SELECT COMMITTEE ON ANCIENT SHIPWRECKS

REPORT

Presented by:
Hon. P.G. Pendal, MLA
Laid on the Table of the Legislative Assembly
on 17 August 1994

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COMMITTEE MEMBERS

Chairman
Hon. P.G. Pendal, MLA
(Member for South Perth)

Mr I.F. Osborne, MLA
(Member for Bunbury)

Mr J.A. McGinty, MLA
(Member for Fremantle)

Dr G.I. Gallop, MLA
(Member for Victoria Park)

COMMITTEE STAFF

Ms Kirsten Robinson
Clerk/Research Officer

Professor Geoffrey Bolton
Consultant/Adviser

Mrs Patricia Roach
Secretary/Stenographer/Committees
CHAIRMAN'S FOREWORD

In the final analysis, two fundamental issues are addressed in this Report: firstly, whether a person should be rewarded for doing the `right thing' by society; and secondly, if they should be so rewarded, how much is a fair thing?

The Australian Pocket Oxford Dictionary describes a reward as "recompense for service or merit". As will be seen below, that description of a reward is not inconsistent with the notion of an ex-gratia payment.

Professor W.L. Ride, in evidence to the 1992 Batavia Relics Select Committee, expressed the hope that the discoverers of the Batavia might receive ex-gratia payments for their efforts. In that same inquiry, the Committee borrowed the State Ombudsman's definition of an ex-gratia payment as one "... where there is no legal obligation to make any payment, but where... it is considered that a moral obligation exists." Subsequently, the three surviving discoverers were recommended for ex-gratia payments of $25 000 each.

Against this background, this present Select Committee has decided that ex-gratia payments should be recommended for people described in this report as either primary or secondary discoverers of ancient shipwrecks off our coast. So the question remains: how much is a fair thing?

Firstly, a number of Committee members and our consultant-historian, Professor Geoffrey Bolton, observed over the months of our deliberations that the $25 000 awarded in the Batavia's case appeared to have been accepted as a fair and reasonable benchmark by Western Australian society.

Secondly, it is not irrelevant to look at another form of reward or "recompense for service" that our society offers citizens to discover answers of a different kind. Such rewards are a device often used to clear up mysteries of a criminal nature. Currently on offer in Western Australia or Australia, for example, are a $3 000 reward for information relating to damaged war graves, a $10 000 reward in the case of a missing person, a $25 000 reward for stolen banknotes, $50 000 to track down the culprit in a bombing and $250 000 in the case of an assassinated federal police officer.

In these circumstances, and given the service to Western Australia of the people named in this Report, this Select Committee sees it reasonable to recommend that all primary discoverers of ancient shipwrecks should receive ex-gratia payments of up to $25 000 and secondary discoverers up to $5 000 each. All up, the State will face a payout of around $130 000 if it accepts our recommendations.

We believe these amounts to be fair and reasonable. The State has benefited enormously from the discoveries. The standing in which the Western Australian Maritime Museum and its conservation work are held internationally, and the contents of the museum itself, as well as the spin-off benefits for tourism and the economy, are themselves quite impossible to calculate.

The seas off Western Australia's 12 000 km coastline have not yet given up all their secrets. This is so in the case of the Correo d'Azur from the 19th century and the HMAS Sydney from the mid-20th century to name but two. This Report has in mind that in determining how we should treat past discoverers today we might offer some sort of moral inducement for the conduct to be followed with future discoveries.

As to how the Committee determined who should be regarded as a primary discoverer as opposed to a secondary discoverer a word needs to be said. In fact, it was a most difficult decision.

I think it fair to say that Members initially sought to categorise various expeditions into neat boxes that would apply to all wrecks. This turned out not to be possible. Indeed it became necessary
to analyse each of the five ancient shipwrecks, and then to find a just formula for each, while still maintaining an overall consistency in our deliberations.

This I believe we have done. I sincerely thank each of the Members, Ian Osborne (Bunbury), Elizabeth Constable (Floreat), Jim McGinty (Fremantle) and Geoff Gallop (Victoria Park), together with Professor Geoffrey Bolton and Ms Kirsten Robinson, for nine months of earnest effort. For my part, experiences like walking in the footsteps of Weibbe Hayes and his 17th century colleagues on the Abrolhos Islands, standing at the foot of the majestic and largely untouched Zuytdorp Cliffs or gazing through brilliantly clear waters to the site of the 1629 Batavia wreck, have had a deep and inexplicable impact. I know my colleagues whom I have mentioned above feel likewise.

All these experiences were, for me, capped off by a visit by my wife and I to the Mary Rose project in the United Kingdom in July this year. This magnificent 16th century link to King Henry VIII is its own reminder of the antiquity of the Western Australian wrecks.

The Select Committee seeks to remain operational to oversee a wider - and hugely important - issue that has emerged as a direct result of our inquiries: that of the Zuytdorp survivors and their absorption into the Aboriginal communities to our near-north. On this alone could hang the question of just who really were the first European progenitors on the Australian continent.

I cannot believe that this Report is in any way the last word in stories that now stretch back almost four centuries to the time when the Tryall went down in 1622. But I hope, as do my colleagues, that it represents at least a substantial effort at correcting injustices that should never have occurred in the first place.

Hon. P.G. PENDAL, MLA
CHAIRMAN

Mr I.F. OSBORNE, MLA
Dr E. CONSTABLE, MLA

Mr J.A. McGINTY, MLA
Dr G.I. GALLOP, MLA
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In addition, a large selection of related newspaper clippings, documents, articles and other information has been tabled along with this Report. For further information, please contact the Bills and Papers Office, Legislative Assembly, Parliament House on (09) 222 7222.
1. INTRODUCTION

1.1 Establishment and Terms of Reference

The impetus for the establishment of the Select Committee on Ancient Shipwrecks arose out of the recommendations of the Select Committee on Batavia Relics, which was appointed by the Legislative Council on 23 September 1992 and reported later that year. That Committee recommended, amongst other things, that the surviving discoverers of the Batavia each receive an ex-gratia payment of $25 000 in acknowledgment of their discovery efforts. This prompted some discoverers of other historic shipwrecks to contact the Chairman of that Committee, the Hon. Phillip Pendal, to seek recognition for their efforts. These enquiries led to the creation of this Select Committee.

Accordingly, on 3 November 1993, the Select Committee on Ancient Shipwrecks was established by the Legislative Assembly to inquire into and report on -

(a) the persons who were the primary discoverers of the ancient shipwrecks off the Western Australian coast, namely the Tryall (wrecked in 1622), the Batavia (1629), the Gilt Dragon (1656), the Zuytdorp (1712), and the Zeewyk (1727), and to establish if there were any secondary discoverers who might have rights of recognition;

(b) the adequacy or otherwise of official recognition for these discoverers;

(c) the possibility of incorporating such names in a Register of Ancient Shipwrecks, possibly by way of an amendment to the Museum Act 1969; and

(d) the need for any further ex-gratia payments of varying amounts to be made to primary and secondary discoverers, taking into account any previous payments made.

It has been the Committee's task, therefore, to determine the primary and secondary discoverers of the five wrecks under investigation. One important consideration in this inquiry has been to ascertain the adequacy or otherwise of official recognition for these discoverers. The fact that in many cases this has been lacking has led the Committee to explore alternative forms of recognition. The Committee believes that these will help redress the feeling of a lack of recognition felt by those who have put the State's interests before their own.

Not only has each shipwreck discovery revealed important facts about Western Australia's rich maritime history, but collectively they have provided enormous cultural, educational, scientific and tourism benefits to the State. Without these discoveries, Western Australia would not have gained its international reputation for excellence in maritime archaeology.

While this report addresses the four terms of reference listed above, it should not be considered as the Committee's final report. Indeed, there are a number of issues directly relating to this inquiry which require further investigation. As these issues have been raised in formal evidence hearings, and subsequently drawn to the Committee's attention by numerous publications, the Committee will continue to examine these matters.
To this end, the Committee has already extended its reporting date to 30 June 1995.

1.2 Membership

The following members were appointed to serve on the Select Committee -

- the Member for Bunbury (Mr I.F. Osborne);
- the Member for Floreat (Dr E. Constable);
- the Member for Fremantle (Mr J.A. McGinty);
- the Member for South Perth (Hon. P.G. Pendal); and
- the Member for Victoria Park (Dr G.I. Gallop).

The Hon. P.G. Pendal was appointed Chairman of the Committee at the first meeting held on 18 November 1993.

Following a resolution of the Committee, Professor Geoffrey Bolton was appointed consultant/adviser on 20 January 1994.

1.3 Meetings

The Committee met on 21 occasions, including days on which formal evidence was taken and visits made.

1.4 Investigative Visit

As part of its inquiry, the Select Committee conducted an investigative visit to the *Batavia* and *Zuytdorp* wreck sites from Friday, 21 January to Monday, 24 January 1994. The purpose of this visit was to allow the Committee to gain an insight into the locations and environments of these wreck sites. From this, members were able to appreciate not only the history that surrounded each site, but also the conditions discoverers had to work under to research and locate these wrecks. In addition, a considerable number of people were invited to appear before the Committee at an oral evidence hearing held in Geraldton.

As well, Mr Graeme Henderson (then Acting Director of the Western Australian Maritime Museum), was invited to accompany the Committee to provide expert advice on the unique circumstances of each site.

The Committee flew to Geraldton early on Friday morning and boarded the Department of Fisheries' launch at Fisherman's Wharf. It must be noted that the Department generously offered to transport the Committee members to the Abrolhos Islands, and also allowed them to stay overnight in its cottage on Beacon Island. The Committee was grateful for this gesture and particularly thanks Mr Bill Benbow and Mr Phillip Mosel for their assistance in these arrangements. Special thanks are also extended to Captain Rod Casey and his two assistants, Mr Craig Trinidad and Mr Garrick Stanley, whose many skills, coupled with a high degree of professionalism and enthusiasm, contributed to make the Committee's visit a most worthwhile and successful one. Last but definitely not least, the Committee thanks Mr Max Cramer, who provided the Committee with his vast experience and intimate knowledge of the Abrolhos Islands.
For the Committee, this visit proved to be invaluable in highlighting the circumstances surrounding each wreck and the conditions discoverers laboured under to uncover them. The sight of Henrietta’s Anchor and the Batavia’s cannon lying on the ocean floor was an experience the Committee members will long remember. Similarly, the experience of staying overnight on an island which witnessed a horrific murder scene some 365 years previously was one never to be forgotten.

Equally awe-inspiring was the final resting place of the Zuytdorp wreck, about 60 kilometres north of Kalbarri, at the foot of what is now known as the “Zuytdorp Cliffs”. Due to the inhospitable nature of the site, the Committee accessed the wreck by helicopter. The constant swell prevented the Committee from actually viewing the wreck, which was only three or four metres off-shore, but the experience of exploring the site and visualising the hardships faced by the Zuytdorp survivors made a deep impression on members.

The usefulness of the Committee’s visit became apparent when, during oral evidence hearings held in Geraldton, members were able to relate to the information given and understand references concerning each of the wrecks they had visited.

The Committee was astonished at the interest shown at this evidence hearing, which more than 60 people attended, either to present evidence or to lend moral support. It was important that these people were given the opportunity to state their case and to relieve much of the sense of grievance felt in not having had their story told before.

1.5 Interim Reports

Since its inception in November 1993, the Select Committee has presented two interim reports to the Legislative Assembly. The first, which was tabled on 31 March 1994, dealt with the issue of shipwreck relics and the need to distribute these relics to appropriate facilities around the State.

The second Interim Report, tabled on 2 June 1994, addressed Parts (b), (c) and (d) of the Committee’s terms of reference, namely, the question of appropriate recognition. Included in the recommendations were several alternative forms of recognition, such as -

* the striking of a special "Parliamentary Medal of Honour"; and

* incorporating the names of discoverers in a Register of Discoverers of Ancient Shipwrecks.

Both of these reports have been included as Appendix 4 and Appendix 5 to this Report.
1.6 Contributors

The Committee acknowledges the assistance of those many persons who have contributed to the work of this Committee, including -

Ms Tresna Shorter (research assistance)  
Ms Carolyn van Beelen (Hansard Reporter)  
Hansard (Parliament of Western Australia)  
Mr Graeme Henderson (Director, WA Maritime Museum)  
Mr Michael McCarthy (Curator, Maritime Archaeology Dept, WA Maritime Museum)  
Sir James Cruthers  
Mr Paul Geoghegan (The Perth Mint)  
Mr Sandy Davies  
Mr P A Panegyres (Crown Solicitor)  
Mr Andrew Reeves (Director, WA Museum)  
Mr Bill Benbow (Department of Fisheries)  
Mr Phillip Mosel (Department of Fisheries)  
Mr Rod Casey (Department of Fisheries)  
Mr Craig Trinidad (Department of Fisheries)  
Mr Garrick Stanley (Department of Fisheries)  
Mr Max Cramer  
Mr Brian Robartson (Manager Administration - City of Geraldton)  
Mr Edward Romans (Kalbarri Palm Resort)  
Mrs Jean Baine (Kalbarri Tourist Bureau)  
Dr Mort Haslett (Geraldton Region Museum)  
Ms Orla McGrath (Geraldton Region Museum)  
Kalbarri Air Charter  
Mr Ron Shepherd (CALM)  
City of Geraldton  
Shine Aviation
2. REPORT

2.1 Definition of Terms

The principal aim of this Committee has been to determine the primary and secondary discoverers of the Tryall, the Batavia, the Vergulde Draeck, the Zuytdorp and the Zeewyk. This task has proved to be an especially challenging one, given the number of people involved with each wreck. The Committee was faced with difficult decisions in adequately categorising each person's contribution to the discoveries.

The Concise Oxford Dictionary provided us with a most helpful guide in the matter. Contrary perhaps to general perceptions, the act of "discovery" is more than applying that term to a person who first physically locates a lost item. The Concise Oxford, however, tells us that to discover is to "find out or become aware of, whether by research or by chance."\(^1\)

The Select Committee has in fact interpreted discovery very much along these lines - that is, we have determined that the painstaking research of a man or woman conducted many kilometres away from a site and probably over the course of many years is of equal merit to the actions of individuals who are physically involved in the act of discovery. People who fall into either of these categories are, for the purposes of this report, regarded by us as "primary" discoverers.

The Select Committee was also charged with the task of determining if there were any "secondary" discoverers. After much deliberation, we conclude that a reasonable description of a secondary role is to be found in the Collins Dictionary and Thesaurus which tells us that such involvement is "resultant", "consequential", "subordinate" or "supporting". Other words used in this Thesaurus which helped in bringing us to a conclusion were "auxiliary" or "back up".\(^2\)

It is worth reminding the reader of the spirit of the Chairman's foreword in our Second Interim Report tabled in the Parliament on Thursday, 2 June 1994. Our entire efforts have been aimed at giving recognition to that rare breed of individual amongst whom were divers, scholars, fishermen, media representatives, employees of official agencies and a host of other enthusiasts, both amateur and professional, whose combined efforts have placed Western Australia at the cutting edge of the international maritime archaeological community.

Against this background, it fell to the Committee to determine how each of these primary and secondary discoverers might best be rewarded or recognised for their efforts. This led us to not only deal with the question of ex-gratia payments, but also to find alternative methods of recognition.

2.2 Categories of Recognition

2.2.1 Ex-Gratia Payments

The issue of awarding ex-gratia payments to primary and secondary discoverers has been an important matter for the Committee to resolve. There is no question that these people should receive some monetary payment for their efforts. The immense value and importance of the wrecks, combined with each discoverer's unique and selfless work, deserves as much.

The previous Select Committee on Batavia Relics recommended that the surviving discoverers each receive an ex-gratia payment of $25 000. This was based on the view of the Western Australian Ombudsman who described the concept in the following terms -

Act of grace payments (sometimes called ex gratia payments) can be made in situations where there is no legal obligation to make any payment, but where, owing to some injustice or hardship that has occurred as the result of actions by an agency, it is considered that a moral obligation exists.³

Aside from the issue of recompensing discoverers, it is important not to overlook other beneficial effects flowing from ex-gratia payments. For example, they may provide incentives to other would-be shipwreck discoverers, not only in finding other wrecks but, more importantly, in reporting them to the authorities. Public compliance with the law is much easier to achieve if some formal mechanism is in place. Equally important is the speed with which it is paid.

Accordingly, the Committee recommended in its Second Interim Report -

Recommendation:

That ex-gratia payments be paid to recognise the contributions of primary and secondary discoverers and that payments be made on a two-tiered basis to reflect their primary and secondary roles.

To this end, the Committee now recommends -

Recommendation:

(a) That ex-gratia payments be made in consideration of the contribution to Western Australia's maritime heritage as a whole rather than in respect of individual wreck sites. Accordingly, those persons who were involved in the discovery of the Tryall, the Batavia, the Gilt Dragon, the Zuytdorp and the Zeewyk should not receive payments in respect of each site. The maximum payment to any primary discoverer should be $25 000 and to a secondary discoverer $5 000.

(b) That it is not appropriate that discoverers awarded ex-gratia payments arising out of the Batavia Select Committee should receive additional payments for discovering a second wreck. This aside, Parliamentary Medals of Honour should be awarded to all primary and secondary discoverers named in this and the previous Batavia Select Committee Report.

³ Legislative Council of Western Australia. 1992. Report of the Select Committee on the Batavia Relics. Perth: State Print,
(c) That no payment be made in the case of any discoverer who, at the time of such discovery, was employed by the State of Western Australia in connection with locating ancient wrecks.

(d) That any payments made under these recommendations be reduced by the amount of any compensation/reward made from any other source in respect of that discovery.

The Committee notes that procedures have now been in place for some time by which Commonwealth and State incentives are available to encourage divers and others to actively seek out as-yet undiscovered wrecks off the Western Australian coast.

2.2.2 Parliamentary Medal of Honour

In addition to recommending ex-gratia payments to primary and secondary discoverers of ancient shipwrecks, the Committee has explored other alternative forms of recognition. As mentioned above, one new concept that the Committee investigated was the striking of a special "Parliamentary Medal of Honour", which would be a unique and prestigious award.

The design of the medal would include the silhouette of Parliament House, Perth while the obverse would include the imprint of an ancient Dutch coin.

Accordingly, the Committee recommended in its Second Interim Report -

Recommendation:

(a) That acting on the advice of GoldCorp Australia (The Perth Mint), the Western Australian Government be requested to provide the Legislative Assembly with funds to strike up to 25 "Parliamentary Medals of Honour" (and accompanying lapel replicas) of 50mm diameter of gold-plated pure silver, for presentation to the recipients to be named in our final report.

(b) That the presentations be made by the Speaker of the Legislative Assembly while the House is in session, thus demonstrating the gratitude of the Parliament and the people of Western Australia.

The Committee considers it appropriate that this event should be held in the autumn session of Parliament, early in June 1995, to coincide with the 366th anniversary of the wrecking of the 

Batavia off the Abrolhos and the 32nd anniversary of its discovery. It is expected this will coincide with the launching of a new book by Professor Geoffrey Bolton on the discovery of Western Australia’s shipwrecks.

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4 See Appendix 6
2.2.3 Register of Discoverers of Ancient Shipwrecks

Another alternative form of recognition is to incorporate the names of finders in a Register of Discoverers of Ancient Shipwrecks. The Committee believes that a unique opportunity exists to add the Register to the Maritime Archaeology Act 1973. A schedule already exists within that Act listing the Tryall, the Batavia, the Gilt Dragon, the Zuytdorp and the Zeewyk along with the year of each wreck and its approximate location.5

To this end, the Committee recommended in the Second Interim Report -

Recommendation:

That the Maritime Archaeology Act 1973 be amended by way of a Bill sponsored by this Committee to incorporate into it, as the Third Schedule of the Act, a Register of Discoverers of Ancient Shipwrecks.

This Register will not only be a useful reference source but will also permanently record the achievements of these people in the Statutes of Western Australia and will give recognition to those achievements.

2.2.4 Posthumous Recognition

As a result of the 1992 Select Committee on Batavia Relics recommendation that the surviving discoverers of that wreck should each receive an ex-gratia payment of $25 000, a number of other discoverers of historic shipwrecks contacted the Chairman of that Committee, the Hon. Phillip Pendal, to seek recognition for their efforts.

Among the claims received were those from the children of deceased discoverers. As the admissibility of these claims was considered pivotal to the present Committee's inquiry, the Committee wrote to the Crown Solicitor on 22 November 1993, seeking his advice as to -

(a) whether any legal precedents exist with respect to posthumously awarding ex-gratia payments to discoverers; and

(b) whether children can claim such payments on behalf of their dead parents.

According to advice received on 25 May 1994, there are no legal precedents for awarding ex-gratia payments posthumously. However, in the opinion of the Crown Solicitor, the State could make ex-gratia payments to whomever it chose.

Notwithstanding this advice, the Committee does not favour ex-gratia payments being made posthumously. There are a number of reasons for this decision. Firstly, it would clearly be difficult, if not impossible, to determine which of the descendants should benefit. In some cases,

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5 See Appendix 7
6 See Appendix 8
there could be many such "eligible" persons. Secondly, any payment to descendants would effectively be rewarding them for the efforts of another person.

However, the Committee acknowledged the importance of the contributions made by deceased discoverers and felt that there were other appropriate ways to recognise their efforts.

Accordingly, the Committee recommended in the Second Interim Report -

**Recommendation:**

That, as an appropriate posthumous recognition, "Parliamentary Medals of Honour" ... be awarded to the late Tom Pepper, the late Ada Drage, the late Henrietta Drake-Brockman and the late John McPherson, all of whose efforts in different ways significantly contributed to the cause of maritime heritage in Western Australia.

In light of further evidence, the present Committee recommends that similar posthumous recognition be given to the late Greg Allen for his role in the discovery of the Batavia.

Furthermore, given the insufficient official recognition given to discoverers of ancient shipwrecks over the years, the Committee felt -

**That recognition also be given to all primary and secondary discoverers at the proposed new Geraldton Maritime Museum, and at appropriate on-site locations, such as the Zuytdorp Cliffs, Kalbarri, Shark Bay and, if appropriate, elsewhere in Western Australia.**

Despite the efforts of the Committee to recognise all deceased discoverers, there was one discoverer not included in Recommendation 5 above - the late Alan Robinson. His case presented particular difficulties for the Committee, for while he was involved in the discovery of a number of wrecks, his subsequent behaviour did not meet the high standards set by other discoverers. However, given that he gave a significant stimulus to the recovery of the material of the Dutch shipwrecks, the Committee notes his contribution throughout the main text of the Report.
PART I

TRYALL (1622)

This is the oldest known European wreck off the coast of Western Australia and in many respects its story is the least complicated. The *Tryall* was wrecked in May 1622, but because the Captain, John Brookes, falsified the record, its remains were undiscovered for more than 300 years. Between 1963 and 1969 research was undertaken by an experienced diver, Eric Christiansen, with significant assistance from the late John MacPherson. From this assessment of the evidence, Christiansen pinpointed the locality off the Monte Bello Islands where he expected to find the wreck. In May 1969, accompanied by Naoom Haimson, David Nelley and the late Alan Robinson, Christiansen went to the site indicated in his researches. Dr Haimson was the first to dive on the site suggested by Christiansen. At the end of his very first shift, Haimson identified three anchors at what proved to be the site of the *Tryall* wreck.

It seems indisputable that Christiansen is entitled to be regarded as the primary discoverer of the *Tryall*, both because of his historical research in revising earlier theories about its locality and also as organiser of the successful expedition. Dr Haimson was the actual discoverer, acting on Christiansen’s information. He may be regarded as a secondary discoverer. Recognition as secondary discoverers should also go to Nelley, Robinson and MacPherson (because of his part in the historical research).

Following representations from Robinson, TVW Channel 7 advanced funds for the successful expedition, but Robinson did not advise the other members of the team of the source of these funds. Notwithstanding this, the role of TVW Channel 7 as a significant contributor is recognised in our Second Interim Report.

Accordingly, the Committee recommends -

**Recommendation:**

(a) That Mr Eric Christiansen be regarded as the primary discoverer of the *Tryall*, and Dr Naoom Haimson and Mr David Nelley as secondary discoverers.

(b) That it is noted the Committee recognises the late John MacPherson as a secondary discoverer.

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7 Transcript of Evidence, 23/3/94, 1
8 See Appendix 5, 5
9 For further comment on Alan Robinson’s contribution, please refer to page 6 of the Committee’s Second Interim Report (Appendix 5)
PART II

BATAVIA (1629)

Two issues have surfaced additional to the findings of the previous 1992 Upper House Select Committee on Batavia Relics.

Malcolm Uren, leader of an expedition to the Abrolhos in 1938, expressed doubts in his book *Sailormen's Ghosts*, over the traditional theories about the Batavia's location, favouring the area where the Batavia was eventually found. However, he never indicated his alternative theory with any precision. Peter Cowan, who wrote Henrietta Drake-Brockman's biography for the *Australian Dictionary of Biography*, is convinced that Uren's views had no significant influence on her research and findings. Accordingly, it seems unnecessary to name Uren as a discoverer, though his publications consolidated existing knowledge and were on the right track.

Bruce Melrose informed the Select Committee that between 1957 and 1963 he undertook numerous aerial surveys in the vicinity of the Abrolhos in the hope of verifying his theories about the location of the Batavia, which were largely identical with Henrietta Drake-Brockman's findings. He stated that in 1963 he went to Geraldton in the hope of locating the site, but found he was unable to hire a boat. Before a second opportunity to do so presented itself, the Batavia was discovered by Max Cramer and party.

We are aware of the maxim: "There is no prize for being second". Nevertheless in view of his historical research and considering that he played Scott to Max Cramer's Amundsen, the Committee considers Melrose should be identified as a secondary discoverer.

This Committee believes that a rereading of the evidence of the 1992 Legislative Council Select Committee on Batavia Relics, and further evidence presented to this Committee, indicates that Graham Cramer and Greg Allen joined Max Cramer's party which discovered the wreck in June 1963. For this reason, the historical records should indicate that Graham Cramer and the late Greg Allen be regarded as secondary discoverers of the Batavia.

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12 Transcript of evidence, 21 March 1994, 2
Accordingly, the Committee recommends -

Recommendation:

(a) That Max Cramer, Dave Johnson and Hugh Edwards be regarded as the primary discoverers of the *Batavia*.

(b) That Bruce Melrose, Graham Cramer and the late Greg Allen be recognised as secondary discoverers.

(c) It is to be noted that in its Second Interim Report, the Select Committee recognised the late Henrietta Drake-Brockman as a primary discoverer. Indeed, this confirms the recommendation of the 1992 Upper House Select Committee.
PART III

VERGULDE DRAECK (1656)

The weight of evidence supports the view that on 14 April 1963 Graeme Henderson was the primary discoverer of this wreck, together with James and Alan Henderson, John Cowen and Alan Robinson. The discovery was accidental, although from their prior knowledge of local maritime history the Hendersons and Cowen were soon aware of the likelihood of the wreck being the Vergulde Draeck.

There is no convincing evidence to support Alan Robinson's reports of a 1957 discovery. The theory that Robinson proceeded to the site in 1963 on the basis of theories formulated by the Edwards family of Gingin is insufficiently supported and probably comes within the legal definition of hearsay. It cannot outweigh the very positive affirmations of the Hendersons and Cowen about the accidental nature of the discovery.

Accordingly, the Committee recommends -

Recommendation:

That Mr Graeme Henderson be regarded as the primary discoverer of the Vergulde Draeck and Alan Henderson, James Henderson and John Cowen as secondary discoverers.

The Committee notes and is impressed by Mr Graeme Henderson's decision in evidence to the Committee to refuse any ex-gratia payment awarded to him, in view of the position he currently holds at the Western Australian Maritime Museum. Notwithstanding this, the Committee believes that because the discovery was made before Mr Henderson became an officer of the Museum, he should receive due recognition in the form mentioned above and is recommended for a $25 000 ex-gratia payment.

---

13 Transcript of Evidence, 21/3/94, 14
14 Alan Robinson was also involved in the discovery of the Vergulde Draeck.
PART IV

ZUYTDORP (1712)

This is the most complex story of all for a number of reasons, and the Committee has given this aspect of its investigations particular care. Because of the close physical proximity of the wrecksite to the shoreline and cliff face on which relics survived, it has been a matter of some difficulty to separate the discovery of relics pointing to the virtually certain locality of the wrecksite and discovery of the wrecksite itself. In our terms of reference we are specifically requested to inquire into and report upon the identity of the individuals who discovered the shipwrecks themselves.

A further complication arises from the increasingly substantial body of evidence that survivors from the Zuytdorp came ashore. It seems probable that one or more of the castaways fathered children with Aboriginal mothers, giving rise to a strong probability that oral traditions about the Zuytdorp survived among local Aboriginal communities.

There is a strong probability that Aboriginal reports at the Swan River in 1834 of a wreck to the northward referred to the Zuytdorp. While this probability falls short of a certainty it was sufficient to persuade the authorities of that time, despite their limited resources, to despatch a vessel to Shark Bay to investigate the story, and at the very least the story is evidence of the strong survival of Aboriginal oral traditions for more than a century.

Pastoral settlement took place in the region between Shark Bay and the Murchison in the 1870s, and traditional Aboriginal society no longer existed by the 1920s, but the survival of oral traditions into the 1920s cannot be discounted.

Tom Pepper does not seem to have known about these traditions in April 1927 when, as a young boundary rider searching after a marauding dingo, he came to the Zuytdorp Cliffs and found coins and other relics from the Zuytdorp. There is considerable weight of testimony as to Pepper's integrity and honesty and his later accounts of the discovery over a period of half a century bear a high degree of internal consistency. From The West Australian of 5 February 1931, subsequently supported by Pepper's oral history, 15 it appears that he informed the manager of Tamala station of his find, who in turn informed Dr J S Battye, then the State Librarian and author of the standard History of Western Australia. Because of the remoteness and inaccessibility of the site and at a time when the Depression was closing in on Western Australia, no attempt was made to follow up Tom Pepper's find immediately. Undoubtedly he was the first to report the discovery of the relics near the site to the responsible authorities, and thus to identify the locality of an historic wreck, although without discovering the wreck itself.

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15 Battye Library interview, 17 April 1981 (See Appendix 21)
Figure 1: Mr Tom Pepper - Taken on Tamala Station 3 August 1960
Courtesy of Elsie Wilton
Figure 2 - Mr Tom Pepper with Figurehead of Zuytdorp at Gee Gie Out Station, Murchison House Station

*Courtesy of Elsie Wilton*
Around the same time, according to the widely supported testimony of family members, Tom Pepper’s sister-in-law, Ada Drage, discovered a number of artefacts from the Zuytdorp in the same locality. It is impossible to demonstrate that she was on the site ahead of Tom Pepper, whereas an early newspaper interview with Pepper\[^{16}\] includes the information that shortly after making his find he took Ada Drage and her husband Ernie to the site. She may well have returned to the site subsequently. On the other hand, she may already have been aware of surviving Aboriginal traditions. It is understandable that she did not make a public report of her finds, given the constraints affecting the Aboriginal population at that time; but she initiated an important oral tradition leading to the publication of her granddaughter’s school essay in the *Geraldton Guardian* in 1968\[^{17}\]. The Committee ranks her as an important secondary discoverer of the Zuytdorp relics but not the wreck itself.

\[^{16}\] *Daily News*, 11 December 1954

\[^{17}\] See Appendix 20
In 1939, Hughie Drage received a report that an Aboriginal had discovered a number of Zuytdorp relics while fishing. He took a party to investigate and reported his findings in *The West Australian* and the *Geraldton Guardian* in September 1939. It is reasonable to assume that the Aboriginal fisherman was Charlie Mallard, who acted as guide to the *Sunday Times* expedition in 1941. Considering the relationship between the Drages, the Peppers and the Mallards, it is curious that Hughie Drage apparently did not connect this find with Tom Pepper's discovery of 1927 or with Ada Drage's finds. However, his report suggests no prior knowledge.

The 1941 expedition undertaken by Victor Courtney and party from the *Sunday Times* was apparently based on Hughie Drage's report, but included a visit to the Peppers. Interesting film evidence survives from this expedition.

Dr Phillip Playford is entitled to rank as a primary discoverer of the Zuytdorp because of his activities after his interest was stimulated by meeting Tom Pepper at Tamala in 1954. As a result of this meeting, Dr Playford undertook the detailed historical research which led to the positive identification and pinpointing of the Zuytdorp wrecksite. His interest encouraged *West Australian Newspapers* to undertake two expeditions to the Zuytdorp Cliffs, one including John Stokes and Jay Winter (a nom de plume: this writer was actually Sir James Cruthers) in 1954 and a second led by Hugh Edwards in 1958. Each expedition recovered relics and added to knowledge of the locality. Because of the extreme difficulty of the wrecksite it was not until 1964, in one of the rare intervals of calm weather in that locality, that Max Cramer, Graham Cramer and Tom Brady dived on the site and established the wreck's precise locality. Their achievement, while considerable, could not have succeeded without the detailed historical research undertaken by Dr Playford during the previous ten years.

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*Figure 4 - Zuytdorp Wreck Site*  
*Courtesy of Elsie Wilton*

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18 See Appendix 9
Accordingly, the Committee recommends -

**Recommendation:**

(a) That the late Tom Pepper and Dr Phillip Playford be regarded as the primary discoverers of the *Zuytdorp*.

(b) That the late Ada Drage, Max Cramer, Graham Cramer and Tom Brady be recognised as secondary discoverers.
PART V

ZEEWYK (1727)

The approximate location of this wreck has been known since John Lort Stokes’ expedition of 1840. In 1891, a police report stated that guano workers on Gun Island employed by Broadhurst & Co were removing artefacts from the Zeewyk. Government responses indicated that the Zeewyk relics had been known for about 25 years and no action was taken to prevent the removal of artefacts. Florance Broadhurst nevertheless was stimulated to commission the first translation of the 1647 account of the Batavia as a result of this activity.

Research on the Batavia stimulated inquiry into the Zeewyk. In 1963, Hugh Edwards and a party funded by Western Australian Newspapers located a good deal of material on Gun Island and the western reef. However, it was not until March 1968 that the wreck itself was discovered. Dr Colin Jack-Hinton of the WA Museum organised a party which included Edwards. On 23 March, Edwards, Tom Brady and a museum diver, Harry Bingham, discovered two cannon and other debris, and on 24 March, Edwards and Max Cramer discovered the main ship. Neil McLaghlan also dived on the site.


Accordingly, the Committee recommends -

Recommendation:

That Hugh Edwards, Tom Brady and Harry Bingham be regarded as the primary discoverers of the Zeewyk and Max Cramer, Neil McLaghlan and Dr Colin Jack-Hinton as secondary discoverers.
3. FURTHER RESEARCH

One of the most tantalising issues to have come before this Select Committee concerns the possibility that there were survivors from the *Zuytdorp* wreck. While most official texts are silent on this matter, there has been a growing body of evidence to suggest that at least some survivors may have intermarried with the local Aboriginal community between present-day Kalbarri and Shark Bay. While this evidence is by no means conclusive, it does suggest that there is far more substance in these speculations than previously thought.

One important lead comes from an American woman who married an Aborigine from the Shark Bay region. In 1988, she contacted Dr Phillip Playford, who had written a book on the *Zuytdorp*, and informed him that her husband had died some years before of a rare disease called porphyria variegata. After having consulted a leading international expert on this disease, Dr Playford was told it was genetically linked and largely confined to Afrikaners. Moreover, all cases in South Africa could be traced back to Gerrit Jansz and Ariaantjie Jacobs, who had married in the Cape in 1688. After some further archival work, Dr Playford discovered that the *Zuytdorp* had arrived at the Cape in March 1712 where it took on more than 100 new crew. It is thought that one of the Jansz’ sons could have boarded the ship at this time and thus become the carrier of the disease into the Australian Aboriginal population. One way to confirm this possibility would be to genetically test Aborigines in the area.

Physical evidence has also been found around the wreck site, which indicates that some of the estimated 280 people on board could have come ashore. For example -

- Relics on the land show that at least 50 sailors managed to struggle to the clifftop, where they lit bonfires in vain attempts to attract the attention of following ships.

- Hinges and metal parts were found in ancient ashes of old fires, while skeletons were found buried, in European style, at a nearby waterhole along with cowrie shells and other aboriginal artefacts.

Other relics such as a uniform button, smoking pipe, and glass fragments were also found. Some preliminary research work has already been carried out in the wreck site area, such as that conducted by Dr Phillip Playford. However, more archaeological surveys will need to be undertaken if further relics and grave sites are to be discovered.

Another aspect which may play a vital role in confirming the Zuytdorp survivor theory, and one which has already received some attention in a new book by Rupert Gerritsen, is the study of Aboriginal languages and Aboriginal folklore. Several reports over many years attest that some Aborigines in the Kalbarri area had fair skin and European facial characteristics.

It is gratifying to know that this Committee's inquiry has attracted a great deal of international interest. One of the South African radio programs interviewed the Chairman of this Committee, the

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19 For an example of a possible research project, see Appendix 10
20 Article, 'Afrikaner link to Aborigines', by Mike van Niekerk (Appendix 11)
21 See Transcript of Evidence (Dr P. Playford), 28 March 1994
Hon. Phillip Pendal and a local South African newspaper ran a detailed article on the challenges presented by the Zuytdorp wreck. In fact, this article prompted one South African to write to the Committee clarifying several aspects of the Jansz and Jacobs genealogy.

This Select Committee believes that further efforts should be made to bring these theories to some finality. A major reason for this is that generations of Australian schoolchildren have been taught that Australia was settled by the British at Port Jackson in 1788. Evidence put before the Committee and reading material made available to our members strongly suggests that, in fact, a significant European presence could have been in Western Australia at least 76 years earlier. If these theories are proved to be true, they would undoubtedly challenge conventional notions of early British settlement.

Accordingly, this Committee recommends -

**Recommendation:**

1. That the Western Australian Government -
   1a. mindful of the need to establish once and for all the facts about when and by whom the Australian continent was first settled by Europeans;
   1b. aware of the significance of the settlement at Port Jackson in 1788; and
   1c. recognising a variety of documents, publications and papers pointing to Dutch settlement in Western Australia early in the 18th century;

   agree to the creation and funding of a top-level Inquiry Into Early European Presence in Australia (IIEEPIA) to be drawn from historians, pre-historians, scientific and Aboriginal bodies and other interested groups.

2. That the IIEEPIA be appointed by the Minister for the Arts (under whose responsibility the Museum portfolio falls), the Speaker of the Legislative Assembly and the Chairman of the Select Committee on Ancient Shipwrecks.

3. That the IIEEPIA consider the reports of this Select Committee, all of its and other recorded evidence and publications.

4. That the IIEEPIA have the authority to commission or pursue other relevant lines of research and inquiry.

5. That the IIEEPIA report periodically to the Select Committee on Ancient Shipwrecks which, by tabling this report, should remain extant, sufficient to meet at least twice yearly, to receive such reports and in turn to report to Parliament on the central issue of when and by whom the continent was first inhabited by non-indigenous persons.

Accordingly, the reporting date for this Committee has been extended to 30 June 1995, to accommodate the above recommendations.

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23 See Appendix 12
24 See Appendix 13
Furthermore, the Committee recommends -

**Recommendation:**

(a) That, in order to further the discovery of the Portuguese vessel the *Correo d’Azur* of 1816, the Western Australian Government provide funds to the Western Australian Maritime Museum to conduct archival research in three locations: Macao, Goa and Lisbon, at a preliminary costing of $3,000; and

(b) That, dependent on the outcome of this archival research, the Western Australian Government be requested to fund a team of six people on a six-week field expedition, utilising magnetometer and position-fixing equipment, with a preliminary costing of $40,000 to $50,000.
4. MINISTERIAL DIRECTION

The Committee, as directed in its Second Interim Report, recommends -

**Recommendation:**

That in accordance with Standing Order 378 (c), this Committee directs that the Minister Representing the Minister for the Arts be required within not more than three months, or at the earliest opportunity after that time if Parliament is in adjournment or recess, to report to the House as to the action, if any, proposed to be taken by the Government with respect to the recommendations of this Report.
5. SUMMARY OF RECOMMENDATIONS

Recommendation One (p6)

That ex-gratia payments be paid to recognise the contributions of primary and secondary discoverers and that payments be made on a two-tiered basis to reflect their primary and secondary roles.

Recommendation Two (p6 & 7)

(a) That ex-gratia payments be made in consideration of the contribution to Western Australia's maritime heritage as a whole rather than in respect of individual wreck sites. Accordingly, those persons who were involved in the discovery of the Tryall, the Batavia, the Gilt Dragon, the Zuytdorp and the Zeewyk should not receive payments in respect of each site. The maximum payment to any primary discoverer should be $25,000 and to a secondary discoverer $5,000.

(b) That it is not appropriate that discoverers awarded ex-gratia payments arising out of the Batavia Select Committee should receive additional payments for discovering a second wreck. This aside, Parliamentary Medals of Honour should be awarded to all primary and secondary discoverers named in this and the previous Batavia Select Committee Report.

(c) That no payment be made in the case of any discoverer who, at the time of such discovery, was employed by the State of Western Australia in connection with locating ancient wrecks.

(d) That any payments made under these recommendations be reduced by the amount of any compensation/reward made from any other source in respect of that discovery.

Recommendation Three (p7)

(a) That acting on the advice of GoldCorp Australia (The Perth Mint), the Western Australian Government be requested to provide the Legislative Assembly with funds to strike up to 25 'Parliamentary Medals of Honour' (and accompanying lapel replicas) of 50mm diameter of gold-plated pure silver, for presentation to the recipients to be named in our final report.

(b) That the presentations be made by the Speaker of the Legislative Assembly while the House is in session, thus demonstrating the gratitude of the Parliament and the people of Western Australia.

Recommendation Four (p8)
That the Maritime Archaeology Act 1973 be amended by way of a Bill sponsored by this Committee to incorporate into it, as the Third Schedule of the Act, a Register of Discoverers of Ancient Shipwrecks.

Recommendation Five (p9)

That, as an appropriate posthumous recognition, "Parliamentary Medals of Honour" ... be awarded to the late Tom Pepper, the late Ada Drage, the late Henrietta Drake-Brockman and the late John McPherson, all of whose efforts in different ways significantly contributed to the cause of maritime heritage in Western Australia.

That recognition also be given to all primary and secondary discoverers at the proposed new Geraldton Maritime Museum, and at appropriate on-site locations, such as the Zuytdorp Cliffs, Kalbarri, Shark Bay and, if appropriate, elsewhere in Western Australia.

Recommendation Six (p10)

(a) That Mr Eric Christiansen be regarded as the primary discoverer of the *Tryall*, and Dr Naoom Haimson and Mr David Nelley as secondary discoverers.

(b) That it is noted the Committee recognises the late John MacPherson as a secondary discoverer.

Recommendation Seven (p12)

(a) That Max Cramer, Dave Johnson and Hugh Edwards be regarded as the primary discoverers of the *Batavia*.

(b) That Bruce Melrose, Graham Cramer and the late Greg Allen be recognised as secondary discoverers.

(c) It is to be noted that in its Second Interim Report, the Select Committee recognised the late Henrietta Drake-Brockman as a primary discoverer. Indeed, this confirms the recommendation of the 1992 Upper House Select Committee.

Recommendation Eight (p13)

That Mr Graeme Henderson be regarded as the primary discoverer of the *Vergulde Draeck* and Alan Henderson, James Henderson and John Cowen as secondary discoverers.
Recommendation Nine (p19)

(a) That the late Tom Pepper and Dr Phillip Playford be regarded as the primary discoverers of the Zuytdorp.

(b) That the late Ada Drage, Max Cramer, Graham Cramer and Tom Brady be recognised as secondary discoverers.

Recommendation Ten (p20)

That Hugh Edwards, Tom Brady and Harry Bingham be regarded as the primary discoverers of the Zeewyk and Max Cramer, Neil McLaglan and Dr Colin Jack-Hinton as secondary discoverers.

Recommendation Eleven (p22)

(1) That the Western Australian Government -

(a) mindful of the need to establish once and for all the facts about when and by whom the Australian continent was first settled by Europeans;
(b) aware of the significance of the settlement at Port Jackson in 1788; and
(c) recognising a variety of documents, publications and papers pointing to Dutch settlement in Western Australia early in the 18th century;

agree to the creation and funding of a top-level Inquiry Into Early European Presence in Australia (IIEEPIA) to be drawn from historians, pre-historians, scientific and Aboriginal bodies and other interested groups.

(2) That the IIEEPIA be appointed by the Minister for the Arts (under whose responsibility the Museum portfolio falls), the Speaker of the Legislative Assembly and the Chairman of the Select Committee on Ancient Shipwrecks.

(3) That the IIEEPIA consider the reports of this Select Committee, all of its and other recorded evidence and publications.

(4) That the IIEEPIA have the authority to commission or pursue other relevant lines of research and inquiry.

(5) That the IIEEPIA report periodically to the Select Committee on Ancient Shipwrecks which, by tabling this report, should remain extant, sufficient to meet at least twice yearly, to receive such reports and in turn to report to Parliament on the central issue of when and by whom the continent was first inhabited by non-indigenous persons.

Recommendation Twelve (p23)

(a) That, in order to further the discovery of the Portuguese vessel the Correo d’Azur of 1816, the Western Australian Government provide funds to the Western Australian
Maritime Museum to conduct archival research in three locations: Macao, Goa and Lisbon, at a preliminary costing of $3,000; and

(b) That, dependent on the outcome of this archival research, the Western Australian Government be requested to fund a team of six people on a six-week field expedition utilising magnetometer and position-fixing equipment, with a preliminary costing of $40,000 to $50,000.

Recommendation Thirteen (p24)

That in accordance with Standing Order 378 (c), this Committee directs that the Minister Representing the Minister for the Arts be required within not more than three months, or at the earliest opportunity after that time if Parliament is in adjournment or recess, to report to the House as to the action, if any, proposed to be taken by the Government with respect to the recommendations of this Report.
APPENDIX 1

SUBMISSIONS

The Committee received formal submissions from -

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<tr>
<td>Anne Oxenham</td>
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<td>Annette Whitby/Kathy O'Neill</td>
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<td>Eric Christiansen (3)</td>
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These submissions have been tabled along with this Report and are available for public viewing. Please contact the Bills and Papers Office, Legislative Assembly on (09) 222 7222 for further details.
APPENDIX 2

EVIDENCE

The Committee heard evidence from the following witnesses -

Tuesday, 21 December 1993 (WA Maritime Museum, Fremantle) -

Mr Graeme Henderson, Interim Director, WA Maritime Museum

Monday, 24 January 1994 (City of Geraldton Council Chambers, Geraldton) -

Mrs Pearl Whitby
Ms Anne Oxenham
Mrs Sharon Gosper
Mr Leslie Moss
Mr Thomas Brady
Mr Max Cramer
Mr Thomas Pepper
Mr Arthur Pepper
Mr Geoffrey Drage
Mrs Laurel Drage
Mr Bobby Pepper
Mr Steve Drage
Mr Sandy Davies
Mr Clayton Drage
Mrs June Ruffin

Monday, 21 March 1994 (34 Parliament Place, West Perth) -

Mr Herbert Melrose
Mr Clive Daw
Mr Daniel Varney

Wednesday, 23 March 1994 (1 Harvest Terrace, West Perth) -

Mr Eric Christiansen
Mr Hugh Edwards

Monday, 28 March 1994 (34 Parliament Place, West Perth) -

Sir James Cruthers
Dr Phillip Playford
Mr Michael McCarthy
Wednesday, 30 March 1994 (1 Harvest Terrace, West Perth) -

Mr John Cowen
Mr Alan Henderson
Mr James Henderson
Mr John Craig

These transcripts of evidence have been tabled along with this Report and are available for public viewing. Please contact the Bills and Papers Office, Legislative Assembly on (09) 222 7222 for further details.
APPENDIX 3

BUDGET

STATEMENT OF ACTUAL (OR ESTIMATED) COSTS IN ACCORDANCE WITH STANDING ORDER 378(b)

Travel Expenses

Geraldton/Abrolhos Islands/Kalbarri - 21 to 24 January 1994

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Sub-total: $6,294

General Expenses

Consultancy fees (estimated) $5,000
Advertising 3,333
Postage & Couriers 141
(further estimated costs) 500
Stationery & Photocopying 484
Reference Books & materials 287
Refreshments 176
(further estimated costs) 20
Taxis 20
Printing of Reports -
   Interim Report 70
   2nd Interim Report (estimated) 200
   Report (estimated) 3,000

SUBTOTAL: $13,231

TOTAL: $19,525