever their ownership, the animals are brought to a licensed abattoir (small abattoirs are officially known as slaughterhouses). They are inspected by a meat inspector from the Department of Agriculture on the day they are to be killed, although the inspection is less thorough than in the case of export animals. They are either passed, marked for separate killing because there is some query about them, deferred until their condition improves, or condemned. If condemned they are shot and either burned or rendered down and used as fertilizer.

3.53 Sound animals are slaughtered and dressed under the supervision of meat inspectors employed by the Department of Agriculture. These inspectors are under the general control of, and receive periodic visits from, veterinary officers of the Department.

3.54 The ratio of inspectors to slaughtermen is not as high as in the case of export-registered premises, and they are not expected to pay the same meticulous attention to the appearance
of the carcass as occurs in export establishments. On the other hand a similar search occurs for any evidence of disease, and the inspectors do perform functions covering many aspects of quality control which, if not done by them, would have to be done by abattoir employees. Suspect animals are treated in the same way as at export abattoirs.

3.55 At the end of the inspection process an inspector places a stamp on the carcass to show that it has been passed fit for human consumption. The carcasses are then, in most cases, placed in a chiller before despatch to a wholesale butcher, retail butcher, boning-room, cannery, smallgoods factory or coldstore.

3.56 If the meat is to be boned, it may go direct to a boning-room (which could be in the abattoir complex), or may be sent to a coldstore first, to be thawed and boned out later. After boning the meat will normally be packed in cartons and frozen, before being purchased by a smallgoods factory or other end user.

3.57 If the meat goes to a retail butcher (which for this purpose includes a supermarket), or to any other meat premises specifically exempted by the Minister from the operation of the Act, it passes beyond the control of the Department of Agriculture. If it goes to any other establishment, such as a boning-room, which is subject to such control, it becomes the responsibility of a visiting meat inspector, who checks the quantities received by the establishment and the quantities in store. He stamps the cartons with a stamp, incorporating his own official number, to indicate that the meat in the carton has been passed fit for human consumption. He does so on the basis of his sighting of the Department's stamp on the carcasses waiting attention each time he calls and on his rough reconciliation of carcasses coming in from known licensed premises and the cartons which he stamps as they are prepared for delivery.
3.58 Similar considerations apply to periodic inspections of canneries and smallgoods premises. As in the case of boning-rooms, these are carried out at quite frequent, but irregular, intervals and the inspector relies upon his sighting of the Department's stamp on incoming meat, together with his own observation of the conduct of the premises in question, to justify his stamping of the outgoing cartons or other containers as containing meat fit for human consumption.

3.59 Inspection carried out by municipal health officers completes the process of government regulation of meat production. Butchers shops and other retailers of meat are inspected for hygiene, and meat is taken for sampling in order to ensure that it has not been contaminated by, for example, excessive use of preservatives in those cases where such additives are permitted at all.
CHAPTER 3C
THE MEAT INDUSTRY IN THE NORTHERN TERRITORY

(a) The organization and size of the industry

3.60 Meat is one of the Northern Territory's three most important industries. 1.8m cattle are distributed between 317 properties. They fend for themselves in an open range system; in the more inaccessible areas they are virtually in a wild state.

3.61 In the southern half of the Territory, traditional varieties predominate, but in the 'Top End' Brahman types do much better. The southern cattle can, in good seasons, fatten sufficiently to compete on the domestic market for the butchers' trade. Northern cattle are mainly used to produce lean meat of manufacturing quality for export and the home market.

3.62 Of the 378 000 cattle turned off in 1980-81, 55% were shipped interstate or overseas as live cattle. Of the remainder, 65% were slaughtered in southern abattoirs.

3.63 In addition to these cattle, there were 41 000 buffaloes slaughtered at NT abattoirs in the same period, and a further 2000 shot in the field but dressed at abattoirs for export as game meat.

3.64 It is important to note in passing that NT cattle and buffaloes are remarkably free of disease. Constant vigilance is necessary to prevent the spread into the Territory of the very serious diseases which are endemic in countries to the near north of Australia. These include foot-and-mouth disease and rinderpest, not to mention various types of insect infestation which can injure cattle.

3.65 Brucellosis is confined to cattle and mainly to the southern part of the Territory. Tuberculosis remains the worst problem for both cattle and buffaloes - particularly in the Top End.
3.66 NT abattoirs also handle comparatively small numbers of pigs and a few horses are killed for human consumption.

3.67 In 1980-81 82% of the total numbers of cattle slaughtered in the Territory were killed in the three export abattoirs at Alice Springs, Tennant Creek and Katherine. None of the meat produced at export abattoirs is exported directly from the Territory. A small proportion of it is sold in the Territory, some of it goes to markets in other states and the bulk of it is exported through Brisbane, Adelaide, Sydney or Melbourne. Thus road transport is a particularly important feature of the meat industry in the Territory.

3.68 Most meat consumed in Darwin, Alice Springs and the other main centres of population in the Territory, comes from inter-state. This is necessarily true of all sheep products and most pork. It also applies to most of the better cuts of beef. It comes in by sea, road, rail (to Alice Springs) and air.

(b) The regulation of the industry

Department of Primary Industry

3.69 Since 86% of the cattle slaughtered in the Territory are killed in export-licensed abattoirs, the main burden of regulating the meat industry falls on the Commonwealth department. Generally speaking the same control systems apply as have been described for the State of Victoria. Differences in administrative arrangements are dealt with in Chapter 4C below.

NT Department of Primary Production

3.70 The NT Department which has responsibility for inspection of abattoirs is that of Primary Production. The Animal Health Branch of that Department contains within it a small meat inspection service.
3.71 That service operates under an Abattoirs and Slaughtering Act which all witnesses agreed to be inadequate and out of date. The Act is based on a system which identifies the Territory's five main centres of population as "Licensed Abattoirs Areas". It provides that, within these areas, meat may only be sold for human consumption if it has been marked as fit for human consumption under the laws of a State or in accordance with the NT Abattoirs and Slaughtering Regulations. This means, in effect, that it must have been slaughtered at a licensed abattoir which is subject to inspection.

3.72 Outside the Licensed Abattoirs Areas it is not unlawful to sell unmarked meat for human consumption - which may have been killed and dressed in the field, or at a station homestead or aboriginal settlement. It is however unlawful to slaughter an animal in such circumstances unless it is to be consumed by its owner or his family or employees.

3.73 There is provision for abattoirs to be licensed within licensed Abattoirs Areas but, since these are defined as the township areas in each case, it is not surprising to find that only one - the Angliss abattoirs in Darwin - is so located. All the others are some distance from their respective towns or are deep in the bush near their sources of supply.

3.74 It is open to the Department to object to the grant of a licence to an abattoir owner if he "is not a fit and proper person to hold the licence". This provision would be of little assistance in the case of a company or where the person in charge of the operation is someone other than the owner of the premises.

3.75 The Act and Regulations provide sufficient control over the construction of abattoirs and their hygienic operation. There is also power to enter butchers' shops and cold-storage rooms for the purpose of checking markings on meat for human consumption and determining whether unmarked meat is being held for sale.
3.76 Maximum penalties for breaches of these laws are generally either $200 or $400.

Other NT authorities
3.77 In addition to the powers of the Department of Primary Production under the Abattoirs and Slaughtering Act, the NT Health Department has powers, under the Public Health Act, to control the sale of meat in butchers' shops.

3.78 The Stock Squad of the Northern Territory Police also has some relevant responsibilities in relation to illegal slaughter. For the most part this refers to unauthorized killing of stock belonging to other persons, but it also includes the detection of persons killing feral animals without observing the laws relating to pet food production.

3.79 Although there are no legal limitations on the production of meat by aboriginal communities for their own use, the Departments of Primary Production and Health do provide advice on hygienic slaughtering and handling whenever it is sought.
CHAPTER 4A
THE LEGAL REQUIREMENTS OF EXPORT MEAT

4.1 The first term of reference of the Royal Commission asks whether relevant arrangements and procedures "are adequate to ensure that all meat exported from Australia meets the requirements prescribed by law".

4.2 It is therefore necessary to establish what the law does in fact require of export meat. The answer, in summary form, is

(a) preparation on approved premises,
(b) inspection by qualified persons,
(c) accurate trade description,
(d) freedom from disease,
(e) freedom from contamination or damage, and
(f) certain special requirements.

Each of these topics is dealt with briefly below.

4.3 These requirements are generally to be found in the Exports (Meat) Regulations (EMRs) which depend for their validity upon powers given by Sec 112 of the Customs Act 1901 and Sec 11 of the Commerce (Trade Descriptions) Act 1905.

(a) Preparation on approved premises

4.4 The export of meat is prohibited unless it has been slaughtered, treated and stored only at premises duly registered as export establishments. This requirement is the keystone to the whole structure of controls over the export of meat.

4.5 Not only does registration require that the premises must be soundly constructed, to standards which make hygienic handling practices easy to apply; it also provides the basis for the supply of departmental officers who oversee and direct all the steps necessary to ensure a sound export product.
4.6 Most of the serious cases of breaches of the law regarding export meat, have had their origins in work done at unregistered premises. The resulting product has then been illegally inserted into the export stream at a boning-room, smallgoods factory or coldstore. In a few cases it may have gone straight to a container depot, wharf or airport.

4.7 There have also been some cases in which work has been performed illegally, out-of-hours or otherwise in the absence of inspectors, at registered premises; and the law may have been broken with the connivance of government inspectors. But most of these cases would also have involved the use of premises for slaughtering which were not export-registered.

4.8 The requirement of registration of premises for the export trade is set out in Reg 11, paras 1, 2 and 2A of the EMRs. Other detailed provisions are in Regs 20-29 and the Sixth Schedule.

(b) Inspection by qualified persons

4.9 The Regulations provide that the exportation of meat is prohibited unless it has been "passed for export" (Reg 12(1)(b)). Regs 30, 31 and 33(1) make it clear that the animal concerned must be slaughtered and dressed under the supervision of departmental officers and inspected and passed fit for export by an officer.

(c) Accurate trade description

4.10 The exportation of meat is also prohibited unless an accurate trade description is applied to it in the prescribed manner (Regs 15-19). Subject to certain specific exceptions, the description must be accurate as to

(i) the identity of the manufacturer or producer (Reg 16(3)),
(ii) the weight of the meat (Reg 16(1)(e));
(iii) the type of meat, for example ox beef, heifer beef, yearling beef, veal, lamb, ewe mutton, pork, horse-meat (Reg 16(6)(D) and Third Schedule), and

(iv) the quality (first, second or third) in the case of bone-in meat (Regs 16(4) and 11(5)).

4.11 These are the required elements of the description. Any other information supplied as part of the trade description, such as the cut of meat, must be truthful (Reg 16(1)(b)).

(d) Freedom from disease

4.12 Although the word "disease" is widely defined in Reg 5(1), the requirement that export meat shall be free of disease tends to be taken for granted in the body of the Regulations. It is not stated in specific terms, although the Second Schedule refers, in paras 1 and 2, to the search for evidence of disease in the course of inspections. Regs 61B and 63 provide for the handling of condemned animals and condemned carcasses.

4.13 A health certificate is invariably required by an exporter. Although the regulations specify a form of health certificate (form 8 in the Fifth Schedule), some importing countries require certificates in somewhat different terms. Form 8 calls for a DPI veterinary officer to certify that the meat -

"has been examined and found by ante-mortem and post-mortem veterinary inspection, to be free from disease and suitable in every way for human consumption".

(e) Freedom from contamination or damage

4.14 The wide definition of "disease" referred to in the previous section would be sufficient to cover some types of damage or contamination. It refers to a "deviation from the normal in the condition of .... any tissue, forming part of the meat .... as renders the meat .... unsightly or unfit for human consumption".
4.15 The Form 8 Health Certificate, referred to in the same section, also calls for a statement that "no injurious ingredient has been used" in the preparation of the meat.

4.16 The Second Schedule requires that meat, once passed for export, shall not be exposed to direct or indirect contact with other goods which could cause it to become contaminated (para 5).

4.17 Apart from these provisions, the requirement that meat for export should not be contaminated is assumed by the Regulations, and provided for by requirements relating to such matters as the state of the premises, the personal hygiene of workers, manner of transportation, adequacy of refrigeration and use of approved chemicals only.

(f) **Certain special requirements**

4.18 In addition, it should be noted that there are special requirements

. of some importing countries
. for canned goods, smallgoods and other meat products
. for game meat.

4.19 However, with one exception, none of these has come to notice in the course of the Royal Commission's inquiries and so there seems to be no point in detailing them. The one exception related to the requirements of Muslim countries for halal slaughter. This topic is dealt with in detail in Chapter 7A.

4.20 Laws relating to the export of pet foods will also require some attention. This subject is dealt with in chapter 6.

(g) **Breaches of legal requirements**

4.21 As will become apparent, there have been three main ways in which the legal requirements set out above have been breached.
4.22 In the first place there have been many instances of false trade descriptions being used.

4.23 Secondly, large quantities of wholesome non-export meat, suitable for consumption in Australia, have found their way into the export trade. This product has not been slaughtered, and may not have been prepared or packed, on premises registered for export, and so will not have been inspected by the proper inspectors. It will however have been slaughtered and prepared on premises registered for domestic production and inspected by inspectors appointed for that purpose.

4.24 Thirdly, some meat has been exported which has not been slaughtered under any sort of inspection in abattoirs approved for any purpose. This meat, which could only lawfully be sold as pet meat for use in Australia, has been exported in breach of all or most of the legal requirements.

4.25 Thus it has not been prepared on approved premises or inspected by qualified persons. The species of meat has been falsely described and, in many cases, the meat has not been free from disease or contamination.
CHAPTER 4B
THE LEGAL REQUIREMENTS OF MEAT FOR
HUMAN CONSUMPTION IN VICTORIA

4.26 The legal requirements of meat sold for human consumption in Victoria are to be found, for the most part, in the Abattoir and Meat Inspection Act 1973 and in Regulations made under that Act.

4.27 They may be summarised by saying that such meat must be from animals which have been -
(a) killed and dressed on licensed premises,
(b) subject to inspection both before and after slaughter, and
(c) found free from disease which could affect the meat.

The meat itself must be -
(d) free from contamination and
(e) truthfully described when offered for sale.

(a) Preparation on licensed premises

4.28 The Act requires that most places which handle meat have to be licensed. This applies to abattoirs, boning-rooms, coldstores, canneries, smallgoods factories and places receiving meat from interstate, classified as "meat inspection depots". The exceptions to the general rule are retail butchers' shops and certain specific establishments (mostly engaged in the manufacture of meat products) designated by the responsible Minister for exclusion from the coverage of the Act, presumably on the grounds that they are more appropriate for coverage under legislation dealing with public health.

4.29 With these exceptions, it is an offence to operate an unlicensed meat establishment or to sell meat from an animal not killed at a licensed establishment.

4.30 The purpose of licensing is, of course, to enable checks to be made on the condition of the premises, the methods
of killing and preparing meat at those premises and the suitability for human consumption of the meat produced or handled.

(b) Inspection by qualified persons

4.31 The Act gives wide powers to inspectors employed by the Department of Agriculture. It is an offence to sell meat which has not been inspected and branded in accordance with the Act. It is even an offence to remove meat from an abattoir unless it has either been passed as fit for human consumption or rendered unusable for such consumption.

4.32 It is part of the Regulations under the Act that stock for human consumption must be inspected and passed by a meat inspector, on the day on which it is to be slaughtered.

4.33 The main differences in inspection requirements between meat for export and meat for domestic consumption in Victoria are

(i) there is no requirement under State law that a veterinary officer should be involved in ante-mortem examinations or in the day-to-day supervision of work at abattoirs, and

(ii) less attention is given to some detailed inspection matters which largely relate to the appearance of the product and are less relevant when meat is likely to be consumed soon after killing. Such questions include the presence of grass seeds in sheep carcasses and the touching together of carcasses as they hang in a chiller - which can produce marking.

(c) Freedom from disease

4.34 The Act defines "disease" as including any of a list of diseases or conditions set out in a Schedule. The list can be added to by the Minister. It is an offence to accept a
diseased animal at an abattoir, without special authority, and inspectors can prohibit the slaughter of diseased animals or condemn any meat or meat product which has any defect or disease rendering it unfit for human consumption. Diseased animals are, so far as possible, traced back to their points of origin, so that appropriate steps can be taken to reduce the incidence of disease in stock.

(d) Freedom from contamination or damage
4.35 The whole thrust of the Act and Regulations is to ensure that only meat fit for human consumption reaches the public. This covers both the initial condition of the meat after preparation and anything which may happen to it later. There are many detailed regulations dealing with the cleanliness of premises, equipment and personnel and with the adoption of hygienic processes. It is the duty of an inspector to condemn any contaminated meat which cannot be safely cleansed.

(e) Accurate trade description
4.36 The passing-off of inferior quality meats, of the same or different species, for superior quality and more valuable meats would constitute a breach of various legislative provisions, both Victorian and Commonwealth, which make it an offence to employ false or misleading descriptions on consumer items. Such provisions can be found in the Health Act (Vic) 1958, the Consumer Affairs Act (Vic) 1972 and the Trade Practices Act (Commonwealth) 1974. The Crimes (Theft) Act (Vic) 1971 also deals with the offence of obtaining a financial advantage by deception.
CHAPTER 4C
THE LEGAL REQUIREMENTS OF MEAT FOR
HUMAN CONSUMPTION IN THE NORTHERN TERRITORY

(a) Within Licensed Abattoir Area

4.37 The chief requirement of meat for human consumption in
the Northern Territory is that, if it is to be sold in a
Licensed Abattoir Area (the townships of Darwin, Alice Springs,
Katherine, Nhulunbuy and Tennant Creek) it must have been
"marked as being fit for human consumption" in accordance with
relevant laws.

4.38 This means in effect that it must have been produced
in a licensed abattoir, and should have been the subject of
inspection by a meat inspector. Only an inspector can lawfully
mark meat.

4.39 There is a qualification to this general provision in
the case of buffalo-meat, which must have been "slaughtered in
pursuance of a licence".

4.40 In practice this means that it must have been either
slaughtered at an abattoir approved for the purpose, or brought
to such an abattoir for butchering within about an hour of
being shot.

(b) Outside Licensed Abattoir Area

4.41 There are no legal requirements which have to be met
in the case where an owner has his own stock slaughtered for
consumption by his family or his employees. Apart from this it
is an offence to slaughter stock for human consumption except
at a licensed abattoir.

(c) Storage and transportation

4.42 The Abattoirs and Slaughtering Regulations contain
some provisions relating to the storage of meat at licensed
abattoirs. There are no provisions about the storage of meat
at independent coldstores or about the transportation of meat. There is no control over the importation of meat into the Territory. It must however comply with the requirement set out in section (a) above.

(d) **Freedom from Contamination**
4.43 The Food and Drugs Act contains general provisions concerning the protection of food from contamination. Meat is of course included in this general coverage.

(e) **Accurate trade description**
4.44 Meat products must, like all other goods for sale, not be in breach of the Trade Practices Act (Commonwealth) 1974 or of NT laws relating to false and misleading trade descriptions.
CHAPTER 5A
ADMINISTRATIVE ARRANGEMENTS AND PROCEDURES
CONCERNING THE EXPORT OF MEAT

5.1 A great deal of evidence has been led, and many opinions have been offered, concerning administrative arrangements designed to ensure that export meat complies with relevant laws.

5.2 A study of this subject involves consideration of the workings of the meat inspection service and other Commonwealth bodies which have a role in the same area. It also involves a detailed examination of regulations and procedures which govern the various stages of production and movement of export meat.

5.3 The position is considerably complicated by the need to examine three broad sets of arrangements - those in force before the substitution scandal broke, those introduced as a result of that scandal, and those now proposed for the future.

(a) The Commonwealth inspection service
   (i) DPI organization - proposed changes

5.4 Throughout the period covered by this Commission's inquiries, the inspection of meat for export has been the responsibility of the Department of Primary Industry (although it was, for one brief period, called the Department of Agriculture). Although the situation is now changing, the responsibility within the DPI has, from 1975 until now, been carried by the Bureau of Animal Health (BAH).

5.5 In 1975, the Veterinary Public Health Branch of the Department, the branch responsible for the export meat inspection service, was transferred to the Bureau of Animal Health. It carried with it a staff of about 1900 meat inspectors and veterinary officers. It became one of five sections of the BAH. The Bureau had been established in 1974 as a technical unit in the field of animal and poultry health,
designed to co-ordinate and provide a service to Commonwealth and State organizations, while not directly formulating policies. The other four sections of the Bureau consisted of about 40 staff, mainly scientists. These sections operated with a degree of delegation and independence seen as fitting for high level scientists and administrators, and the operation of the Veterinary Public Health Branch was seen in the same light. In turn, the Bureau itself operated independently from the main stream of Departmental activities. There can be no doubt that the Director, Dr R.W. Gee, a distinguished veterinary scientist, was an appropriate person to direct the activities of the advisory technical unit contemplated when the Bureau was first established. However, for Dr Gee and the Bureau to have thrust upon them the responsibility for a meat inspection service of this size was to saddle them with a task of an entirely different nature.

5.6 It is significant that the first report of the BAH, covering the years 1974-78 listed 20 functions for the Bureau. Of those directly relevant for present purposes, No. 17 was

"Provide professional advice on Australian standards relating to export meat and poultry inspection",

and No. 20 was

"Pending the outcome of negotiations aimed at introducing a single meat inspection service in Australia, the Bureau would be responsible for all Australian government functions relating to operational meat inspection."

5.7 It is no doubt in recognition of the fact that the meat inspection service has sat rather awkwardly and impermanently within the BAH that the Department has now established a separate Export Inspection Service, divorced from the Bureau and headed by administrators rather than professional veterinary officers.
(ii) The perceived role of meat inspection - protection of health or detection of malpractice

5.8 The importance of US Department of Agriculture requirements to Australian meat inspection has been referred to in para 1.10 above and is also dealt with at paras 5.27-29 below and elsewhere in this report. One aspect of those USDA requirements is the emphasis on veterinary presence at plant level. This, together with the placement of the inspection service within the BAH, resulted in the inspection service being strongly oriented towards veterinary matters. In consequence it concentrated on works hygiene and animal disease. It undertook little responsibility for quality control. It did not see itself as responsible for out-of-hours oversight of meatworks or the detection of malpractices. The professional training of veterinarians is significant in areas of health and disease prevention, but has no relevance to the broader aspects of administering a meat inspection service which must deal with problems of malpractice in the industry.

5.9 The notion that wrongdoing was a matter for the police, if it was sufficiently serious to worry about at all, lies at the heart of most of the weaknesses in the inspection system which have come to light in recent months.

5.10 Before August 1981 the BAH Compliance and Evaluation Unit was staffed by two principal veterinary officers reporting directly to the Senior Assistant Director, Veterinary Public Health Branch. This unit received monthly reports by senior veterinary officers on all registered export establishments listed for export to the United States, reports compiled by meatworks standards officers, reports from overseas reviewing veterinarians and reports of trade complaints from, and product rejections by, importing countries. However, as events have shown, this unit was not effective in securing continued general observance of regulations by operators and was not effective in detecting breaches of regulations by operators.
5.11 Although DPI had available to its Compliance and Evaluation Unit the sources of information about the operations of registered export establishments which I have just mentioned, there was no system in the Department whereby inspection staff at an establishment could be made aware of the past history of operations at that establishment and, where appropriate, told that the establishment to which they were posted was one to which special attention should be given for one reason or another. Of course from time to time arrangements were made to inform inspection staff of some matters that had occurred at particular establishments, but there appears to have been no systematic early warning system whereby inspection staff could be alerted to the possibility of trouble occurring before it occurred in fact.

5.12 As I have said, the DPI meat inspection service did not see itself as being an investigative law enforcement agency. Where malpractice was suspected, matters were referred to the Commonwealth Police (later the Australian Federal Police) for investigation. However, this system proved ineffective in detecting malpractice or deterring its repetition.

5.13 Given the attitude of the Department to its role in the meat industry, this is perhaps hardly surprising. But apart from that perception on the part of the Department, there was what DPI has described in its final submission as an "inadequate legislative base". I refer elsewhere to some particular deficiencies in the legislation and I need not repeat them here. Foremost among those deficiencies was the ridiculously low level of penalties prescribed for serious breaches of regulations.

5.14 Given the level of penalties prescribed it is not surprising that Commonwealth Police tended to regard suspected breaches of EMRe referred to the force by DPI as being matters of comparatively low priority. This, coupled with a lack of
technical expertise, may largely explain the low level of success the Commonwealth Police force, and more recently the AFP, had in detecting malpractice before the discovery of horse-meat substitution.

5.15 Relations between DPI and Commonwealth Police sometimes showed a lack of co-operation and understanding which cannot have assisted the investigation of allegations of malpractice. Thus, in 1977 police sought to be authorized to act as officers under the EMRs. Legal opinion was sought on this question and the Department was advised that, as the law stood, it was not appropriate to appoint police officers in this way. Yet the Department took no further step in the matter whether by pressing for changes to regulations or assigning properly authorized officers to assist the police in their enquiries. Some years later the police sought to have veterinary officers and inspectors nominated by the Department as persons to whom they could look for assistance at any time in the course of investigations into alleged malpractice in the meat industry. Some arrangements were made in the Victoria-Tasmania region but despite the fact that this was reported to the central office of DPI no step was taken to introduce such an obviously sensible arrangement elsewhere.

5.16 DPI has now established an Investigations Branch reporting directly to the Director of the Export Inspection Service. This Branch consists of a Compliance Evaluation Unit and an Investigations Unit.

5.17 It is said that the Compliance and Evaluation Unit has a technical audit role together with a responsibility for continuing evaluation of operational procedures aimed at improved performance, whereas the Investigations Unit is to investigate allegations of malpractice relating both to inspection staff and industry.
5.18 I regard the level of performance of both these units as being of critical importance for the future well-being of the export meat industry.

5.19 The precise way in which these units are established and function is a matter that will have to be determined in part by a process of trial and error. However, the principles that must underlie the operation of these units are, I think, clear.

5.20 Unless the industry is to be burdened by ever-rising costs, operators must take increased responsibility to ensure that operations at their premises comply with the requirements which are laid down from time to time. As industry takes up that responsibility, less emphasis can be placed on having an inspector on the spot all the time to ensure that rules and regulations are being observed. Continued compliance by industry should be ensured by frequent, random, unannounced checks by compliance staff. Their efforts must be visible, active and demonstrably efficient. The system must be such that operators will know that if they do engage in malpractice there is a very high risk that they will be detected in that malpractice and that such malpractice will be visited by heavy penalties which may well include loss of their licence to continue in the industry. The sooner such a system can be implemented, the sooner expensive and sometimes cumbersome physical security arrangements which I describe later can be dismantled, or at least scaled down.

5.21 Clearly, it is essential that better early warning systems be devised which will enable both inspection staff assigned to works and compliance staff to identify works likely to require special attention in particular respects. It may be that the development of so-called 'risk profiles' will assist in this regard. However, whether that is so or not, it is clear that there is little value in sending an inspector to an establishment where the operator has been suspected of
malpractice without telling the inspector to pay particular attention to matters which have been the cause of suspicion in the past. It is also obvious that compliance staff should make more frequent visits to suspect establishments than they should to those with an unblemished record in the industry over many years.

5.22 The establishment of an Investigations Unit within DPI may be seen as usurping the traditional function of the police force. Defining the relationship between that unit and the police force is essential to ensure the adequate investigation of malpractice and effective prosecution of wrongdoers. Clearly investigative skills are necessary to such a unit. But there will be investigations which, because of their complexity or risk, will require resources greater than can be provided by the unit. On those occasions the unit will obviously look to the police for assistance.

5.23 Just where the line should be drawn between the functions of the Investigations Unit and the functions of the police force is a matter that will have to be worked out in the future. Much will depend upon the numbers and types of persons that are to be recruited to the Investigations Unit. I have no doubt that that unit must include persons with proved investigative skills, but equally clearly it will not be possible for that unit to have available all the resources that are available to the Australian Federal Police. The Department has begun discussion with AFP on these matters.

(iii) Staffing levels and mobility

5.24 It has not been suggested that any of the problems of export meat inspection have been brought about by staff shortages.

5.25 In fact, although numbers have declined a little since the peak production period of 1978, the meat inspection service is manned by some 180 veterinary officers and 1650 inspectors.
These have been organized on a regional basis, with the head office of the Bureau in Canberra providing policy guidelines and co-ordination. Within the regions the regional director has had nominal control over the service, but the day-to-day running has been left to the Veterinary Officer-in-charge.

5.26 It will be seen from the numbers quoted that the Commonwealth Service is very much dominated by veterinary officers. It is in fact the largest employer of the profession in Australia.

5.27 This came about in the early 1970s when a fresh emphasis on the US market led to the imposition of US standards on all abattoirs which hoped to produce meat for USA. These standards came to be accepted, for most practical purposes, for all export establishments.

5.28 I should say in passing that it has been alleged by a number of witnesses that the requirements insisted upon by the US Department of Agriculture for US registration are higher than those imposed in USA - they are merely a device for limiting the quantities of Australian meat available for the US market. I have been left with the general impression that US meatworks approved by USDA (as distinct from those supervised by state or municipal authorities) are of a similar structural standard to that which the Department requires in Australia, but manning levels for inspectors are distinctly higher in Australia.

5.29 Whatever the truth of those matters, the USDA did insist that every abattoir registered for export to USA must be supervised by a full-time veterinary officer. It also required more meticulous trimming and a more detailed examination of certain glands and of viscera than was usual in the case of meat for domestic consumption in Australia. This considerably increased the number of meat inspectors required on the chain. In fact witnesses have spoken of instances such as an abattoir
in Sydney which moved from 27 inspectors to 6 when it surrendered its export registration - with no change in throughput - and another in Melbourne which went from 13 to 28 when it obtained export status.

5.30 I believe that, given the comparative freedom from disease of Australian live-stock, there is scope for negotiating with the USDA a reduction in numbers of inspectors required at US-listed abattoirs. (The question of veterinary officers is dealt with below).

5.31 On the other hand it must be remembered that there are seasonal factors which create great difficulties for the Commonwealth service and are likely to lead to shortages at some establishments at some times of the year and excessive numbers of inspectors at other places and other times. This is almost impossible to avoid, and can lead to practices such as 'lapping' which have grown up in the meat inspection service and are to be found in various abattoirs around Australia.

5.32 This practice involves a proportion of the inspectors from the killing floor resting in their amenities room while others take their turn on the chain. Regular changeovers can produce the result that each inspector only works two-thirds or three-quarters of the time.

5.33 Attempts have been made to justify this practice on the alternative bases of seasonal over-staffing and of excessive fatigue caused by a high throughput of animals.

5.34 I do not find either argument convincing, although I can imagine days of low production - not expected to last long enough to justify a change in staffing levels - when some time-off could sensibly be allowed.

5.35 On the question of mobility of inspectors I have already noted the inevitable incidence of seasonal movements,
but even this could be reduced by encouraging some inspectors to reside in those towns where the abattoir kills for a large part of the year.

5.36 There are two possible views of the practices which have grown up of rotating most inspectors at NT abattoirs every six weeks and most capital city inspectors every six months.

5.37 The Meat Inspectors Association wants such moves so that both the advantages (such as overtime earnings) and the disadvantages (such as monotonous work or long distances to travel) can be evenly spread amongst its members.

5.38 The Department has been prepared to accede to this approach, partly as a result of industrial pressure and partly to reduce the risk of too-cosy relationships being built up between managements and inspectors.

5.39 There is some merit in these ideas; but I believe such considerations are outweighed by the disruptive effect on the industry of constant changes in inspection personnel, with new inspectors bringing different judgments to bear when applying regulations, and not fully understanding the local scene or knowing how best to handle local personalities. In my view nothing would be lost, and some real advantages would be gained, by lengthening the tours of duty at each establishment at least to three months for NT rosters and twelve months in the case of capital city rosters.

(iv) Administration from Canberra

5.40 The inspection service has obviously suffered over the years from inadequate delineation of responsibilities, and poor communications, between Canberra and the various regions. This is a disease endemic in relations between head offices and their branch offices when distances are so great.
5.41 Its symptoms are a general lack of understanding, at each end, of the other person's problems, an unwillingness at the branch level to accept responsibility for difficult decisions, a reluctance to take the trouble to inform head office of those problems which are dealt with locally, long and frustrating delays in correspondence, and a tendency to conduct much important business by telephone without making any (or any adequate) record of decisions reached.

5.42 The BAH seems to have suffered markedly from all these disabilities. (See Appendix E for some earlier findings of mine as to the state of the Bureau's files).

5.43 Each organ of government must be left to find its own solutions to such problems, adapted to its special needs. I would however suggest that, in the case of meat inspection, the best solution would be to allow more autonomy at the works level and the regional level, while keeping head office informed of all decisions made, so that an overview can be maintained and policy guidelines supplied as required. Generally speaking each level of authority should be prepared to back the judgment of the next level down unless it seems clearly to have been in error.

5.44 Leaving more matters to be decided centrally might make for greater uniformity of decisions, but might also lead to bad decisions, because not all the facts are fully conveyed, and it will certainly lead to delays in decision-making. It will also lead to feelings of frustration and inadequacy at the inspection place and in regional offices.

(v) Relations with state services

5.45 Generally speaking, relations between the Commonwealth and Victorian meat inspection services have been quite good at a personal level. The Veterinary Officer-in-charge of the Commonwealth service, in Victoria has been on friendly terms with his State counterpart. And, at least in recent years,
there appear to have been quite good personal relations between Victorian and Commonwealth inspectors on the job. I am not in a position to judge the situation accurately in other States, but I suspect that co-operation is at its best in Victoria.

5.46 From a formal organizational viewpoint, relations in all States have been dismally bad. There have been many instances of failure to pass helpful information speedily or at all. The Commonwealth Meat Inspectors Association has quite often threatened industrial action to prevent sensible use of state inspectors at export establishments. Industry has been forced to construct separate amenities for Commonwealth and State inspectors.

5.47 These matters have already been detailed in the report of the Kelly Committee of Inquiry, 1980, and there is no need for me to elaborate further. Suffice it to say that there was little sign of any improvement after that Report was made public and all my inquiries have only tended to confirm the findings of that Committee.

(vi) Dual or unified system

5.48 The Kelly Committee, like the Bland Committee before it, found the problem of overlapping State and Federal inspection systems to be intractable. Everyone was agreed that the present 'dual' or 'tandem' system was quite unsatisfactory. But considerations of constitutional power, foreign government requirements, States' rights, government funding and union pressures - all pulling in differing directions - seemed to make it impossible to find a viable alternative.

5.49 However a good deal has happened in the last twelve months, and there is now a climate favourable to change. The choice now seems to lie between, on the one hand, a simple Commonwealth take-over of State meat inspection functions and, on the other, the creation of a joint Commonwealth/State
authority, either to operate throughout Australia or to be formed separately in any State which wishes to adopt such an approach.

5.50 Before saying something about this choice I should make it clear that I am conscious of the limitations of my terms of reference. I have not been expressly asked, as the Kelly Committee and before it the Bland Committee were, to consider the subject of a unified inspection service. Nor do I have any right to make recommendations about the systems of inspection of meat for domestic consumption in States other than Victoria.

5.51 On the other hand I am required by each of my Commissions to consider the "administrative arrangements and procedures for the supervision of the handling of meat" and to make appropriate recommendations for desirable administrative or legislative changes.

5.52 In this situation it would be difficult, and somewhat artificial, to avoid comment on an issue which is central to the arguments of most sectors of the industry whenever the question of meat inspection arises.

5.53 It is true that a good deal of the discussion of a unified inspection system revolves around the question of fees. There are many in the industry who would not mind what system or systems prevailed provided there was no fee charged or, at most, a moderate, uniform fee. Much of the strongest opposition to the dual system arose when meatworks found themselves paying two lots of fees for meat diverted from export works to the local trade. Pig producers object to paying export levies for slaughtering at export works, when very little pig-meat is exported.

5.54 However there is also much opposition to the dual system based on arguments of logic and convenience. The
consequences of the fragmented nature of current meat inspection are considered in the following paragraphs.

5.55 In the first place, there is a lack of co-ordinated control over pet food, including monitoring of its extensive interstate movement, uniform dyeing and packaging requirements, and comprehensive powers over the sale and distribution and the recording of sales of pet food.

5.56 In consequence there is a real risk that pet food may again find its way into meat destined for export. This possibility, with its potentially disastrous consequences for the export industry, constitutes a strong argument in favour of a unified system.

5.57 Another important consideration is the absence of co-ordinated control over 'local' meat being bone-out or relidded as export meat.

5.58 This became a prevalent malpractice in some areas of the industry. Often it was not viewed as a malpractice of any great consequence, probably because it was thought that meat inspected and packed as fit to be eaten by Australians was fit to be eaten by residents of importing countries. However, the evidence showed that the description 'local' meat may cover a variety of meats. Local operators who supply exporters with cartoned meat for relidding for export, knowing that it will not be inspected by DPI inspectors before export, are not always fussy about what they put in the carton. And the meat may well have been packed out-of-hours, in the absence of state inspectors. Further, the encouragement given by operators to DPI inspectors to turn a blind eye to this practice can be a starting point for the corruption of those inspectors.

5.59 Finally, there has in the past been a distinct lack of co-ordination in the investigation and detection of malpractices
relating to export meat. A single meat inspection service should go a long way towards overcoming this problem also.

5.60 For these reasons alone, a recommendation to establish a single inspection service can be made with confidence. But in considering more detailed recommendations as to how a single inspection service should be brought into being, I am immediately confronted by the limitations in my terms of reference, already referred to, and thus in the evidence presented to the Commission.

5.61 One illustration of this problem should suffice. Some of the State meat inspection services supported the concept of the single inspection service, but claimed that this should not be handed over to DPI but should be retained by the States. In support of that claim they asserted that the State systems were superior to that of DPI, more economical, more effectively staffed, with better morale and so forth. However, except in the cases of Victoria and the Northern Territory, the Royal Commission had no power to enquire into State meat inspection services, nor to establish whether or not such claims were justified.

5.62 In due course, the DPI in a final submission asserted that the criticisms of the DPI inspection service in the past would be overcome by the development of a completely restructured single inspection service established by the Commonwealth. This final submission in turn raised a number of problems relating to Federal/State relationships, the implementing of necessary legislation, industrial relations, and the financing of such a scheme. All of these matters are clearly beyond the terms of reference of this Royal Commission.

5.63 It would seem therefore that, strictly speaking, I should recommend, as others have done before me, that there be a single meat inspection service. But I should not make the attempt that some of those others have, to recommend ways and
means. However, partly in deference to those many persons who went to the trouble to make submissions to the Royal Commission in this area, I believe it is appropriate that I record my views about some aspects of this question which came to the notice of the Royal Commission.

5.64 One question central to the debate was who should control and conduct a single inspection service. There were a variety of views, including -

(a) Commonwealth control, exercised through the Department responsible to the Minister, but overseen by a Council which would include State representatives and which would have direct access to the Minister;

(b) control by a statutory corporation which would include Commonwealth, State, industry and producer representatives;

(c) control by the States, which would have the Commonwealth responsibilities for export meat delegated to them, but work under overall Commonwealth supervision so far as export meat was concerned; and

(d) control at State level by a joint meat inspection service, consisting of an independent chairman and a representative of both the Commonwealth and the State, the Commonwealth retaining responsibility for export meat, the State for local meat.

5.65 Much of the debate on the question of control related to the past performance and cost-effectiveness of the various established meat inspection bodies. In this connexion it must be remembered that the DPI's own assessment of its past performance as expressed in its final submission to the Royal Commission was that "the DPI inspection service has proved to be inefficient, costly, poorly managed, overstaffed and in some respects corrupt." The Hon Peter Nixon, Minister for Primary Industry, agreed with this assessment. So do I.
5.66 However, in adopting this criticism of the state of the DPI inspection service as at the time of the setting up of the Royal Commission, it should not be overlooked that, in the past, much constructive effort has been injected into the export meat industry by the establishment of an inspection service acceptable to importing countries. No doubt many persons have made significant contributions to this effort. This must have been particularly so when the USDA requirements were first imposed on the industry.

5.67 DPI has now prepared a plan for a radically new single inspection system. There is scepticism in some quarters as to whether the Department which allowed its inspection service to fall into the state described can be relied upon to rebuild a service which will not in time suffer the same fate. Without doubting the ability and determination of those DPI officers responsible for devising the new plan, I must say that I have some doubts on this point.

5.68 As I shall indicate, in Chapter 5B below, the State inspection service in Victoria, when compared to its DPI counterpart, appears superior in management and efficiency, and less prone to corruption. My impression is that the same could be said of New South Wales and Queensland. This can be no more than a matter of impression having regard to the absence of any direct enquiry by the Royal Commission into the meat inspection services in those States, but it is a clear impression nonetheless. I had less opportunity to form a view on this aspect in Western Australia, and none in Tasmania. South Australia is under DPI control. The Northern Territory service is small and operates in special circumstances. I believe that the Territory should endeavour to establish a joint system appropriate to its particular circumstances.

5.69 If my view about Victoria, and my impressions about New South Wales and Queensland, are correct, clearly the virtues of those services should not be lost or swamped in any
reorganization of meat inspection. I believe there are a number of factors which have led to the superiority of these State services. In the case of Victoria, I refer to them in paras 5.359-362. The point to be made here is that, in any single meat inspection service that is established, there should be heavy emphasis upon day-to-day control being exercised at State or regional level.

5.70 One vital question in any debate about a unified meat inspection system is who is going to pay for it? Should the industry pay the cost or should it be a charge on public funds? Should a distinction be drawn in this regard between the export industry and the local industry? Should exporters bear all the costs of meat inspected for export? If not, is the current recovery of about 25% of these costs by the Commonwealth fair, or should the recovery be greater or less? Should exporters bear any of the cost of meat inspected for export, but which goes back to the local market, and if so what proportion? Are the States justified in charging a re-inspection fee on such meat where there is in fact no re-inspection but merely re-stamping?

5.71 The debate on these questions is complicated by differing approaches by several States and continuing differences of view between producers, exporters, consumers and government authorities. Such matters are well beyond my terms of reference, and I only mention them for the sake of completeness in identifying issues.

5.72 The single inspection service proposal has been debated for years without resolution. Recently, New South Wales has agreed in principle to hand over meat inspection services to the Commonwealth. In part at least this is based on the view that the new DPI plan can be effectively implemented. At this stage, that plan contains many problems; some of them are serious problems, as yet a long way from final solution. They may be solved, but I doubt if they will be solved quickly.

91
Queensland and Western Australia, whilst willing to review the position, are still committed to State inspection and delegation of Commonwealth powers. Victoria has shown a willingness to seek a solution through a joint authority. However, its final submission would indicate a great reluctance to hand over effective control of the system to the Commonwealth, in the light of the evidence given at the Royal Commission.

5.73 I think it is probably still unrealistic to expect that any final Australia-wide plan for a single inspection service can be formulated which has any prospect of universal acceptance by the Commonwealth, the States and the Territories, let alone the industry and the unions concerned.

5.74 I believe the best that can be presently achieved is a commitment by the States to the need for a single service, and the establishment of interim arrangements which represent a move towards, and which leave the way open for, a single service under single control. In any such interim arrangements, the States should have an involvement equal to that of the Commonwealth.

5.75 What I have in mind is a joint meat inspection authority in most States, along the lines developed in recent discussions between the Commonwealth and Victoria. The principal features of the proposed authority, identified in those discussions, are:

- the authority will have a Board of Management consisting of an independent Chairman, the Commonwealth Veterinary Officer-in-charge and the Victorian Principal Veterinary Officer;
- the role of the authority will be to direct day-to-day meat inspection operations in Victoria and to bring about an efficient meat inspection service covering both export and local production;
- the Commonwealth will retain responsibility for standards of export meat production and licencing of premises; Victoria will retain legal responsibility for the oversight of local meat production and registration of premises;
- staff will be seconded to, and paid through, the joint authority, with superannuation and similar rights being preserved by the respective governments;
- inspection staff will move towards complete interchangeability; and
- a single fee will be introduced for the inspection of all stock slaughtered.

5.76 I believe such an interim arrangement would have these advantages -

(a) the Commonwealth would retain, through DPI, control over export meat;
(b) it would allow DPI the time to pursue those many reforms of its own system proposed in its final submission which do not depend upon the existence of a single inspection service, such as new regulations, the development of trade description standards for export meat, a decentralised management service, the re-training of staff, and the reorganization of the manning schedules in meatworks; I consider that DPI needs a breathing space to put its house in order before it could properly be accepted as a body appropriate to have control of a single inspection service;
(c) it would allow for the development of an Australian domestic standard to which each State and the Commonwealth could contribute through the Australian Agricultural Council or some other appropriate body;
(d) it would compel a degree of co-operation between the States and the Commonwealth on a day-to-day basis; this may give impetus to the solution of many
problems, such as standard conditions of employment for all meat inspectors, which might otherwise involve years of discussion;

(e) it would provide a framework for the sharing of knowledge about what is happening in the meat industry, not only about meat for human consumption, but pet food also; this shared knowledge would lead to more effective joint efforts to ensure compliance with the law and a better integration with police authorities to that end;

(f) it would permit the continuation, on a joint basis, of disease trace-back, a function now mainly carried out by the States; this function is important, and its continuing success may have an important bearing on how the role and structure of a meat inspection service is viewed some years hence;

(g) it would leave intact those aspects of the existing State services which are seen as vigorous and competent;

(h) it would facilitate the introduction of a single and uniform fee collection system (one possible variation of the system proposed would be a system based on the number of inspectors required); and

(i) most important, it may lead in time to a fully integrated single meat inspection service.

5.77 I am conscious that at times, during the hearings of the Commission, there was a feeling of optimism that this Royal Commission would be the vehicle which would provide a permanent solution to the whole problem of the single inspection service. I am conscious also that the suggestion I have made for an interim arrangement for the State of Victoria will fall far short of some people's expectations. However, it is precisely because all past attempts to find a solution to this problem have completely failed that I have reached this conclusion. I am inclined to think that those earlier schemes failed to gain acceptance, even though they were logical and
sensible, because they tried to achieve too much too quickly. It is not possible to change long-standing practices and overcome deep-seated prejudices just by making recommendations or obtaining promises of better performance. It is, however, possible to hope that, with the effluxion of time and with increasing goodwill, practical improvements will emerge and will lead to the final desired result.

5.78 Before leaving this topic I should make it clear that I have not overlooked the most hopeful conciliatory sign of the last few years, namely the expressed New South Wales willingness to accept Commonwealth control. However I cannot disregard the fact that the New South Wales decision was taken in the light of a pressing financial problem peculiar to that State, namely the failure to collect State re-inspection fees. Further, the new DPI plan, to be really effective, would require acceptance by all the States. I see little sign of enthusiasm for such acceptance in Queensland, Victoria or Western Australia. Nor can the attitude of those States be said to be short-sighted or parochial. They can point to quite valid reasons for their concerns.

5.79 As I have said, there is a compelling case for a single inspection service; there is no simple solution for its achievement. My suggestion for an interim arrangement is not intended to delay or defeat that end, but rather to enhance its prospect of ultimate achievement. I am encouraged in my approach by the evidence relating to the efforts made in Victoria to achieve a joint inspection authority. They have seemed to me to be the most realistic and hopeful steps yet taken in this very difficult area.

(b) **Veterinary Officers and meat inspectors**

(i) **Role of the veterinary officer**

5.80 It has been made clear in evidence that veterinary officers play a major role in some meat inspection services
overseas. This is particularly true of some European countries such as Switzerland and West Germany. It is also true of USA.

5.81 However it does not necessarily follow that the same level of involvement is required in Australia, bearing in mind the generally healthy state of our cattle, sheep and pigs.

5.82 It is clear that a high number of veterinary officers was forced upon the DPI when there was a major switch from UK to US markets in the early '70s. The USDA insisted (among other things) upon a high level of veterinary involvement, before it would list Australian abattoirs and other meatworks for purposes of exporting to USA.

5.83 Since private practice was lucrative at that time and it was hard to find recruits in Australia, a large number of officers had to be attracted from overseas. Even this was not easy, and the Bureau of Animal Health was forced to take some officers whose qualifications would not have been recognized for all purposes in Australia. Some of them also had language difficulties.

5.84 Officers such as these, and others coming straight from University, must have found it difficult to assert authority over experienced meat inspectors. So, although the veterinary officer was theoretically in charge of all aspects of inspection at each abattoir, many preferred to confine themselves to what they saw as their professional duties, leaving control of the day-to-day work of meat inspection to the supervising inspector.

5.85 The main professional tasks of the veterinary officer are to conduct an ante-mortem inspection of all stock, looking for signs of disease, and to adjudicate on all animals put aside for closer examination, as a result either of that ante-mortem inspection or of something found after the animal
has been slaughtered. In addition, the veterinary officer is responsible for obtaining samples from condemned animals for pathological laboratory testing.

5.86 One obvious concern about such work is that it offers little professional challenge to a veterinary officer. Some officers can obtain satisfaction from the other administrative aspects of their duties - but if they spend too much time on those, there is little for the supervising meat inspector to do, and his satisfaction with his job is impaired.

5.87 One step which can be taken is to encourage veterinary officers to spend time on research work which has either local or general significance. Regular seminars, involving the preparation of papers, can assist in maintaining morale and interest in the job. But research, in many cases, requires laboratory facilities which may not be available, or capable of being supplied at reasonable cost, at or near the veterinary officer's place of work. And seminars involve travel expenses and the employment of relieving veterinary officers in many cases. It is for reasons such as these that initiatives along these lines have not had much impact. Nevertheless it is important that such steps be taken, in consultation with relevant professional bodies, to maintain the morale and professional interest of veterinary officers - particularly those in remote areas.

5.88 It would also be desirable gradually to reduce, so far as possible, the number of veterinary officers in the field. In this way it should be possible to ensure that those who remain are fully extended - perhaps by having responsibility for more establishments than at present. (This will not, of course, be possible in remote country areas). Present staffing levels are largely dictated by the USDA and efforts should be made to persuade that Department to agree to a somewhat reduced veterinary presence. In practice there should be no risk in such a reduction, given the low level of animal disease in Australia.
5.89 The contrast between the levels of veterinary involvement in the state inspection services, and that required for export premises, is incapable of justification on logical grounds. And I am satisfied that, while the state services may be a little understaffed with professional officers, they are much nearer a reasonable level than the Commonwealth service. There is nothing to suggest that the state services in Victoria, NSW and Queensland are any less effective than the Commonwealth service - either in the quality of their administration or in the wholesome nature of the meat produced under their supervision.

5.90 It is disappointing to have to record that many of the defects in the Commonwealth system, revealed by this Commission's inquiries, existed in spite of the immediate presence, and in fact under the very noses, of veterinary officers. There is no evidence to suggest that alert veterinary officers were responsible for detecting the many malpractices which have now come to light or that they dealt effectively with those that did come to notice. Indeed the rather vague demarcation of responsibilities between veterinary officers and supervising meat inspectors created a situation in which it was possible for both officers to overlook matters that clearly should have been attended to.

5.91 Thus more supervision - and in particular more supervision by veterinary officers - is not the solution to the problems of meat inspection. On the contrary, there is room for savings.

(ii) Meat inspectors' functions

5.92 The tasks required of meat inspectors have become increasingly varied in recent times.

5.93 At an abattoir the first task of the day, usually carried out by experienced inspectors, is the hygiene inspection of the premises - designed to ensure that the
premises have been meticulously cleaned after the previous day's work. If any defects are found they normally have to be rectified before work can commence in the particular area. Tasks involving repairs to structures may be noted and left to a later time.

5.94 Inspectors will often also assist the veterinary officer with the ante-mortem inspection of animals due to be slaughtered that day.

5.95 As slaughtering commences and the chain begins to move, inspectors will take up allotted positions so that they can separately examine the head of the animal, the viscera and the carcass for any lesions or other signs of disease or injury.

5.96 When any such evidence is discovered they must make decisions about the disposal of the whole or parts of the carcass - whether they can be passed for human consumption, consigned as pet food or have to be condemned. All condemned carcasses and doubtful cases are put aside to be examined by a veterinary officer.

5.97 Other inspectors keep an eye on the general work of trimming and dressing to ensure that no unwanted parts of the animal, such as pieces of hide or blood clots, are left on the carcass and that it is not contaminated with matter from the animal's digestive tract. They also have the task of palpating or incising certain glands for any sign of disease.

5.98 A final inspector approves the carcass as a whole and permits the 'Australia Approved' stamp to be placed on it.

5.99 Inspectors are also generally responsible, throughout the day, for such things as the hygienic condition of workers, slaughter-floor and equipment, and the proper disposal of by-products.
5.100 Another inspector will normally be responsible for the security of condemned material and pet food and supervising the preparation and packing of edible offal.

5.101 Boning-rooms, whether attached to abattoirs or independently located, require their own inspector. He is responsible for the hygienic state of the operation, including the premises and equipment (again an inspection must be made before work begins), the correctness of trade descriptions on cartons and the stamping of those cartons with an 'Australia Approved' stamp.

5.102 An inspector must be present whenever meat, whether in carcass or carton form, is loaded into a container or a transport vehicle. He must check the cleanliness of the vehicle or container and the proper packing of the load. He should be satisfied that all product appears to be in good condition and at the right temperature and that it corresponds with the trade description which he is asked to place on the meat transfer certificate. Finally he should seal the load, complete and sign the transfer certificate and hand it in a sealed envelope to the driver.

5.103 If meat has to be placed in a coldstore - as is the case with most meat in the export chain - an inspector is responsible for monitoring the hygiene and temperature of the store and the possibility of contamination from other goods, and above all for the security of the consignment - thus preventing it from being improperly added to, or having its description altered, while in the store.

5.104 This is achieved by regular inspections and inventory checks during working hours and the sealing of the store room at other times.

5.105 Officers on duty at coldstores must carefully check seals and stamps on all product and scrutinize transfer
certificates and notices of intention to export before releasing product.

5.106 Inspectors also supervise the loading of meat into cargo holds of ships and aeroplanes. The responsibilities are the same as for loading into containers.

5.107 Finally it should be noted that inspectors have detailed responsibilities to supervise the cleanliness and integrity of cannery and smallgoods operations.

(iii) Responsibilities and pressures

5.108 It can be seen from this description that meat inspectors accept a good deal of responsibility and can have a considerable effect on the profitability of a company. For example, an over-zealous inspector may be constantly requiring carcasses to be retained for further attention to trimming. If the 'retained' rail becomes full, work has to be interrupted while those carcasses are attended to.

5.109 Any inspector can require the chain to be stopped or slowed if he believes he is not being given sufficient time to carry out his inspection tasks - this may depend on the general condition of the particular run of animals.

5.110 It is the inspector at the viscera table who determines which offals are fit for human consumption. Such judgments are to some extent subjective, and a meatworks can lose a lot of money if a difficult inspector consigns a high proportion of offal to pet food.

5.111 On the other hand, the pressures do not all operate in the same direction. There are reverse pressures also. Every time a chain is held up, the workers lose time and the company loses money. Meatworkers are not all gentle people and it may take some courage for an inspector on the chain to delay or
find fault with the work of a large, and perhaps excitable, slaughterman with a knife in his hand.

5.112 If the activities of the inspectors are such as to affect the profitability of the meatworks, and that meatworks is the economic mainstay of some country town, then even though they may wish to do their job conscientiously, there will be great pressure on them not to behave in a way which might jeopardise the economic viability of that meatworks, or the capacity of the meatworks to provide employment in the district.

(iv) Power and abuse of power

5.113 It follows from what has been said that, as a group at any particular establishment, meat inspectors have great power over the operation. Because they naturally tend to support each other, and to be supported in turn by their plant veterinary officer, even an individual inspector can have a marked impact on the profitability of a business in the short term. As noted elsewhere, this largely explains the gifts of free and cheap meat which have been so widespread.

5.114 The Commission has heard evidence about occasions when meat inspectors have deliberately set out to disrupt production, either in retaliation for some grievance felt against management or, more often, in order to wring financial benefits from a reluctant company. It is impossible to imagine any case in which such tactics on the part of government inspectors could be justified, directed, as they are, not against their own employer for industrial reasons, but against a commercial enterprise and its employees for reasons of spite or greed.

(v) Qualifications and training

5.115 The best way of ensuring that such events do not recur is to make sure, through careful recruitment procedures and good training, that inspectors have a proper appreciation of their responsibilities and pride in their work.
5.116 It is no longer enough to recruit meatworkers who can handle a knife skilfully. As inspectors progress in their careers, they will in future be increasingly called upon to study company books, keep their own records and make out returns and reports.

5.117 Because of the need for flexibility in staffing, and reasonable mobility amongst inspectors, no inspector should be recruited unless he has demonstrated, through school or course work or aptitude tests, an ability to handle figures and write intelligent reports. Inspectors must also have personal qualities appropriate to qualify them as members of a governmental inspection service, able to resist improper pressures from management, and not disposed themselves to resort to the application of pressure on management for personal gain. They should be selected, trained and paid accordingly.

5.118 The Commonwealth inspection service must take a more direct interest than it has in the past in the structure of technical courses for meat inspectors. These should be pitched at a realistic level. If they become too academic, or require too high an entrance standard, they may create false expectations of the nature of meat inspection, which, for all its responsibility, is fairly routine and repetitive.

5.119 The recent increase in in-service training of inspectors should also be maintained. As has been recognized, this is both important to the development of all-round knowledge and skills and a useful way of filling in spare time caused by seasonal fluctuations. Appropriate personnel management training should also be offered to supervising inspectors and those being considered for supervisory positions.

(c) Approval of premises

5.120 Premises used in the production of export meat and meat products are now, and for many years have been, registered
under the Exports (Meat) Regulations. That registration is
tied to the premises but is in the name of the occupier or
owner. Registration is for a year at a time and is renewable
annually, but ceases automatically when an occupier or owner
ceases so to occupy or own those premises. Registration is
transferable, on application, to a new occupier or owner.

5.121 Detailed standards for the structure of, and equipment
to be used in, export meat establishments are laid down in
manuals which were published by the BAH. Those manuals have no
direct statutory authority and are no more than administrative
directions.

5.122 The standards for structure and equipment are said to
be directed solely to matters of hygiene and are such as to
comply with recognized international norms and the requirements
of major markets to which Australia exports. Plans for new
premises are assessed by standards officers qualified in meat
inspection and public health inspection and major premises are
then inspected from time to time by a standards officer or
veterinary officer.

5.123 I note that New Zealand has found it useful to use
persons with other skills, notably engineering, in approving
premises. Although there is no evidence of dissatisfaction
with the present system in Australia, the New Zealand system is
said to be very successful, and I believe consideration could
usefully be given to broadening the skills available to the
Export Inspection Service in approving plants and laying down
procedures to be used in plants.

5.124 There was little evidence called which was critical of
particular details of standards laid down for registration of
premises and I therefore say nothing about the detail of such
standards.
5.125 Several importing countries require specific registration of premises with their responsible authorities and some specify requirements different from those ordinarily required for export premises. The most notable of the specific country registration lists is that maintained for the United States of America. Premises are certified annually by Australian authorities as complying with US requirements. In addition, USDA veterinary inspectors conduct their own quarterly reviews of compliance.

5.126 However there has been no basic difference between US and Australian standards, with the result that, whether or not they are listed for US export, establishments which fail to comply with US standards are under pressure to improve their facilities and procedures or face deregistration for export. Nevertheless not all plants have sought US listing, presumably because they do not wish to supply the US market or do not wish to subject themselves to periodic review by US veterinarians.

5.127 These reviews have tended to be definitive in the eyes of both the industry and the meat inspection service. The service has been regarded as effective so long as the export trade, particularly the trade to USA, has not been impeded. Success has been measured by the comparative rarity with which establishments have been delisted by USDA. Special efforts have been made to satisfy the reviewer, whose reception has been well prepared and who has not always seen a typical level of activity. The Australian meat inspection service should concentrate on establishing and enforcing its own standards every week of the year rather than on satisfying a US reviewer once a quarter.

5.128 It was suggested, particularly by some witnesses from the Northern Territory, that these high US/Australian standards placed an unnecessary burden upon some works and amounted to making excessive demands for the requirements of some markets. Thus, it was submitted on behalf of the Northern Territory
Department of Primary Production that it is unreasonable for Australian authorities to impose restrictions, over and above those required for the Australian domestic market, on abattoirs wishing to develop export trade in Australian domestic standard meat to the less affluent countries of South East Asia, which are the Northern Territory's most accessible markets.

5.129 In its final submission DPI took up the question of export standards. DPI proposed that there should be developed a single Australian domestic standard of meat inspection which presumably would specify both structural requirements and operational standards, onto which would be built any added requirements of those importing countries which would not accept that base domestic standard. DPI said that the base domestic standard would have to comply with the principles laid down in the International Code of Practice, recommended by the Codex Alimentarius Commission, which it was said are broadly similar to the standards now insisted on by state authorities for domestic abattoirs. Although DPI put forward such a suggestion in the context of its proposal for an integrated meat inspection service, it made clear that the introduction of a common export standard for construction, hygiene and inspection (to which would be added any further requirements specified by importing countries) was not dependent upon acceptance of its proposals for the integration of Commonwealth and State meat inspection services.

5.130 I consider that there is much to commend this approach, so long as the base standard is fixed realistically having regard to Australian domestic needs. To fix the standard at present US requirements would not achieve any significant advance. It must be remembered that states have found that their present requirements which, in general terms, are less stringent than US requirements, are sufficient to meet the public health needs of their citizens.
5.131 Introducing a base domestic standard, from which there might be several levels and types of variation, could of course lead to problems in ensuring that meat not produced from abattoirs meeting those additional standards was not exported to the countries having such additional requirements. No longer would it be sufficient to separate the export stream from the local stream. The export stream would have several distinct tributaries.

5.132 If the proposal is to work I think it may be necessary, and at least it would be desirable, that a significant number of importing countries accept the base domestic standard. No doubt some countries will seek to use the imposition of additional requirements as a trade barrier. The practicality of introducing a base domestic standard having any real significance in the export trade will depend upon the response of overseas countries. In those circumstances I can say only that I regard the proposal as one which should receive careful consideration by government and, if found practicable, it should be put into effect.

5.133 One criticism which was made of arrangements for approval of premises was that there was not sufficient control over the identity of operators of those premises, particularly in cases where several independent boning-rooms are available for lease at an abattoir.

5.134 No immediate step was taken after August 1981 to change the arrangements for registration of premises. At an early stage of the proceedings of the Commission AMLC indicated that it thought it desirable that all operators of export establishments should be required to seek and obtain export licenses from AMLC. No doubt this was seen as a method of controlling operators, especially those whose operations required no substantial capital investment, who could enter and leave the industry quickly and thus were relatively free to engage in questionable practices.
5.135 In its final submission to the Commission, DPI said that it was seeking to have regulations made that would require persons in whose name establishments were to be registered to show that they were fit and proper persons. If it is thought necessary to have special powers to control fringe operators I would regard this as a more satisfactory way of dealing with the problem than the more artificial method of requiring all persons who operate registered export premises to hold a licence as exporters. Some persons (such as coldstore operators, for example) may never wish to export meat and I think it inappropriate to require those persons to hold a license as exporters.

5.136 At first sight the submission that only fit and proper persons should be permitted to operate registered export establishments is very attractive. There has been a significant level of misconduct in this industry which must be condemned. There is much force in the proposition that those who have committed such acts should be forced out of the industry and others who may commit such acts in the future should be kept out of the industry. The potential harm that a single miscreant can do to a vital export industry is enough to justify unusual restrictions. It is only when further consideration is given to just who is a fit and proper person that the difficulties in the argument emerge.

5.137 Questions such as these have been addressed in the Australian Meat and Live-stock (Amendment) Act 1982 in connexion with requirements for grant of a licence to export meat. The amendments made by that Act will require applicants for meat export licences to satisfy AMLC that they are persons of integrity, competent to hold such a licence, and of sound financial standing. In the case of corporations, the applicant will have to satisfy AMLC that each person who participates or would participate in the management or control of the business is a person of integrity.
5.138 In determining whether a person is a person of integrity regard is to be had to prior convictions for certain types of offence, the accuracy of information supplied by applicants to the corporation and the reputation of that person or applicant in the industry for reliability in business dealings. In addition to specified matters AMLC is empowered to have regard to such other matters as it considers relevant in determining whether an applicant is a person of integrity.

5.139 Of course, any attempt to define who is 'a fit and proper person' or 'a person of integrity' is going to be difficult. Necessarily, a measure of discretion and judgment must be vested in the authority determining such questions. Probably all that can be done by way of assurance is to prescribe some criteria to which regard must be had in determining whether an applicant meets the required standard.

5.140 Clearly one of the criteria specified in any such provision must include whether the applicant has been guilty of malpractice in the past. But in the case of this industry, that would mean that regard must be had to a number of practices which were common in the industry and yet were contrary to regulations. Should regard be had to all forms of malpractice? Should regard be had only to those forms of malpractice which are regarded as 'serious'? If the latter proposition is accepted, how are malpractices to be classified? Is the practice of introducing locally killed meat into the export chain to be regarded as serious or not serious? If regarded as serious it is likely that a substantial number of operators have committed a serious malpractice in the past and have done so persistently over a number of years. Should they be excluded from the operation of registered export premises?

5.141 As I have said earlier, operators without substantial capital invested in the industry have been able in the past to enter and leave the industry quickly and thus have been seen as
being more free to engage in questionable practices. It may be at least partly for this reason that the provisions of the Australian Meat and Live-stock Corporation (Amendment) Act 1982, to which I have referred, require applicants for meat export licences to demonstrate that they are of sound financial standing. However I do not consider that such a requirement is an appropriate or even effective method of dealing with the problem I have described.

5.142 Financial standing cannot be measured in absolute terms beyond enquiring whether the applicant is solvent or insolvent (and even then there may be grey areas within which opinions may differ). In determining whether a person is of sound financial standing, regard must be had to the type and size of business enterprise which he conducts. The financial resources required by the operator of a large integrated meatworks are very different from those required by the operator of a small independent boning-room. Unless a significant financial barrier is to be put in the way of those who would seek to enter the meat industry through operating a small independent boning-room, I do not consider that the requirement to demonstrate financial standing will of itself serve to keep out those who may be seen as more likely to commit some malpractice. Since it is clear from the evidence that large and medium-sized companies, as well as smaller firms, have engaged in serious malpractices, I do not believe that financial barriers can be justified on these grounds.

5.143 Again, I do not consider that requiring a licensing authority to form a judgment on the competence of an applicant to hold a licence will act as any effective screen against those more likely to commit malpractice. Many of those operators who have engaged in malpractice in the industry have been highly competent and skilled operators. Had they been less competent and skilled their activities might have been discovered sooner.
5.144 Some submissions have requested me to make findings, specifying which of the individuals and companies mentioned in evidence before me are not fit persons to continue in the meat industry. However I do not regard this as falling within my terms of reference. Even if I believed it did, I think it would be inappropriate for me to express any such opinion on the material which has been placed before me.

5.145 As I have explained in Chapter 2, there has been a degree of chance in the way in which matters have been singled out for consideration in evidence led before the Commission. By no means all persons who have committed some form of malpractice have been examined. In other cases the examination has had to be truncated by reason of the limited time available to the Commission for its inquiries. Any question of whether particular persons are or are not fit and proper persons to hold meat export registrations or licenses will have to be determined by the appropriate authorities having regard to the relevant criteria established in the legislation and the circumstances existing at the time of the application.

5.146 Although I have found the question a difficult one, on balance I am of the view that it is desirable to require applicants for registration of premises for export to show that those who participate or would participate in the management or control of the business to be conducted at those premises are fit and proper persons. If effect is given to this recommendation I have no doubt that difficult questions will be raised.

5.147 There will be few operators presently carrying on business in the export meat industry who can say that they have always abided by every regulation and requirement. Because circumstances will vary from case to case I can offer no general prescription of what past conduct should be seen as relevant in determining whether any particular applicant is not a fit and proper person to be approved as an operator of
registered premises. I can see powerful arguments for saying that those who have participated in pet meat substitution should be regarded as falling short of the required standard, whereas those who have participated in the practice known as 'robbing the pack' should not on that account alone be regarded as unfit for approval.

5.148 In my view different considerations should apply in the case of persons who can be shown to have committed acts dangerous to public health from those applying in the case of persons who have merely committed a breach of regulations. However I emphasise that every case will have to be determined on its individual merits.

5.149 I consider that great care must be exercised when first implementing any provision requiring applicants to demonstrate their fitness to be approved as operators of registered premises. Operators may say, with some force, that because the introduction of any such provision represents a significant change in the rules applicable to registration of premises, conduct before the change in rules should be regarded differently from conduct occurring after that change. Before the change in rules, conduct which will now be regarded as inappropriate for operators of registered premises attracted no sanction other than a small monetary penalty. It had no effect on the registration of their premises or their continued participation in the industry. Again I emphasise that each case must be dealt with on its merits.

5.150 In the case of allegations that particular persons have committed acts amounting to criminal acts, a licensing authority should be permitted, and indeed required, to have regard to convictions based on that conduct. However, where the authority only has some information from an outside source which, if true, would establish the commission of a criminal offence then, generally speaking, I think it inappropriate for the authority to embark upon a trial of the issue. That should
be left to the ordinary processes of law. There is however no reason why the authority should refrain from acting on uncontradicted material, or on other material on which it can make a confident finding, just because criminal proceedings have not been brought to a conclusion.

5.151 Two further matters should be dealt with. First, there was some evidence to suggest that operators whose premises had been de-registered shortly after discovery of horse-meat substitution, continued their operation at other premises through other companies. It was suggested that, although there was no formal connexion between the former operators and the company conducting business at those other premises, either by directorship or shareholding, the company carrying on the business was in fact controlled by the former operators. For present purposes it is unnecessary to do more than acknowledge the possibility that that occurred, for it reveals a difficulty which must be considered.

5.152 If there is to be effective control of registered premises through the mechanism of a provision requiring proof that the operator is a fit and proper person, the relevant judgment to make is whether the persons in actual control of the business are fit and proper persons, not whether some nominal controller meets that test. The Australian Meat and Live-stock (Amendment) Act 1982 tackles this problem in the case of corporations (see para 5.137 above). The applicant must be able to show that persons who would participate in the management of the business as well as those who control it satisfy the test. Determination of the question of who is in control of that business may be very difficult. I do not consider that the licensing authority can be expected to seek out for itself all the relevant information relating to each applicant and I therefore think it is necessary to make clear that it is for the applicant to make all necessary disclosures in this connexion and to satisfy the licensing authority of the integrity of all relevant persons.
5.153 Secondly, there was some argument before me to the effect that operators should also be required to specify a natural person as nominee to take responsibility for the operation of the establishment - in the same way as holders of liquor licences are required to specify a nominee. On balance, I think it unnecessary to go this far. True, a nominee system would make investigation of malpractice easier: in that there would be a single natural person who would be held responsible for events at the establishment. However, there would be a considerable increase in the burden of administering the registration system, if only because there would no doubt be frequent changes in nominees. I do not regard the advantage to be gained as sufficient to warrant the administrative cost. I consider that it is enough to require the applicant to show each year at renewal time that those who will control and manage the business are fit and proper persons.

5.154 The Australian Meat and Live-stock Corporation (Amendment) Act 1982 provides that applications may be made to the Administrative Appeals Tribunal for review of decisions of AMLC refusing applications for export licences. If there is to be a provision requiring operators of registered export premises to show that they are fit and proper persons or persons of appropriate financial standing, I consider that it would be essential to provide a mechanism of appeal against any refusal of approval which was founded on a judgment of such matters. I say founded on a judgment of these matters because I do not consider it necessary to allow appeals against refusal of approval which are founded on technical matters such as, for example, standards of construction. Those are more readily capable of objective measurement than questions of integrity, in which a large measure of discretion and judgment must be vested in the licensing authority.

5.155 The system of approval of registered premises now runs parallel with the system of licensing of meat exporters. There are different licensing authorities and, as legislation stood
immediately before the 1982 amendments to the Australian Meat and Live-stock Corporation Act, there was little need to co-ordinate the two systems. If however there are to be provisions governing grant of export licences and registration of export premises, which both have some requirement for applicants to show that they are fit and proper persons, I think it necessary that the two systems should be co-ordinated. The best method of achieving that co-ordination is itself a difficult question.

5.156 In my view DPI bring to the question of approval of premises expertise which may not be available immediately to AMLC. Likewise AMLC bring to certain commercial aspects of the export of meat expertise not available immediately to DPI. I have considered whether a joint authority should be established to consider such applications, but I tend to think that such an arrangement would be clumsy. The difficulty which it is sought to avoid is a judgment by one body that a particular person is not 'fit and proper' followed by a judgment by the other body that the same person does have the necessary integrity. I think that that can be cured by providing that the criteria to which regard should be had in determining that question should include any formal expression of opinion by the other licensing authority. But I do not think it right that that expression of opinion should be conclusive of the matter. Each body must make up its own mind. In order to assist it in matters of procedure and admissibility of material, I think it highly desirable that a barrister or solicitor be retained to advise at all its licensing deliberations, at least in the first year or so of applying the new criteria. It would be helpful if the same person were retained to advise both DPI and AMLC. Difficulties must be resolved by the good sense of the two organisations concerned, and, if need be, ultimately by decisions of the Administrative Appeals Tribunal.

5.157 Events immediately after the discovery of horse and kangaroo-meat in boneless beef packs exported to the
United States revealed weaknesses in the provisions then governing the withdrawal of approval of premises as registered export premises. Powers of cancelling registration were vested in the Secretary of the Department, but only on proof of one of a limited number of grounds relating to structural requirements, the efficiency or hygienic manner of conducting operations, or failure by the owner or occupier to comply with a provision of the EMRs applicable to him. However, if premises were de-registered, the owner or occupier could re-apply for registration and, upon proof that the premises were structurally satisfactory and equipment was adequate to carry on operations efficiently and hygienically, the Secretary was bound to register the premises as an export establishment. This led to the odd result that operators of some premises connected with substitution were able to have their premises re-registered after a comparatively short period of de-registration. Nevertheless, having been removed from the US list, they remained unable to prepare meat for export to that market.

5.158 There appears to have been no procedure established within the Department for dealing with cases of possible cancellation of registration. Perhaps this is not surprising when it is recalled that in the ten years before August 1981 there had been only one case of cancellation of registration and that occurred where an operator ordered inspection staff off the slaughter-floor at his establishment. Thus when the registration of some establishments was cancelled after discovery of horse-meat in their product, some of those operators commenced action in the courts challenging that cancellation.

5.159 One of the grounds relied on by the operators was that they had been given no opportunity to be heard on the matter, and indeed they had not. Their registration had simply been cancelled without notice. Although this was understandable in the climate of the time, I consider that if procedures are not
provided by legislation, at least Departmental rules should be established such that, in any future case of possible de-registration, the operator is given an opportunity to show cause why his registration should not be cancelled.

5.160 There is now no power under the EMRs to suspend registration of premises, only power to suspend operations. The power to suspend operations is vested in the senior DPI officer at the establishment and is exercisable only for the purposes of ensuring preparation of meat under hygienic conditions and facilitating proper inspection of meat. It is not directed to penalizing breaches of regulations or enabling investigation of suspected breaches. DPI says that it wishes to have a power of suspending registration as well as a power of suspending operations.

5.161 Since it is reasonable that an opportunity be given to operators to show cause why registration should not be cancelled, before cancellation is effected, and since the requirement to be given a hearing in these circumstances may be assumed to be imposed by law in any event, it would be desirable to set up a simple procedure for temporary de-registration for a limited period which could be used in urgent cases pending a full consideration of the circumstances. I have in mind, for example, any further discovery of pet food on export meatworks. Any such procedure should be availed of only in truly urgent cases, and the decision to use it should rest with the responsible Minister.

5.162 The power of suspending operations was used in relation to operations in all Victorian independent boning-rooms and coldstores in September 1981 until new security measures and species testing procedures were introduced. In most cases the suspensions were lifted very quickly; but a general suspension at all establishments of a particular kind, followed by progressive lifting of that suspension over a period of time, led some operators to believe
that competitors, back in operation before they were, were able to steal a march on them. I think that the general suspension of operations was necessary on this occasion, but I would hope no similar step would ever again be necessary.

5.163 In my view the weaknesses in arrangements for withdrawing approval of premises, which were demonstrated in 1981, will be rectified if a scheme of regulations along the lines proposed by DPI in its final submission is brought into effect. Provisions for cancellation or suspension of registration would include a series of criteria based on failure by the operator to comply with directions or regulations, relevant persons ceasing to be fit and proper persons and other criteria drawn from the present EMRs. However I believe such powers should be exercised by the Minister, not the Secretary as proposed by DPI.

5.164 The scheme contemplates that where registration has been suspended or cancelled, the onus of showing that the matters leading to suspension or cancellation have been rectified will rest on the applicant, not the department. I regard that as a necessary measure to prevent recurrence of malpractice. The provision that, on reinstatement of registration, the department may impose conditions necessary to ensure proper operation of the establishment, should prove a further useful measure.

(d) **Transport of Meat**

5.165 The EMRs regulate the transport of meat from one export establishment to another only in the most general terms. The regulations require that vehicles used for the purpose must be clean and of a kind approved by the Secretary; meat may be handled only by persons wearing clean outer garments; meat must be inspected before and after it is moved and the inspector who examines the meat before it is moved is to issue a certificate describing the meat and naming the export establishment from which it is to be moved and the
export establishment to which it is to go; unfrozen meat must be moved as a hanging load. The regulations do not go beyond these matters.

5.166 The meat substitution practices which were discovered in August 1981 have shown that the importance of regulating the transporting of meat between establishments cannot be over-estimated.

5.167 Apart from one possible area, there was no significant criticism of present regulations governing the transport of export meat. Some criticism was made of the practice known as 'snow shooting' which involves the use of carbon dioxide as a refrigeration agent in containers of meat being transported by road. This method is used widely in the Northern Territory. Little expert evidence was led before me on this subject and I therefore think it inappropriate for me to embark on any discussion of the technical questions raised; but if the method is to continue to be used, it would seem desirable that operators give further attention to the condition of containers and the techniques involved, for otherwise some meat will deteriorate before it arrives at its destination.

5.168 It may be that this is an area in which DPI considers that it can offer some technical assistance, but whether or not this is so I doubt that it is a matter which is appropriate to be dealt with by regulation. The present regulations are couched in terms which are directed to the achievement of an end result, namely that meat should be in a condition fit for export. I think this is sufficient, except that there is no provision for re-examination at the wharf of the contents of refrigerated containers which have travelled long distances in very hot climates. This problem requires further consideration.

5.169 The weaknesses highlighted by the discovery of substitution practices centre upon the lack of security that previously existed in control of transport of meat from one
export establishment to another. It was because of those weaknesses that it was possible to introduce pet meat into the export chain.

5.170 Some weaknesses in existing systems had been identified before August 1981. In particular, the Victorian region of DPI had begun a trial of a new form of transfer certificate. Before this trial, meat transfer certificates recorded no more than that a particular number of cartons or carcasses of a particular kind of meat had been despatched from an identified export premises. Although the certificates were numbered, and issued in duplicate, no record was kept of those numbers and it simply was not possible to correlate certificates with particular loads of meat after those loads had been delivered. Further, those certificates did not make plain whether the meat the subject of the certificate was fit or unfit for export to those destinations which had specific requirements relating to the preparation of meat.

5.171 The Victorian trial was directed to enabling correlation between a particular meat transfer certificate and a particular notice of intention to export meat. That is, it was directed to establishing a form of inventory control. A new form of transfer certificate was designed which required a fuller description of the product the subject of the certificate and required specification of markets for which the product was not acceptable for export. This form of certificate must be seen as a considerable improvement on earlier forms and has now been adopted for use throughout Australia. I shall deal later with the need for and efficacy of inventory control (see paras 5.212-216).

5.172 Although the meat transfer certificate system is an important documentary control on the movement of meat within the export system, in my view it cannot be seen as a panacea. DPI has conducted a survey of the accuracy of meat transfer certificates and found a significant level of error in the
completion of such certificates. Given the circumstances in which they are completed, I think it inevitable that there will continue to be a significant level of error. Even if that is not so, unless there is some regular audit process, it must be acknowledged that there is a possibility of the use of a false transfer certificate to accompany meat which ought not to be in the export stream. With or without the connivance of inspectors, the dishonest operator will obtain certificates for loads that ought not be certified. Present requirements that transfer certificates be completed in words and figures and ruled off, and that copies be spot-checked against originals, are very useful. But I do not consider that meat transfer certificates can be regarded as being in themselves a sufficient control. Other measures are necessary to ensure that substitution does not occur.

5.173 In my view it is the possibility of discovery, and the serious consequences which would follow such discovery, which represent the most significant deterrent to malpractice.

(e) Security measures
'Australia Approved' stamps and tags
5.174 Where meat intended for export has been prepared under the supervision of an officer, inspected by an officer and passed fit for export, the meat may be stamped with an inspection stamp, or a prescribed tag the front of which has been stamped with an inspection stamp may be affixed to or packed with the meat (EMRs reg 33). The EMRs prescribe the stamp to be used: the 'Australia Approved' (AA) stamp incorporating the number allotted to the export establishment concerned.

5.175 In the past AA stamps have always been supplied by operators. The stamps have been obtained, from any of a number of stamp makers, as often as the operator has wanted and in the quantity he has ordered. All that the inspection service demanded before August 1981 was that the operator made available
sufficient legible stamps for use by inspectors. In theory, operators were expected to order no more stamps than were necessary and give them up to the inspector in charge who would keep them securely. In fact not all stamps were given up and sometimes those that were given up were easily accessible to the operator.

5.176 Generally the AA stamp is not applied by the inspector himself to meat or a carton containing meat, but is applied by works employees. Nominally that application of the stamp is supervised by inspectors assigned to the establishment. Before inspectors were assigned full-time to independent establishments such as boning-rooms and coldstores it was of course inevitable that the supervision of activities at such establishments was imperfect at best. Even at large integrated works where several inspectors would be assigned full-time, there have been times when inspectors have been unable to supervise all operations all the time. I have been given the impression that, in such cases, boning-room operations have been one of the first points to lose an inspector if men were short. The operator has then been left to get on with the job with little immediate supervision.

5.177 These circumstances led to a number of recurring difficulties. The system for provision of AA stamps led to a number of operators using stamps, which cannot be said to have been improperly obtained, in places other than registered export establishments and on meat other than meat inspected for export. The system whereby works employees applied AA stamps led to the stamp being applied to meat and to cartons to which it should not have been applied.

5.178 Some of these deficiencies had been recognized by the Department before August 1981 but little had been done to correct them.
5.179 The AA stamp was in fact critical in the control of the export of meat. Inspectors, particularly those at independent coldstores and at boning-rooms, relied on the presence or absence of the AA stamp on carcasses, wraps or cartons to determine whether meat was or was not export meat. As I have said earlier, the meat transfer certificate system used before 1981 did not allow identification of the meat described in the certificate after the meat had been delivered. Thus the inspector supervising the loading of a container at a coldstore could do no more than look at the cartons to see whether they appeared to be sound and to have been packed at export premises. As it turns out, the meat concerned may not have been killed at export premises but may have been local meat which had been relidded; in some cases it was pet meat packed in unregistered premises.

5.180 Although DPI made many changes to procedures relating to operations at registered establishments soon after the discovery of horse-meat substitution, only a few of those changes related to the AA stamp. The system of operators providing the stamp continued but improved security was provided for the stamps when not in use.

5.181 At first sight it may seem strange that no further changes were made: that old stamps were not recalled and stamps of new design issued by DPI. Instead, the main emphasis in the changes that were made was on physical security measures intended to ensure that only export meat entered the export system. It seems to me that events have justified that choice, in the sense that the security measures introduced in October 1981 appear to have worked reasonably well, without any change in the designs of stamps.

5.182 It was said, and I think rightly, that it was not enough simply to say there must be new stamps. It was necessary to design a new stamp with some care and allow importing countries time to make administrative arrangements to accept
that new stamp. It was also essential that regulatory provisions be made to ensure that the fresh supply of stamps would be properly regulated by DPI, and wrongful possession or use of stamps prohibited.

5.183 In its final submission, DPI has now proposed measures for the introduction of new stamps which will replace the AA stamp, and new controls over the procurement, possession and use of such stamps. Those proposals should be implemented.

5.184 It is clear that there was some doubt in the past about how far DPI was responsible for the accuracy of trade descriptions applied to meat. It was said that the inspection staff was responsible for ensuring that the trade description was accurate and that the AA stamp attested to that accuracy. Yet there is no doubt that DPI inspectors turned a blind eye to some so-called commercially acceptable practices of misdescription of product. Control over quality and grading of product is, of course, difficult. However, so far as it is possible, I consider that the AA stamp or its replacement should attest to the accuracy of the trade description of meat bearing that stamp.

Sealing of cartons
5.185 It seems clear that before August 1981 the practice of relidding cartons was quite common. Meat produced at local abattoirs and packed in two piece cartons would be sent to a boning-room or a coldstore where the lids on the cartons would be changed for lids bearing export legends and AA stamps.

5.186 To counter this practice, in October 1981 DPI introduced a requirement that all cartons of meat produced at export premises should bear an adhesive seal bearing a unique serial number and so placed that any attempt to open the carton would result in damage to the seal or the carton surface or both. This requirement was borrowed from New Zealand which has used the system for some years, apparently with success.
5.187 Its introduction in Australia met some opposition from operators. Most if not all operators found that they needed to use more labour to apply the seals. Some operators regarded the sealing of cartons as unnecessary when coupled with requirements for securing premises and taking species tests. Some operators criticized the quality of seals supplied, saying that they could sometimes be peeled off and replaced, and often proved not strong enough to withstand normal handling. Some meat inspectors felt, perhaps with some justification, that the task of reconciling seals issued with cartons produced, and recording daily usage of seals, was turning them into mere tally clerks, who had to rely on the operator for too much of the basic information they were recording.

5.188 All of these criticisms have some basis. Use of seals is costly: seals must be bought and labour employed to apply them. Seals do break. Inspectors are now required to do far more clerical work than they used to do. But the question is whether other means can be used to achieve the same end of preventing relidding.

5.189 I was told that glued cartons cannot be used for all types of product: cartons of that kind will break if filled with some types of primal cuts. In any event not all operators are set up to glue cartons. Nor does it seem that other one piece cartons find general acceptance, for they are said not to be as strong as two piece cartons. Western Australian operators do use 'ordinary slotted containers' which are one piece cartons, in spite of an increased risk of damage to the carton; but that is because they are much cheaper in Western Australia than two piece cartons.

5.190 I have considered whether industry should be given a choice of using one piece cartons, or glued cartons or adhesive seals on two piece cartons, but I think there is much force in the argument that such a system would create confusion overseas. I do not think it useful to institute a system which leads to
the export of some cartons which bear official government adhesive seals and others which do not. For similar reasons, I do not think that some establishments should be exempted from requirements to seal cartons.

5.191 Unless there is a concerted move from industry to use one piece cartons or glued cartons universally, I consider that adhesive seals remain the best method of indicating physically that a carton has not been tampered with after packing. Consideration should be given to whether such a seal could be incorporated in, or replaced by, strapping similar to that now used to secure the carton. If this could be done, some of the present double handling of cartons could be avoided.

5.192 Whether it is necessary to persist with any physical evidence of the integrity of cartonned meat is a separate question. Where requirements for export meat differ from those for domestic meat, it is important to ensure that local meat is not introduced into that export stream. Unless the possibility of improper re-lidding of meat can be excluded with reasonable certainty by other means, I consider that sealing of the carton remains the preferred solution, expensive as it is. But it must be said that both DPI and industry should continue to look for cheaper alternatives to sealing cartons and continue to look for improvements in the sealing system.

Sealing of loads
5.193 I have referred earlier to the importance in preventing malpractice of regulating the transport of meat between establishments. One weakness perceived after August 1981 was that product being carried from one place to another could be added to or tampered with unless the vehicle carrying that meat was sealed.

5.194 In October 1981 DPI directed that transport of product to and from registered export premises would be permitted only in vehicles sealed or secured so that any tampering with the
product would be obvious. Previously there had been no requirement that vehicles be sealed. Numbers on seals are to be recorded on the meat transfer certificate. In the case of consignments to more than one registered export establishment, separate meat transfer certificates are to be completed for each delivery and the vehicle is to be resealed after each delivery.

5.195 One problem revealed in evidence before me is that hauliers may wish to carry a mixed load of frozen product of which only some is export meat. Unless the last place of collection and first place of delivery are registered export premises, such a load cannot remain sealed. I appreciate that this creates difficulties, but so long as the sealing system remains I do not think it capable of solution. If the sealing system is to remain, I consider that only inspectors should be permitted to apply and remove seals and that only rarely, in obviously innocent circumstances, should a load on which the seal is broken be permitted to remain in the export stream. To permit others to apply or remove seals or to allow frequent exceptions to the requirement for integrity of the seal would reduce the value of the sealing system to vanishing point.

5.196 Of course seals are of little use unless their numbers are checked at the place of receipt. There is no system now for receiving inspectors to sign for receipt of the meat received. Consideration might usefully be given to instituting such a system and incorporating a requirement that inspectors acknowledge checking the seal. This could be done quite simply on the transfer certificate.

5.197 The seals used by DPI are aluminium seals which are not tamper proof and, it seems, are known not to be tamper proof. I cannot say what other types of seal are available but if sealing is to serve its purpose it is important that the seals be, and be thought to be, secure. Of course cost must be considered, but I would be surprised if better seals than those
now in use were not available. The design of truck doors, which may permit them to be lifted from hinges, or to have bolts unscrewed, without breaking the seal, must also be borne in mind.

5.198 Again, as with other aspects of security, I do not think that the worth of sealing of loads can be assessed in isolation from other security measures. For example, it may be possible to grant exemptions from sealing loads in cases where firm documentary controls, perhaps linked to carton identification, can be demonstrated.

Sealing of premises
5.199 In addition to introducing, in October 1981, requirements for sealing of cartons and sealing of trucks, DPI also required for the first time the sealing of premises. Chillers at meat works and boning-rooms were to be secured by seals when inspection staff were not present. Areas, chambers or stores at nominated coldstores where export meat was kept were also to be secured by seals when inspection staff were not present.

5.200 Assuming that sealing of premises is desirable, I do not think that chillers will always be the best point to seal at all works. If a particular works may more readily be sealed at some other point, that should be provided for.

5.201 Introduction of these measures seems to have produced early difficulties, but those difficulties appear now to have been largely cured. One complaint which remains is the cost and delay in getting a meat inspector to break a seal out of normal working hours - often because of a refrigeration problem or some other reason unconnected with the movement of meat.

5.202 I believe consideration should be given to allowing a nominated senior officer of the company to break the seal in such circumstances, after notification to the meat inspection
service. Visits could be made to such incidents on a random basis. There would be a requirement for a written explanation from the company official.

5.203 The only general criticism made of sealing requirements was based on the proposition that either these or other security requirements were unnecessary in view of all the measures which had been introduced. Again the validity of the criticism depends upon an examination of all the security measures that are in force.

**Segregation of export meat**

5.204 In 1978 the EMRs were amended to provide that, subject to some minor exceptions, meat other than meat inspected and passed as fit for export should not be brought into an export establishment. The regulations had previously provided and still provide that, save with the approval of an inspector, which could be given only in special circumstances, meat passed for export should not be kept under refrigeration in a room with meat that had not been passed for export.

5.205 Clearly it was intended by these 1978 amendments to ensure that export meat was separated from local meat at all times. In fact that intention could not always be put into effect.

5.206 There is little difficulty in prohibiting registered export abattoirs and boning-rooms from accepting local meat on the premises. Enforcement of that prohibition has proved difficult in the past, but few problems are caused to honest operators by the prohibition.

5.207 I think some independent coldstore operators saw difficulty flowing from a requirement to segregate export meat from local meat and other products on their premises, at least if that segregation involved separation by secure physical
barriers. Operators feared that such a requirement would deprive them of flexibility in the use of large freezer chambers.

5.208 Yet when DPI made such a requirement in October 1981 it seems that the operators were able, after some initial difficulty, to cope with the problems of operating such a system. However, such a system is not consistent with a general prohibition against accepting local meat on registered export premises - it is founded upon the making of suitable arrangements whereby meat passed for export may be kept under refrigeration in a room with meat not passed for export. Clearly the regulations must be amended to reflect this. The general prohibition should be directed only to those establishments to which it is intended to apply, namely abattoirs and boning-rooms.

5.209 DPI has administered the regulations on a basis that amounts to permitting dispensations from the general prohibition of the regulations. While this may be an expedient solution, it should not be allowed to continue. Necessary amendments should be made.

5.210 A clear difficulty arises in the case of canneries and smallgoods premises. Some of those premises are registered export establishments, but in fact export only a small proportion of their output. Much of the meat received at such premises for use in canned goods or smallgoods is local meat. Again this is permitted by DPI as an administrative expedient. Theoretically DPI inspectors are required to ensure that only export meat goes into product for export, but given that commonly there is only one inspector at such a plant, I doubt that this can always be done.

5.211 The requirement that only export meat be permitted on export registered premises was introduced at the insistence of US authorities. Most smallgoods, and significant quantities of
canned goods, exported from Australia are exported to other countries. If those countries of destination have no objection to the use of local meat in products sent from Australia, I consider that the regulations should be amended to reflect that fact. Requirements for use of export meat in processed meat products should be made only to the extent necessary to satisfy importing countries. If US authorities in fact require rigid segregation of export meat from local meat at smallgoods and canning plants preparing product for the US market, that should be enforced. If the US or other importing countries do not require rigid segregation, but do require use only of export meat in smallgoods and canned product, then that too should be enforced. However, whatever the requirement is in fact, regulations should be made and administered which reflect the true position.

**Inventory Control**

5.212 Theoretically the most effective method of monitoring the possible introduction of unauthorised product into the export stream would be to take stock of how much meat was in the export stream at any given time and compare that with the amount of meat legitimately produced at export establishments. The practical difficulties of implementing any such system are enormous. Nevertheless I am firmly of the view that continued examination of inventory control proposals is not only worthwhile, but is essential. Only with the introduction of some form of inventory control can there be a substantial withdrawal of the present expensive physical security measures.

5.213 DPI had made little progress towards inventory control before August 1981. The amended form of meat transfer certificate introduced in Victoria was one small step towards such a system of control, but little other progress had been made.
5.214 In October 1981, as part of the general review of security arrangements designed to prevent substitution of local for export meat, DPI required boning-rooms and nominated coldstores to keep inventory records showing the origin and quantities of meat taken to the premises and the destination and quantities of meat leaving the premises. These records were to be made available for examination by inspectors.

5.215 While this measure gave an appearance of control by DPI, I suspect that the control was more apparent than real. Inspection staff do not have the training necessary to allow them to audit the figures kept by management. Often there would be little time available to inspectors to conduct even a rough stocktake at premises, let alone an audit of the records kept by management. I doubt that the requirement to keep records would stand in the way of an operator determined to introduce non-export meat into the export stream. It would simply mean that the records would be altered to the extent necessary to hide the introduction of illicit product. Without properly trained persons to audit records kept by operators, I would regard provisions such as those introduced in October 1981 requiring operators to keep inventory records as having only limited value. Such records can, however, provide a starting point for further inquiries.

5.216 In its final submission DPI indicated that it was hoping to develop and test an inventory control system by 1 July 1983. I consider that it is highly desirable that work in this field proceed. Of course even the testing and developing of such a system will prove to be expensive. Its implementation may be even more expensive. However, if an adequate inventory control system can be introduced, I consider that present physical measures can be considerably relaxed. If that happens, there will be cost savings. But until some effective inventory control system can be introduced, I consider that a number of physical security measures must continue.
General
5.217 I have no doubt that industry sees the present security measures required by DPI as being over- elaborate. Equally I have no doubt that, had it not been for the discovery of horse-meat substitution, the security measures now in place would never have been introduced. Nevertheless, I consider that those measures are necessary and must be maintained at least in the immediate future. I do not think it desirable to forgo any of the measures now in place. Sealing of premises, transport and cartons should continue. Locally killed meat should not be permitted in export abattoirs or boning-rooms. Export meat should be carefully segregated in coldstores. Just how much segregation is necessary at canning and smallgoods factories should be determined having regard to requirements of importing countries.

5.218 How long these procedures must be maintained will depend upon the progress made in developing better alternatives. No better alternatives ready for immediate use were presented before me.

5.219 One further point must be made, for there may be a danger of becoming mesmerized by security arrangements. I have said elsewhere in this report that I am of the view that the most effective incentive to persuade operators to obey the law is the fear of being detected and then subjected to heavy penalty. Whatever security measures are used will be capable of being broken. What is important is that the security measures should make the breaking of the law more difficult and, even more importantly, make the chance of being detected in that breach more certain. I regard the security arrangements now in place as generally effective to achieve both ends. However, other better methods may well be devised in the future. Present arrangements must not be regarded as immutable.
(f) Export procedures

5.220 Nominally, procedures which existed before August 1981 were designed to ensure that meat for human consumption was not exported unless it had been slaughtered, treated and stored only at approved premises, had been inspected by qualified persons, bore an accurate trade description and was free from disease, contamination or damage. Further, no meat could be exported by any person unless that person was licensed by AMLC.

5.221 Meat for human consumption might not then (and may not now) be exported without a permit. That permit was, and is, issued by officers of DPI. The EMRs require an exporter to give the Department notice of intention to export meat. An inspector must then certify that the meat is marked in the prescribed manner with the prescribed trade description and that he is satisfied that the conditions and restrictions applicable in the EMRs have been complied with. The export permit which is printed on the notice of intention is then completed.

5.222 On its face, such a system appears to be satisfactory to ensure that only appropriate product is exported. However, it had deficiencies, some of which had been recognized by the Department before August 1981.

5.223 The system took little account of the fact that meat might have moved several times since leaving the place of packing, let alone the place of slaughter, and took little account of the differing requirements made by importing countries. Although meat could not move from one export premises to another without a transfer certificate, that certificate used not to record whether the meat concerned met the requirements for export to particular destinations. Although steps had been taken by DPI in Victoria to try a new system, which included recording that information on transfer certificates, that system was not in use generally in August 1981. Thus, when inspectors were called on to certify
that meat was fit for export, there was often no means of
telling whether it was fit for export to its particular
intended destination.

5.224 Commonly, DPI inspectors were not assigned full-time
to independent boning-rooms or independent coldstores; they
were assigned to a number of such premises and made periodic
visits to check their activities. There was no system of
inventory control at such premises, whereby DPI inspectors
could check whether all meat entering or leaving the premises
was meat which had been slaughtered, treated and stored only at
export premises. Inspectors relied on the presence or absence
of an 'Australia Approved' stamp on the carcass or carton to
determine whether or not the meat was export meat. Even had
the inspection service been minded to do so, it seems that,
except in gross terms, there was no practical method of using
transfer certificates to reconcile the number of carcasses or
cartons of meat entering a coldstore, and recorded on transfer
certificates, with the number of carcasses or cartons packed at
the coldstore into containers or otherwise sent for shipment
overseas.

5.225 The use of shipping containers has led to the practice
of exporters specifying, in notices of intention to export, a
number of cartons or carcasses slightly greater than they
expect to be able to pack in each container. Understandable as
this practice is, it does not assist any system of inventory
control.

5.226 Procedure for issuing export permits by DPI varied
considerably from region to region. In some cases the
certifying meat inspector signed the permit; more often, all
permits were issued only at regional offices. Uniform
procedures have now been instituted and, apart from some
outports, all export permits are issued by regional offices.
5.227 Invariably importers require exporters to produce health certificates attesting that the meat is fit for human consumption and, in many cases, attesting to the absence of certain animal diseases in Australia or in the particular area where the animals concerned were slaughtered. DPI provides exporters with health certificate forms which, when filled out by the exporter, are presented to a DPI regional office for signature by a veterinary officer and sealing with the departmental seal. The EMRs require that certificates may be issued only after the meat has been loaded aboard the vessel or aircraft in which it is to be exported. Special arrangements are made for air freight consignments so that the health certificate may accompany the load, but in the case of consignment by sea, the exporter must produce a signed bill of lading to DPI before the certificate will be issued. Details given on the certificate are checked against the export permit.

5.228 While at first sight it may appear unwise to make blank forms of health certificate freely available, it must be recalled that some 90 000 certificates are issued annually. I do not regard it as practicable to have DPI prepare all certificates. In one instance drawn to the attention of the Commission an exporter arranged for the supply of forged health certificates to an importer, thus enabling the exporter to pass off pet meat as being fit for human consumption. (See paragraphs 6.86-89). No doubt the free availability of blank health certificate forms facilitated that deception. Nevertheless, I do not regard this matter as one warranting any change in the system of preparation of health certificates. The difficulty exposed in that matter can and should be dealt with in other ways.

5.229 As events have shown, the system of documentary controls in use in August 1981 was not effective to prevent the export of meat which should not have been exported.
5.230 Notices of intention to export bore certificates from inspectors who had never seen the meat which they were certifying had been prepared in conformity with the EMRs; the inspectors had seen only the cartons or wrapping surrounding the meat, which may have been slaughtered in one place, packed in another and presented for export at a third place. Inspectors signed the certificate in the belief that the system was such that only meat eligible for export was presented for export. It is clear that any such belief was wrong.

5.231 It may be said that no criticism should be made of DPI in this regard because no one contemplated events of the kind that did occur; and even if such events had been within contemplation, it is unlikely that industry, or for that matter government, would have agreed to the introduction of elaborate security and inventory control schemes of the kind now in force or proposed. No doubt there is force in this argument. Further, it may be said that in fact DPI had moved some short way towards an inventory control system before August 1981. But it is now clear that the documentary controls then in force were not effective to prevent export of meat ineligible for export.

5.232 Some changes were made soon after the discovery of species substitution. Boning-rooms and coldstores were required to keep inventory records, which were to be made available for inspection by DPI staff. This may have had some slight tendency towards making good the assumption that only export meat entered and remained in the system. Much more significant was the introduction of elaborate physical security measures and full-time inspection of independent premises.

5.233 In essence, the whole system of documentary control over the export of meat was, and still is, one based on the twin assumptions that only export meat enters and remains in the system and that cartons, labels, tags and accompanying documents describe the meat in question accurately. That must
remain the basis of the system for as long as the system is one where those documents may be brought into existence after the meat has moved from its place of preparation, and by persons other than the inspectors who supervised that preparation. No doubt it would theoretically be possible to devise a system whereby the inspectors who supervised preparation of the meat were responsible for issue of any necessary certificates. But the practical difficulties of instituting and operating such a system would be immense.

5.234 In any event, such a system would itself be dependent upon an assumption that the meat presented for export was identifiable as, and identical with, meat inspected possibly months before and many miles away.

5.235 DPI has indicated in its final submission to the Commission that it is examining the use of electronic information and communication systems for transmission of documents and information between export establishments and DPI offices. It is thought that the use of such systems, perhaps in conjunction with improved inventory control systems, may enable the introduction of more efficient documentary controls and the removal of some physical security measures at plants. The proposal is only in its infancy. Much work will have to be done before it can be seen whether it is practical, efficient and worth the expense of implementing it. Nevertheless I consider that the proposal is well worth exploring not only to see whether a more efficient documentary control system can be devised, but also in the hope that such a system may permit withdrawal of some expensive physical security.

5.236 However, I think it most unlikely that any documentary control system can of itself prevent the export of product that should not be exported. It can make the introduction of non-export meat into the system more difficult and more likely to be detected but, in the end, any system of control depends upon the efficiency and integrity of those who must implement
it and those whose activities it seeks to control. If one cannot rely on that integrity, and past events suggest that often one cannot, then fear of detection of malpractice is in my view the best available method and perhaps the only available method of bolstering the integrity of those who might waver.

5.237 Ideally a system would permit the identification of any suspect meat and the tracing of that to a particular plant's production on a particular day when a particular inspector was charged with supervising production. Whether that could be done by physical identity marks on cartons or carcasses I cannot say. The numbering of cartons might well prove possible and would assist with the worst problems. Just as importantly I cannot say whether such a system, if possible, would be reasonably practical and cost-effective. All I do say is that while documentary controls are a necessary step in ensuring the integrity of the export chain, I think it unwise to regard such controls as being a sufficient step.

5.238 DPI regarded its control over the export of meat as ceasing once the export permit was issued; thereafter it became a matter for control by the Bureau of Customs.

5.239 Not surprisingly, Customs' first concern lies with control of imports into Australia; in that sense control of exports assumes a relatively low priority. Perhaps for this reason, before August 1981 a degree of looseness crept into the administration of Customs' control over exports of meat. Before August 1981, export permits were not always produced to Customs before clearance of the vessel. Repeatedly Customs was asked to clear a vessel when not all required export permits for meat and other commodities had been produced. This led in 1978 to a 'letter of guarantee' system for dairy products, which was later extended to other commodities including meat. When an exporter did not make an export permit available before the time of clearance of the vessel, the shipping line would provide
Customs with a letter guaranteeing to supply the permit. In fact permits were not always supplied. Sometimes exporters would assure the clearing clerk that a permit had been issued and even quote a permit number in support of that contention and, in that event, no letter of guarantee was normally required. Since blank forms of permit bearing the relevant number were freely available to exporters, and were not accountable documents, such an arrangement had obvious defects. Nevertheless there is no evidence to suggest that this practice was connected with any export of meat that should not have been permitted.

5.240 Discovery of horse-meat substitution caused Customs to look back over past events and practices. Enquiries made in August and September 1981 showed that, in some cases, meat had been shipped without being recorded in the interim cargo manifest used by Customs to clear the vessel and without permits having been produced to Customs for that meat. But again, there is no evidence to suggest that that was related to any malpractice in the meat industry. Indeed it would seem to be no more than another symptom of a casual attitude which had developed among shipping companies and exporters in relation to export procedures for meat.

5.241 The letter of guarantee system was stopped in October 1981 and tighter Customs controls instituted. Apart from cases where no permit is available because DPI is at fault, no cargo is to be shipped on board without production to Customs of any necessary permit. In cases where DPI is at fault, DPI is to give written advice of the permit details to Customs.

5.242 No evidence critical of those new procedures was led, and I therefore think it safe to assume that they are working well.
5.243 Health certificates are important commercially in that letters of credit often require production of a health certificate before funds may be drawn against the credit. There was some suggestion before me that documentary controls over exports of meat should recognise that commercial significance and make the health certificate a key control document. I do not consider that to be appropriate. Apart from the fact that the health certificate is a document directed to the authorities of the importing country, rather than Australian authorities, and apart also from the practical difficulties of introducing greater control over the issue of health certificates, I think it important that attention not be directed away from the export permit. That should remain the most important document governing whether goods can be placed on board a ship or aircraft destined overseas.

(g) Sampling and species testing
5.244 Before August 1981 DPI had no system for the regular taking of samples from meat prepared at export establishments, or ultimately presented for export, and testing the species of that meat. Some tests were made for undesirable chemical residues in meat where importing countries required that to be done. No regular tests were made for bacteriological quality or cleanliness in general. Very infrequently DPI became involved in commercial disputes about the quality of meat to the extent of having a representative examine meat either in Australia or overseas, but more usually these matters were dealt with by AMLC.

5.245 The United States Department of Agriculture did conduct regular examinations of imported meat on a statistical sampling basis. In the case of meat from producing establishments having a good record of past performance, a so-called 'skip lot' system was used which entailed examination of fewer shipments from those establishments.
5.246 If meat was rejected for entry to the United States, USDA would advise DPI of the fact of the rejection and the reason for the rejection. DPI maintained a record of those rejections, by reference to producing establishments, and arranged for veterinary officers to visit those establishments to investigate the cause of those rejections. Meat could be and was refused entry for any of a number of reasons ranging from being in what was termed 'off condition' to having excessive undesirable chemical residues.

5.247 As a result of its own horse-meat scandal in the 1960s, USDA introduced routine species testing for both its domestic and imported meat. But in 1974, after more than ten years without any detection of species substitution in imported meat, species testing for imported meat was stopped. The stopping of regular testing was not made known to Australian authorities; and indeed at the time of the discovery of horse-meat in August 1981, DPI officers did not know what, if any, species testing USDA was performing. I cannot say whether it was known in the United States or Australian industries but, if it was, I doubt that it was known widely. Although USDA inspectors were instructed to sample any suspicious product, the first discovery of horse-meat in Australian boneless beef packs was made not as a result of inspections at the port of entry of the meat but by an inspector at a processing plant.

5.248 As soon as DPI was advised of the discovery of horse-meat, it began random species testing of meat then being held in coldstore before it was exported to the United States. On 14 September 1981 it began a planned programme of statistical sampling and testing of meat from all registered export establishments. USDA agreed with the sampling and laboratory test procedures adopted. Export meat establishments were classified into three different risk categories and the number of samples to be taken was fixed by reference to the
category to which establishments were assigned. All export meat other than items readily recognized on visual inspection were to be subject to test.

5.249 Although DPI approached state departmental authorities suggesting that states institute routine species testing, not all states did so. For this reason, I cannot exclude the possibility that some meat originally destined for export, and which was not as labelled, was diverted to domestic consumption.

5.250 Two kinds of species test are presently used: an agar gel diffusion test (AGDT) and an iso-electric focussing test (IEFT). The AGDT detects the difference between cattle, sheep, horse and kangaroo-meat. It does not differentiate beef from buffalo or goat from mutton. The IEFT does differentiate between these related species but, compared with the AGDT, is a specialised and expensive test. Subject to the limitations I have mentioned, both tests are sensitive and accurate.

5.251 The species testing programme is time consuming and expensive. Inspection staff must take the samples. In itself this is an expense and may be seen by exporters as leading to delay in the preparation and despatch of shipments. No doubt there are now and will be occasions when delay is caused. On top of this, considerable laboratory effort must then be devoted to testing the samples taken.

5.252 Of the many thousands of samples taken since September 1981, only a very few samples have proved to be meat of a species other than that appearing on the label, and those were taken from meat produced before August 1981. It may be said that this suggests that the programme should be discontinued, but in my view it must be maintained. Its existence is a real deterrent to species substitution. It must be remembered that Australia has abundant wild animals providing a ready source of meat for the unscrupulous. Fear of detection of the introduction of such meat into the export
chain is the surest safeguard against recurrence of incidents of the kind discovered in August 1981. Continued negative results of such testing should be seen as no more than proof that the deterrent is effective; they should not be seen as reason to abandon, or greatly reduce the scale of, the programme. It is to be hoped that further research may simplify and cheapen the task of species testing.

5.253 No substantial evidence was led to suggest that it was either necessary or desirable to institute regular testing of the bacteriological condition of meat presented for export or make other tests for cleanliness in general. Nothing in the material presented to me suggested that the cleanliness of meat exported from this country was such as to require any regular testing regime. In any event, there is nothing before me to suggest that such a regime is necessary to deal with any recurrent malpractice.

(h) Penalties
5.254 The EMRs prescribed penalties for breach of a number of provisions of the regulations. The maximum penalties prescribed remained unchanged for many years and, fixed as they were at a fine of $100, did not represent any deterrent at all to continued malpractice in the industry.

5.255 Immediately after the discovery of horse-meat substitution, legislation was passed increasing penalties for breach of some of the provisions of the EMRs - relating to improper use of inspection stamps, interference with official marks and false or misleading statements in declarations furnished under the EMRs. The penalties were increased to a fine of up to $100 000 or imprisonment for up to 5 years, or both. These penalties were reviewed when the Export Control Act 1982 was passed and some changes were made. Penalties were prescribed for some conduct not previously prohibited and in the case of the offence of making false or misleading
declarations, the penalty was reduced from a fine of $100,000 or 5 years imprisonment or both to a fine of $2,000 or 12 months imprisonment or both.

5.256 It is clear that the penalties which were fixed by the EMRs were inadequate.

5.257 Not only were the penalties too low to act as a deterrent against, or as a punishment for, wrongdoing that may have resulted in great financial advantage to the wrongdoer, there were also significant gaps in the penal provisions of the regulations governing the industry. Some of those gaps were revealed by matters which had come to the attention of DPI in the ten years before the appointment of this Royal Commission. Generally, DPI's response to the revelation of such gaps was disappointing. Little was done to attempt to fill even the most obvious of them.

5.258 Early in 1981, before the discovery of meat substitution, central office of DPI began a review of the penal provisions of the EMRs with a view to clarifying or redefining offences and examining the magnitude of penalties. That review revealed that only rarely had regional offices of DPI attempted to initiate prosecutions for breach of the EMRs. Generally, they had preferred to use persuasion and the threat of possible action to obtain compliance with the regulations. The Victoria-Tasmania region had referred a number of matters to Commonwealth Police and there had been some prosecutions, but these had resulted in the imposition of relatively small fines. The response of many of the VOICs and regional directors to the request for information by central office revealed a low level of interest in the subject of the review and a general lack of appreciation of the problems that past events had revealed.
5.259 Foremost among the problems that those events had revealed was the ridiculously low level of penalty that could be exacted from wrongdoers. In November 1979 a company was discovered substituting boneless mutton for boneless beef. Thirty cartons were found and it seems that at least 167 cartons of mutton had been described as 'beef'. The same company had been suspected earlier of substituting mutton for hogget and beef kidneys for sheep kidneys. The principal of the company was charged with applying a false trade description to the meat which had been described as beef. He was convicted and fined the maximum amount of $100. The company continued on its way and was later discovered substituting cow beef for bull and mutton for lamb, both on a very large scale.

5.260 Despite this and other incidents where similarly low penalties were exacted, nothing was done by DPI about that level of penalties until the institution of the review I have mentioned.

5.261 Events in the ten years before the discovery of horse-meat substitution revealed a series of problems related to the 'Australia Approved' stamp. I have said earlier that inspectors at coldstores and boning-rooms relied on the presence or absence of that stamp on carcasses, wraps or cartons to determine whether or not meat was export meat. Yet these stamps were provided by operators and this was allowed to continue for years. In 1977 a VOIC wrote to Central Office noting that inspection staff could control all official stamps conscientiously but never be sure of how many new stamps were in the possession of the operator. From time to time questions arose as to whether an 'Australia Approved' stamp was an 'official mark' within the meaning of Part V of the Crimes Act 1914 and thus a mark the forgery of which was punishable with up to two years imprisonment.
5.262 On several occasions matters came to the attention of the Department where it was clear that 'Australia Approved' stamps had been applied without authority and that the stamps had been obtained in circumstances where they should not have been obtained. Apart from one case in 1972 where an operator was charged with, and pleaded guilty to, an offence of making a mark resembling an official mark, arising out of the misuse of an 'Australia Approved' stamp, no conviction was recorded before August 1981 for an offence related to the misuse of such stamps. Despite these and other similar matters, no move was made to close the gaps which had been revealed.

5.263 Several cases were referred to DPI where it seemed at least highly probable that meat produced at non-export abattoirs had been introduced or was intended for introduction into the export chain.

5.264 In 1979 an operator was discovered at unregistered premises, in possession of an 'Australia Approved' stamp, packing meat stamped with an 'Australia Approved' stamp, into cartons stamped in the same way. When advice was sought from the Deputy Crown Solicitor, the Department was told that there was insufficient evidence to establish a prima facie case against the operator. Whether that advice was right or wrong, the events should have suggested a need to change the regulations to ensure that meat could not be packed in this way, yet no step was taken.

5.265 It is unfortunate that it took the discovery of horse-meat substitution to induce any positive action to deal with these matters. They are now dealt with in the Export Control Act 1982. I do not propose to deal with the provisions of that Act in any detail. It is enough for me to say that I regard the penalties provided as realistic and far more likely to deter malpractice than were the previous provisions.
(i) **AMLC licensing and quality control**

5.266 The Australian Meat and Live-Stock Corporation was set up in 1977 and replaced the Australian Meat Board (AMB) which had been formed in 1935. AMB had statutory responsibility for meat only whereas AMLC has responsibility for export of both meat and live-stock. There are other differences between the powers and functions of the two bodies, but it is not necessary to deal with those for present purposes.

5.267 AMLC considers itself to be an organ of the Australian live-stock and meat industries. Its income is derived from those industries; it has elaborate machinery for consultation with elements of the industry. It seeks to fulfil its statutory function of encouraging and promoting the consumption and sale of Australian meat in Australia and overseas by providing a wide range of technical and marketing services of a kind which it is said individual industry participants could not.

5.268 The Act setting up AMLC was amended significantly in 1980, and further amending legislation was passed in 1982 but that later legislation had not been proclaimed at the time of writing this report. Nevertheless I assume that the 1982 amendments will come into force.

5.269 For present purposes, the key provision in the Australian Meat and Live-Stock Corporation Act 1977 is that which prohibits the export of meat from Australia except by persons holding a licence issued by AMLC. Strangely, until the 1982 amendments to the Act, the legislation did not provide a penalty for breach of the provision prohibiting export by unlicensed persons. Licence-holders were required to comply with the conditions and restrictions imposed on their licence and breach of any of those conditions or restrictions was subject to penalty.
5.270 The 1982 amendments to the Act made very significant changes to the provisions governing the licensing of meat exporters. Before dealing expressly with those provisions, something should be said about the licensing arrangements that existed before the 1982 amendments.

5.271 Not all operators of registered export premises are licensed by AMLC to export meat and not all those who are licensed to export meat conduct meat premises. Many licensed exporters are simply traders in meat and other commodities who seldom, if ever, see the meat they buy and sell. As I understand it, the 1982 amendments are not intended to effect any change in this general position. As I have said earlier (para 5.135), I think it inappropriate to require all operators of registered export premises to obtain licences to export meat.

5.272 Before the 1982 amendments, the Act did not make clear whether AMLC had a discretion to refuse licences to applicants, or, if it had such a discretion, how wide that discretion was. It was clear that the licensing power was conferred for the purpose of enabling the Corporation effectively to control the export of meat from Australia and was exercisable only for the purpose of achieving the objects of the Corporation specified in its Act. But to what extent this permitted the Corporation to refuse an application for a licence remained unclear. Both before and after the 1982 amendments, provision was made for applicants who were refused licences to apply to the Administrative Appeals Tribunal for review of the decision.

5.273 AMLC has always had power to cancel or suspend licences, but that power has been restricted. Until the 1982 amendments it was clear that the power could be exercised only when AMLC was satisfied that a licensee had contravened or failed to comply with a condition to which the licence was subject. The Corporation took the view, and I think rightly, that it could not use the power of suspension of licence as a form of punishment for past misconduct. The power of suspension
was intended for use in circumstances where a licensee was required to effect some changes to his manner of conducting business, in order that he might be compelled to comply with the conditions of his licence. The power of cancellation of a licence was to be used only where a licensee had demonstrated that he was not capable of fulfilling the terms and conditions of his licence. Again, decisions made by the Corporation to cancel or suspend licences were subject to review by the Administrative Appeals Tribunal.

5.274 The Act made plain that licences were issued subject to the condition that a licensee should not export meat except in accordance with written directions given by the Corporation. As I have noted above, it is an offence for a licensee to export meat in contravention of a condition of his licence. Until October 1981, that offence carried a penalty of $2000; after the amendment of penalties in relation to meat exports that was made in October 1981, that offence carried a penalty of a fine of up to $100 000 or imprisonment for five years or both.

5.275 AMLC has issued many directions in writing to its licensed exporters. Many of them related to the application of quotas for export of Australian meat to particular markets. Other directions required exporters to report their export sales to the Corporation. In 1979, the Corporation issued a direction to all licensed meat exporters requiring each of them to

"ensure that the class, quality, standard, grading and preparation of any meat for export in his name is as specified in any agreement (whether in writing or otherwise) for the sale or supply of that meat".

5.276 This had the consequence that thereafter it was an offence to export meat where the exporter had failed to ensure compliance with contract specifications. No doubt proving such an offence would be difficult, particularly where the meat in question was overseas and the exporter was not the producer of the meat. No evidence was led before me of any attempt to prosecute for such an offence. However it was a step that was
open to the Corporation. In my view, the failure to abide by contractual obligations should not of itself form the subject of criminal sanctions.

5.277 I have referred previously to the fact that the 1982 amendments will require applicants for licences to show that they are persons of integrity, who are competent and of sufficient financial standing. I have said (paras 5.141-143) that I have doubts whether provisions relating to competence and financial standing are effective to achieve any significant control over malpractice. It may be thought appropriate to make such requirements for the purpose of protecting Australia's reputation overseas against the acts of incompetents or of those without sufficient financial backing to honour their commitments. That is not a judgment I am called on to make. It is enough for present purposes for me to say that I doubt that those provisions would have any significant effect in preventing malpractice.

5.278 I have expressed (paras 5.135-140 and 5.144-156) a number of views about a proposed DPI provision requiring applicants for approval of premises as export premises to show that they are fit and proper persons for registration. I regard those comments as equally applicable to the administration of the provisions for licensing of meat exporters; I need not repeat them.

5.279 For some years AMLC has attempted to persuade the industry to institute efficient quality control programmes. Indeed the general direction to meat exporters about compliance with contract specifications, which I have mentioned earlier, may be seen as one such step.

5.280 AMLC employs some four or five officers for its quality assurance programme. Those persons have not had right of entry to premises, but in fact have encountered little difficulty in gaining access to plants by invitation. It was
said that their object is not quality control but quality assurance. AMLC naturally regards operators as having the primary obligation of ensuring that their product meets required specifications. The Corporation's assurance staff is there to respond to complaints, identify what, if anything, was wrong with the product, investigate what caused that fault and suggest methods of preventing its recurrence. On occasions the Corporation has taken the extreme step of requiring individual operators to permit AMLC staff to supervise preparation and packing of product.

5.281 I can well understand the importance of ensuring that inferior quality meat is not exported. A general reputation for good quality meat satisfying contractual specifications, is obviously vital to the export trade. Indeed, the satisfaction of public health standards may be seen as no more than one aspect of that general concern for the reputation of Australian product. Nevertheless, I think it important that the industry should not be unnecessarily burdened by controls and, particularly, should not be subject to control by any large number of different authorities.

5.282 The greater the number of authorities that have control over the meat industry, the more likely it is that inefficiency, gaps and duplication will result. In my view the primary responsibility for ensuring that good quality product, meeting contract specifications, is exported must rest with the individual operator. It is certainly not appropriate, and perhaps not even possible, for any supervisory service to assume the major responsibility for quality control.

5.283 The 1982 Amendments to the Australian Meat and Live-stock Corporation Act confer very wide powers on AMLC officers to ensure compliance with that Act and the conditions to which export licences are subject. I was told that, after extensive negotiations between AMLC and DPI, it had been agreed that AMLC would become responsible for quality assurance in
boning-rooms and offal rooms and would monitor carcass meats at load-outs for product description and quality.

5.284 DPI is to be responsible for health, hygiene, product description, carcass description and trade description including questions of religious slaughter, net weight and labelling to meet both Australian regulations and requirements of importing countries. In order to fulfil the functions which are to be assigned to AMLC, the Corporation considers that it will need a staff of approximately thirty to monitor boning-rooms and offal rooms.

5.285 The agreement to which I have referred was reached bearing in mind that DPI proposes to introduce as much objective measurement of carcass and other meats as is possible. It is said that contract specifications go beyond what is objectively measurable, and are matters for AMLC rather than DPI because subjective questions are more likely to produce overseas complaints. AMLC has now, and for some years has had, a number of officers stationed at various overseas posts. The functions of those officers include investigation of marketing disputes. Although AMLC will not embark upon the arbitration of any dispute it does lend the expertise of its officers, and their good offices, to the settlement of those disputes.

5.286 The quality assurance proposals to which I have referred are said to be interim measures. It is proposed by both DPI and AMLC to transfer responsibility for some aspects of hygiene, quality control and product description to operators. Company graders are to be trained by DPI and AMLC together and AMLC is to train company quality assurance personnel.

5.287 Whether these proposals to place more formal responsibility on industry are practical or not can only be determined in the light of experience. There is no reason
apparent to me why they should not work, and indeed work well. However, I emphasise that I think it would be unwise to allow the development of a further substantial supervisory service, independent of existing services, even if directed only to questions of quality control. As I have said earlier, I consider quality control to be primarily the responsibility of the individual operators. I would like to think that the oversight of that responsibility could be integrated into the one meat inspection service even if it did call for persons having special expertise.

5.288 Some efforts have been made in the United States to introduce voluntarily quality control programmes. Those programmes have apparently met with mixed success. Ultimately, the success of any such programme in Australia will depend upon the efforts made by the inspection services and by the industry. If the industry is unwilling to participate fully in such programmes they are bound to fail and it may then be that the only alternative is greater regulation with the inevitable consequence of increased costs to the industry.

(j) Arrangements for religious slaughter
5.289 Until recently the slaughter of animals in accordance with the tenets of religious faiths which require particular methods of slaughter, has been regarded as a private matter to be dealt with by the industry, without supervision of that aspect of the preparation of meat by any government entity. DPI has had no role in the supervision of compliance with religious requirements in the preparation of either kosher or halal meat. Since 1979 AMLC has had a limited role in the certification as halal of meat for export to Iran, but otherwise has had no direct involvement in these matters.

5.290 For a number of reasons both DPI and AMLC have now proposed that they should each play a role in the certification as halal of meat which is to be exported to Islamic countries. I deal in more detail with that subject in Chapter 7.
(k) **Arrangements for export of game meat**

5.291 I have noted elsewhere in this report that Australia has a large population of wild animals which may be regarded as a source of meat for human consumption. The difficulty in the way of using that resource lies in ensuring its disease-free preparation.

5.292 Until 1980 it was illegal to export field-shot game as product fit for human consumption. It could be exported only as pet food. In fact, significant quantities of kangaroo-meat were exported as pet food and, in the case of exports to some markets, notably Taiwan, most of it appears to have been diverted to use for human consumption. Product that was exported as pet food was nevertheless often accompanied by a health certificate from DPI. Buyers required sellers in Australia to supply such a certificate. There was no form apt for the purpose and DPI made a practice of issuing certificates in such cases which were normally used for the export of skin and hides. Such documents certified that Australia was free from certain diseases, notably foot-and-mouth disease and blue-tongue disease, and that the district of origin was free from certain other diseases, notably anthrax.

5.293 There is a significant market for game meats in parts of central Europe and Scandinavia. In 1980, DPI published a set of operational guidelines for inspection of game meat for export, and export of game meat commenced. Regulations governing preparation of game meat for export were not promulgated until 1981. The guidelines and the regulations fixed times within which animals must be bled, eviscerated and refrigerated after shooting. The regulations provide broadly similar documentary controls for the export game meat to those which are required for the export of other meats for human consumption.

5.294 The total market for game meat is not large when compared with the market for other meats for human consumption,
and the number of operators in the field is very small. Nevertheless, even taking these facts into account, the present level of inspection by DPI appears to be hardly adequate. DPI does inspect the works at which animals are processed, inspects carcasses, notes the time between slaughter and receipt of the carcass at the processing works, notes the temperature of the carcass at the time of receipt at the processing works and inspects carcasses for pathological conditions. There is however little, if any, systematic inspection of field operations.

5.295 In my opinion it is desirable to devote some greater attention to inspection of field operations of game meat producers. By their nature, these are operations that must be conducted in large part unsupervised, but at least some attention should be directed to setting standards for equipment to be used in field operations, to ensure that the opportunity is there for hygienic preparation of carcasses in the field and some system should be instituted for regular random inspection of field operations.

5.296 Without such a system, there is a risk that effective measures to ensure that game meat is free from disease will be left to the goodwill and sense of propriety of individual operators. A potentially valuable industry could be destroyed by one irresponsible operator.

(1) Arrangements for export of pet meat
5.297 There was no government control over the export of pet food until after discovery of horse-meat substitution. I deal with some aspects of the export of pet food in Chapter 6.

5.298 I have noted in para 5.292 above the practice of using 'skin and hide' health certificates to accompany exports of pet meat. Apart from the issue of such certificates, DPI had no role at all in export of meat unfit for human consumption until 13 November 1981, when export of inedible meat was prohibited
unless authorised by permit issued by DPI. From 1 March 1982, further requirements were made that all inedible meat exports from Australia should be labelled as 'Inedible meat. Not fit for human consumption'.

5.299 Past events have made plain that such controls are necessary.

5.300 I have referred in Chapter 6 to a number of practices whereby diversion of pet meat into human consumption overseas was facilitated. I regard the regulations which were brought into effect after August 1981 as effective to prevent recurrence of the practices I have mentioned there.

(m) Summary
5.301 It will be apparent, from all that I have said in this chapter, that I believe administrative arrangements and procedures for supervision of the handling of meat for export have been far from adequate to ensure that such meat has met the requirements prescribed by law. I believe that they are now adequate, but could be made more cost-effective and more certain. My recommendations to bring this about are in Chapter 9A.
CHAPTER 5B
ADMINISTRATIVE ARRANGEMENTS AND PROCEDURES CONCERNING
MEAT FOR HUMAN CONSUMPTION IN VICTORIA

(a) The Department of Primary Industry

5.302 A large part of the meat consumed in Victoria comes from abattoirs registered for export. Some of it reaches the local market through export-registered boning-rooms, coldstores, smallgoods manufacturers or canneries. Thus a great deal of the inspection of meat and meat products consumed in Victoria is performed by the Commonwealth Department of Primary Industry. Large parts of the description given and comments made in Chapter 5A are therefore directly relevant to Victorian consumers.

5.303 It is only necessary here to make the point that the problems have tended to be greater in Victoria than elsewhere because of the large number of independent, export-registered boning-rooms and coldstores. Another relevant factor is the large number of export-registered smallgoods manufacturers in Victoria, many of which have been permitted to receive meat killed in non-export abattoirs for use in non-export lines of product. This has been hard to avoid in cases where only a small part of the factory's product goes to export. If the rules requiring only export product on export-registered premises were strictly enforced in such cases, the manufacturer would either have to purchase exclusively the more expensive meat from export abattoirs or give up his export trade altogether. Nevertheless, as I have already said (paras 5.209-211), practice and regulations must be brought into line.

(b) The Victorian Abattoir and Meat Inspection Authority

5.304 This authority was created in 1974. Officers of the Department of Agriculture, on behalf of the Authority, immediately set about the task of reviewing existing non-export abattoirs and slaughterhouses. Over the succeeding years these were either brought up to required standards or closed down.
In more recent years, similar attention has been given to boning-rooms, coldstores, smallgoods factories and other meat establishments.

5.305 Since no issue concerning the standards of construction or equipment of licensed establishments in Victoria has been raised before the Commission, there is only one aspect of the licensing system to which I need refer.

5.306 This relates to the provision in the Abattoir and Meat Inspection Act 1973 that the Authority may refuse to issue a licence "if the Authority determines that the application should be refused having regard to .... the unsuitability of the applicant or the lack of merit in the application" (Sec 27(c)).

5.307 Until recently, this seems to have been taken by the Authority to refer in particular to the experience and financial standing of the applicant, and his or its ability to conduct a viable enterprise.

5.308 However it is clear from evidence given about a particular recent application that the Authority now regards itself as free - and perhaps obliged - to take into account the behaviour in the industry of persons closely associated with the application.

5.309 I must say that I support this view, as a matter both of statutory interpretation and of desirability. The Authority could certainly have regard to cases where there has been deliberate and serious disregard of public health (as where pet meat, or product known to be unfit, has been sold for human consumption). It could also take into account serious cases of fraudulent misrepresentation of product.

5.310 These however are questions of policy, to be determined by the Authority, subject to normal procedures for the review of such administrative decisions. My comments in
paras 5.135-156 above are also relevant here. The Authority will no doubt take the advice of the Victorian Crown Solicitor as to its powers and obligations in such cases - particularly on the question of the type of relationship between a particular wrongdoer and the applicant which could justify a refusal.

(c) The State meat inspection service

Staff numbers
5.311 The Meat Inspection Branch of the Department of Agriculture was established late in 1974. It is headed by a principal veterinary officer, who is responsible to the Chief of the Division of Veterinary Public Health. Apart from the branch head, there are 5 other veterinary officers, some 250 meat inspectors, including supervising meat inspectors and a principal meat inspector, and 30 branders.

Role of veterinary officers
5.312 It will be noticed from these figures that the proportion of veterinary officers to inspectors is very much lower than in the case of the DPI. It is, of course, the requirements of the USDA and other importing countries which have played the major part in causing the DPI to be so heavily veterinary-oriented. And, naturally enough, the DPI is concerned to defend the system it has become used to, just as emphatically as the Victorian Department defends its system.

5.313 I can only say that, having regard to cost factors, to the current level of animal disease in Victoria, the lower likelihood of exotic diseases appearing in Victoria than in the northern States, and the generally younger age and higher quality of animals killed for the domestic market, I do not believe the Victorian Department is significantly understaffed with veterinary officers. I say "significantly understaffed" because I do not want to be taken as expressing a view on the precise number of veterinary officers desirable for the effective management of the Branch. Nor have I considered
whether senior officers with other skills - as administrators or construction and equipment experts, for example - could usefully be employed. I am merely saying that I believe that the general Victorian approach to veterinary involvement in meat inspection is right for Victoria's purposes.

Place of the inspection service in the Department

5.314 Before the Meat Inspection Branch was established, all meat inspection was in the hands of municipalities, under the general control of the Commission of Public Health. The details of these arrangements are no longer important; nor are most of the reasons which led the Victorian Parliament to hand control of meat establishments over to the Department of Agriculture.

5.315 One significant point about the changeover should however be noted. The direct involvement of the Department of Agriculture in meat inspection at abattoirs ensured that information on stock diseases could more readily be connected with the farm of origin and thus linked in with the Department's programmes of disease eradication. This is an important consideration which must never be lost sight of when planning a meat inspection service.

5.316 I am assured by senior officers of the Department that relations between the meat inspection service and related services of the Department, concerned with such matters as disease control, industry development and the provision of field services, is excellent at all levels. I have no reason to doubt this.

5.317 One reason for such good integration of the meat inspection service is that it sees itself as having responsibilities going well beyond the ensuring of wholesome meat for the public. It believes that it should also try to improve the efficiency of abattoirs, play a part in animal disease control, review the adequacy of regional meat
processing facilities, generally supervise the pet meat industry and, through research and encouragement, seek to improve the quality and efficient marketing of meat for human consumption.

5.318 Although I have some doubts about the division of responsibility for meat inspection between an appointed Authority and a government department, and I suspect that such arrangements have not always worked well in other States, the system has been effective in Victoria.

Training
5.319 One area in which the Authority has, with the support of the inspection service, been active is that of training. A good deal of thought and planning has gone into the development of courses in meat inspection and the selection of students for those courses. The task of developing such courses has been complicated by the fluctuations in demand for meat inspectors. There have been occasions in recent years when significant numbers of new recruits were needed quickly. At other times there has been very little demand.

5.320 In-service training also received close attention when the service was first established and was developed until 1978, when lack of manpower and funds unfortunately forced its curtailment. It is only resuming this year.

5.321 I have expressed elsewhere (5.115-119) some general views on future training requirements for meat inspection services. All I need say here is that I believe Victoria has, to the limit of its resources, played a full and effective role in the training of meat inspectors in recent years.

Career development
5.322 On the subjects of recruitment and career development it seems that the Victorian service competes quite well with the Commonwealth service. Although it is much smaller, its
fewer veterinary officers mean that there are a number of responsible and quite well-rewarded jobs available to meat inspectors in the Victorian service. And although overtime earnings tend to be a good deal higher in the Commonwealth service, there seems generally to be more stability of postings in the State service - which has, of course, no requirement for temporary interstate transfers.

Allocation of inspectors

5.323 I have described in Chapter 3 the various steps in meat production and the role of meat inspectors in relation to each of these steps. In doing so I mentioned the presence of some State inspectors on export-registered establishments. The extent to which State inspectors are so employed varies considerably throughout Australia.

5.324 In Victoria there are about 40 state inspectors at export establishments. Of these some 27 are at four meatworks which have a considerable local through-put. Under a senior meat inspector they are generally responsible for inspections at the beginning and end of the chain and at the viscera table. They also have boning-room responsibilities when meat is being packed for local consumption.

5.325 Apart from inspectors stationed at abattoirs, the Meat Inspection Branch has, under a supervisor, a team of six experienced meat inspectors each of whom is responsible for about 25-30 meat premises - boning-rooms, coldstores and meat inspection depots. Their responsibilities are to check the work being performed at the time of each visit, the meat awaiting processing and the packs of finished product. They also examine records kept by the establishment. All this is done to ensure that hygienic standards are maintained, that meat being processed comes from a licensed abattoir, properly branded or stamped, that the product being produced is accurately described on its cartons or other containers, and that, generally speaking, there is nothing to arouse suspicion of any breach of the law.
Keeping of records

5.326 At the moment there is no prescribed form in which records concerning the production, storage and movement of meat have to be kept. It would obviously assist the inspection process if there were some consistency of records required, and this is now in hand.

Brands and stamps

5.327 Brands and stamps are an important part of the meat inspection system. They are purchased by the Department and they remain in the possession of the inspectors at the various establishments. They are applied by the inspectors themselves or by branders employed by the Department. Most brands incorporate the number of the licensed establishment but, in the case of those inspectors responsible for a range of meat premises in a geographic area, the number used is that of the inspector himself.

5.328 Brands are increasingly being varied to enable distinctions to be drawn between, for example, lambs, hoggetts, goats, kids and deer.

5.329 In addition to marking individual carcasses and cartons, the inspector appointed to each establishment (or the senior inspector if more than one) is required to maintain daily records of the quantities of meat packed and processed.

5.330 This should enable him to detect any movement of meat which has occurred without appropriate branding taking place. The system does, however, break down at times and meat is despatched unmarked, either because the processor could not be bothered notifying the visiting inspector of its imminent departure, or because the inspector's other functions prevented him from getting to the establishment in time. In such cases the inspector responsible for the receiving end of the
consignment ought to be notified by telephone of the unstamped consignment and should do the stamping - but the human element quite often intervenes and this does not occur.

5.331 In the course of its informal inspections of Victorian establishments, the Commission noted several examples of stacks of cartoned meat which should have had 'D of A' stamps but did not.

Responsibilities of industry management
5.332 I do not believe that the solution to any security weaknesses in the Victorian system lies in the employment of more inspectors. I think, rather, that more acceptance of responsibility by management would be a great help. Instead of regarding the inspection system as being something superimposed on their commercial arrangements, for which they have no direct responsibility, operators should regard the inspection system as part of their own quality control mechanisms. Thus if a batch of cartons come into the works unbranded, the foreman should take the initiative in drawing them to the attention of the visiting inspector and querying the occurrence. The inspector should begin his visit by asking appropriate management representatives if there is anything he should know about. He should then rarely be in the position of discovering anything untoward for himself and should report any apparently deliberate non-disclosure.

5.333 Managements which, over the years, build up a reputation for straight dealing and for bringing any problems they have into the open, should attract sympathetic responses and be permitted a greater degree of self-regulation. Those which volunteer nothing that they do not have to, should attract the continuing close attention of inspectors.

5.334 Those establishments which are dealt with on a visiting basis - and particularly those which are suspected of cutting corners, or indulging in any form of malpractice -
should be visited at random times and in varying sequences, so that no predictable pattern of inspection emerges. This has always been the aim of the service, but it is easy to slip into reasonably regular ways and difficult to avoid giving an appearance of distrust if two visits are made in quick succession. But if an operator is contemplating some dishonest act, he is most likely to initiate it immediately after an inspector leaves - believing that he will at least be safe for the rest of the day.

5.335 I believe that none of these difficulties is insoluble and that common-sense supervision can produce an effective inspection service which is not too expensive of manpower.

Meat transport vehicles

5.336 One difficult area of supervision for the Meat Inspection Branch is meat transport vehicles. Almost 3000 such vehicles are licensed, after inspection, by the Branch. Two inspectors are engaged full-time on these duties. Other inspectors, stationed at meat establishments, have a general responsibility to keep an eye on the cleanliness and general condition of vehicles coming to the premises.

5.337 Since standards are not always high, a large number of operators are warned in writing each year. Apart from an apparent unwillingness to launch prosecutions, I have no reason to think that the Branch is not taking all reasonable steps to maintain proper standards for these vehicles. Prosecutions should only be launched for serious or repeated offences, but I suspect the Department has been too lenient in the past.

Relations with Commonwealth service

5.338 Generally speaking, relations between the Victorian and Commonwealth inspection services have been friendly, but not fully effective.
5.339 At the plant level there has been little evidence of the antagonism between the two services which has been apparent in some other states until quite recent times.

5.340 The veterinary officers at the head of the two services in Victoria in recent years have co-operated well whenever one has approached the other for assistance or action. Most of the weaknesses to which attention was drawn during the Commission's hearings arose from a lack of any communication on the particular topic.

5.341 In most cases the failure was on the Commonwealth side and seemed to arise from a desire to get on with an inquiry and achieve a degree of certainty before notifying the Department of Agriculture of what had occurred. Such a tendency is natural, but must be resisted when the State has a genuine 'need to know' in order that it may take appropriate action or institute its own inquiries.

5.342 The Department of Agriculture seems to have successfully resisted this temptation and passed information promptly. This has not always produced the vigorous response it might have hoped for.

Relations with Victoria Police
5.343 The Department of Agriculture has been much more prepared than the DPI to pursue its own investigations into apparent breaches of its Act or Regulations. It has done this by means of teams containing a judicious mixture of head office investigatory experience and local knowledge. Such teams of two or three officers have been established whenever a need arose and, generally speaking, seem to have operated effectively.

5.344 The main criticism which can be directed against this practice is that some more serious cases, which should have been referred to police - particularly when the alleged criminal conduct of meat inspectors was in issue - have not been.
5.345 This seems to have arisen partly from a sense of sturdy self-confidence in the Branch and partly from a disappointing experience in 1979, when inquiries into the misuse of pet food were compromised by a leak to the press, which was believed by the Branch to have come from within the Victoria Police.

5.346 The Department is considering the establishment of a compliance section, along with the related question of the extent to which the Victoria Police should be involved by the Department in investigations of malpractice, including questions relating to the integrity of its own inspection force. Both Dr Rees and a previous Minister, the Hon I.W. Smith, were inclined to concede in retrospect that the Department had taken more upon itself than it should have done, and required less of the police force than it should have done. However I did not gain the impression that the Department was looking with much favour at the prospect of increased police involvement. I think this is wrong. I would recommend that the Department seek the setting up of a permanent compliance unit along the same lines as I have recommended for the DPI (5.22-23). This will require close co-operation with the Victoria Police. The Department should recognize that it has neither the resources nor the skills to pursue certain types of investigation.

Relations with Health authorities

5.347 When the Meat Inspection Branch was first established, it seems to have met with a good deal of opposition from municipal health surveyors. This was understandable since the work of meat inspection was being removed from their general area of control.

5.348 Some ill-feeling and sensitivity seems to have persisted over the years, though all agree that relations have been much better in recent times.
5.349 I was invited to consider one quite recent bad case of lack of co-operation between officers of the meat inspection service and of a Melbourne municipal council. Having done so I was left with the clear impression that there had been errors of judgment and some rather foolish behaviour on both sides, but that the episode contained no useful lessons for the future - beyond the obvious necessity for all public servants to work together to achieve the degree of protection from unwholesome meat to which the public is entitled. I have not thought the episode worthy of any detailed description in this report.

(d) The Victorian Health Commission

5.350 The Health Commission retains the responsibility for supervision of retail butchers' shops and of certain other premises where meat is used in the preparation of food products.

5.351 The present dividing line between the responsibilities of the Meat Inspection Branch and the municipal health surveyors, working under the general control of the Health Commission, is somewhat anomalous.

5.352 In April 1978, a number of smallgoods and other similar establishments sought and obtained, from the then Minister, exemption from the provisions of the Abattoirs and Meat Inspection Act. This meant that they were beyond the authority of the Meat Inspection Branch. Immediately afterwards, many of them discovered that, without a certificate from the Branch, they could not send their products inter-state. Those establishments then obtained revocation of their exemptions. There is no logical reason why one group of such operators should be supervised by meat inspectors and the other by health surveyors.

5.353 The important consideration from the meat inspection point of view is that the Branch should be able to trace meat up to the point where it loses its identity in a manufactured food product, is cooked for eating, or is sold by retail.
5.354 It seems more appropriate that the cleanliness of such premises, and the wholesomeness of the product, should be seen as a health responsibility. Thus municipal health surveyors routinely sample meat and meat products in shops and take action if any adulteration is found (typically preservative in minced meat) or if there is any breach of regulations prescribing, for example, meat content in sausages or pies.

5.355 But the ability to demand an answer from a smallgoods manufacturer, restaurant owner or wholesale butcher, to the question "Where did that meat come from?" is vital for the functioning of an effective meat inspection service. And if a manufacturer is handling so much meat that it is desirable to have constant or regular inspection of his operations, there seems no point in not accepting responsibility for the hygiene of the premises and workers at the same time.

5.356 In spite of the arbitrary line of demarcation to which I have referred, which is repeated in the case of small boning-rooms attached to retail butchers' shops, relations between the meat inspection service and the health authorities now seem to be good and improving. It is important that they should not be compromised by any changes that might take place in the inspection service.

5.357 One recent case which tested the ability of a number of authorities, including DPI, the Department of Agriculture and the Health Commission, to work together in a crisis, is reported in Appendix H (Case 10). As described in the Appendix, that case pointed up the need for quality controls and batch-coding of smallgoods - particularly products which were cured rather than cooked. It also showed the need for the authority most directly involved in any major investigation to take control of it and co-ordinate the contributions of other authorities.
(e) Summary

5.358 I have been impressed by the standard of the work of the Victorian meat inspection service. This has been demonstrated by the files examined and by the quality of the written and oral evidence placed before me by the Branch. I believe that, speaking generally and subject to certain recommendations for improvement made in Chapter 9B, the administrative arrangements and procedures of the service have been adequate to ensure that meat for human consumption in Victoria has met the requirements of the law. It is meat coming from export establishments and released onto the domestic market which has quite often failed to meet legal requirements.

5.359 However in saying this, and drawing an apparently very marked distinction between the Victorian and the Commonwealth service, I am conscious of a number of off-setting factors. In the first place, the Victorian service is smaller, more compact and so much more manageable. Secondly it does not have the range of problems to deal with that beset a service which has to cater for the requirements of many diverse overseas markets and move inspectors across the country to cope with seasonal demands. Thirdly, the Meat Inspection Branch has not had to deal with a well-organized, determined and militant union such as the Commonwealth Meat Inspectors Association. It has undoubtedly enjoyed a better union co-operation and freer hand in the allocation of duties than the DPI has been able to achieve.

5.360 Further, the Victorian Department spent a great deal of time, effort and money in presenting its case to the Commission through its legal representatives. They actively defended the Department's record at all points. A departmental view well orchestrated by legal advisers does not encourage the emergence of critical dissenting views from within the department, and in consequence the Royal Commission may have lost the value of conflicting viewpoints which might have exposed existing problems. On the other hand, the DPI was not
legally represented (although the Minister was personally represented) and was content to let individual officers present the facts as they knew them and let the Royal Commission pass judgment on them.

5.361 In saying what I have I am not intending to criticize either approach. It is seldom easy in such cases to determine whether the cost to the taxpayer of legal representation of a government department can be justified, or even how the interests of the Royal Commission can best be served. Certainly the fact that the Department of Agriculture was represented relieved the legal staff of the Royal Commission of a good deal of routine work associated with the preparation of written submissions.

5.362 Finally, it is my impression that the Victorian service has been particularly fortunate in having an officer of the calibre of Dr Bryn Rees in charge of its day-to-day operations in recent years. His extensive and varied experience, coupled with his personal qualities, have fitted him well for the task. And he has apparently been allowed sufficient independence by his superiors to enable him to put his mark on the service. I suspect that his personal contribution has affected the quality of both the service itself and its performance before the Royal Commission. It does not necessarily follow that a compact state service will always perform better than a larger and more widely spread Commonwealth service, or that the Victorian service will always be as good as it appears to be today.

5.363 It must be understood that all that I have said in this section has to be read in conjunction with my recommendations in paras 5.48-79 above for a combined meat inspection service in Victoria. The comments and recommendations in this section are designed to stand alone whatever the fate of that proposal.