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Official Committee Hansard

SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION
COMMITTEE

ESTIMATES

(Budget Estimates)

THURSDAY, 29 MAY 2003

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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Thursday, 29 May 2003

Members: Senator Mason (*Chair*), Senator Murray (*Deputy Chair*), Senators Brandis, Faulkner, Forshaw and Heffernan

Senators in attendance: Senator Mason (*Chair*), Senator Murray (*Deputy Chair*), Senators Brandis, Carr, Conroy, Faulkner, Forshaw, Mackay, Minchin, Ray,

Committee met at 9.02 a.m.

FINANCE AND ADMINISTRATION PORTFOLIO

Consideration resumed from 28 May 2003.

In Attendance

Senator Abetz, Special Minister of State

Senator Minchin, Minister for Finance and Administration

Department of Finance and Administration

Executive

Dr Ian Watt, Secretary

Ms Felicity McNeill, Executive Officer

General

Mr Lembit Suur, General Manager, Corporate Group

Mr Ian McAuley, Branch Manager, Parliamentary and Corporate Support

Ms Judy Costello, Branch Manager, Strategic Partnerships

Ms Tracy Muddle, Manager, Human Resources

Mr Andrew Kefford, Director, Portfolio Coordination Unit

Mr Sean Giddings, Portfolio Coordination Unit

Ms Louise Butler, Portfolio Coordination Unit

Mr Consul O'Reilly, Portfolio Coordination Unit

Mr John Dalton, Portfolio Coordination Unit

Ms Tanya Vrkic, Portfolio Coordination Unit

Mr Dominic Staun, General Manager, Financial and e-Solutions Group

Ms Kym Partington, Branch Manager, Financial and e-Solutions Group

Mr Nathan Toscan, Executive Officer

Outcome 1

Mr Phil Bowen, General Manager, Budget Group

Ms Susan Page, Division Head, Industry, Education and Infrastructure Division

Mr Rob Butterworth, Division Head, Government and Defence Division

Ms Kathryn Campbell, Division Head, Social Welfare Division

Mr Phillip Prior, Division Manager, Budget Coordination and Framework Division

Mr Matthew Flavel, Branch Manager, Budget Coordination Unit

Mr Arthur Camilleri, Branch Manager, Long Term Budget Policy

Mr Marcus James, Branch Manager, Budget Framework.

Mr Ian McPhee, General Manager, Financial Management Group

Mr Jonathan Hutson, Division Head, Financial Framework Division
Mr Jim Kerwin, Division Head, Financial Reporting and Cash Management Division
Mr Simon Ash, Branch Manager, Financial Reporting Branch
Mr Brett Kaufmann, Branch Manager, Accounting Policy Branch
Ms Sandra Wilson, Branch Manager, Superannuation Branch
Mr Geoff Painton, Manager, Superannuation
Ms Louise Seeber, Branch Manager Superannuation (Financial) Branch
Mr Michael Culhane, Branch Manager, Finance and Banking
Mr Marc Mowbray-d' Arbela, Branch Manager, Legislative Review Branch
Mr Mike Loudon, Branch Manager, Procurement Branch
Ms Justine Potter, Team Leader, Estimates and Actuals
Mr Tony Olliffe, Team Leader, GFS Policy and Reporting

Outcome 2

Mr Alastair Hodgson, General Manager, Asset Management Group
Mr David Yarra, Division Manager, Shareholder and Asset Sales Division
Mr Peter Diddams, Branch Manager, Commercial and Projects
Mr Phillip Smith, Acting Branch Manager, Commonwealth Shareholder Advisory Unit
Mr Mark Heazlett, Branch Manager, Commonwealth Shareholder Advisory Unit
Mr Robin Renwick, Branch Manager, Asset Sales Branch
Mr Neil Williams, Branch Manager, Asset Sales Branch
Mr Robert Knapp, Division Manager, Business Services Division
Mr Barry Jackson, Branch Manager, Major Projects Branch
Mr Guy Verney, Branch Manager, Special Claims and Land Policy Branch
Ms Stacie Smith-Macnee, Branch Manager, Insurance and Risk Management Branch
Mr Michael Pahlow, Branch Manager, Property Management Branch
Mr Rod Whithear, Branch Manager, Fleet Monitoring Body
Ms Lisa Rauter, Team Leader, Private Financing Unit
Ms Simone Pensko, Asset Sales Branch

Outcome 3

Ms Jan Mason, General Manager, Ministerial and Parliamentary Services
Mr John Gavin, Special Adviser
Ms Kim Clarke, Branch Manager, Entitlements Policy
Mr Rob Barnes, Branch Manager, Service Centre
Mr Ken Sweeney, National Manager, COMCAR
Mr John Edge, Branch Manager, Account Management
Mr Stephen Taylor, Acting Branch Manager, Legal and Review
Mr Greg Smith, Ministerial and Parliamentary Services
Mr Rohan Verco, Ministerial and Parliamentary Services
Ms Sue Whisker, Ministerial and Parliamentary Services
Mr Greg Miles, Ministerial and Parliamentary Services
Ms Kim Baker, Ministerial and Parliamentary Services
Ms Helen Goddard, Ministerial and Parliamentary Services
Mr Wally Stopp, Ministerial and Parliamentary Services
Ms Beth Fiedler, Ministerial and Parliamentary Services
Ms Carolyn Hughes, Ministerial and Parliamentary Services
Mr Warren Benson, Ministerial and Parliamentary Services
Mr Paul Way, Ministerial and Parliamentary Services
Mr Clayton Conquest, Ministerial and Parliamentary Services
Ms Jane Wagner, Ministerial and Parliamentary Services

Ms Gillian Mitchell, Ministerial and Parliamentary Services

Australian Electoral Commission

Mr Andy Becker, Electoral Commissioner

Mr Paul Dacey, Deputy Electoral Commissioner

Mr Tim Pickering, First Assistant Commissioner, Electoral Operations

Ms Barbara Davis, First Assistant Commissioner, Business Support

Ms Marie Nelson, Assistant Commissioner, Corporate Services

Ms Kathy Mitchell, Director, Funding and Disclosure

Mr Doug Orr, Assistant Commissioner, Elections

Mr Brien Hallett, Assistant Commissioner, Information, Education and Research

Mr Andrew Moyes, Assistant Commissioner, Enrolment and Parliamentary Services

Mr Brad Edgman, Director, Parliamentary and Ministerial

Ms Val Butterworth, Director, Financial Management

ComSuper

Mr Leo Bator, Chief Executive Officer

Mr Kevin Dent, Chief Finance Officer

Ms Barbara Wilson, Finance Manager

Mr Steve Gibbs, Chief Executive Officer

Ms Sabine Muller-Glissmann, Communications Manager

Commonwealth Grants Commission

Mr Malcolm Nicholas, Acting Secretary

CHAIR—I declare open this public hearing of the Finance and Public Administration Legislation Committee. Today we are continuing our examination of budget estimates 2003-04 for the Finance and Administration portfolio. We will commence with further general questions for the Department of Finance and Administration. The committee will then continue with outcomes and outputs listed on the agenda, followed by portfolio agencies.

The committee has set Thursday, 10 July 2003 as the date for the submission of written answers to questions that are taken on notice. I remind everyone that this committee is continuing its general oversight of the format of the portfolio budget statements. The committee's report on budget estimates will also consider the adequacy of those PBSs.

I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I further remind officers that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. Evidence given to the committee is protected by parliamentary privilege. I also remind officers that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

[9.04 a.m.]

Department of Finance and Administration

CHAIR—I welcome back Senator Minchin, the Minister for Finance and Administration, Dr Watt and officers of the department. We are still dealing with general questions.

Senator CONROY—Is the department intending to clarify any matters? Senator Ray wants to move on to some other issues. I was not sure whether you were going to update us on anything at this stage, or a bit later.

Senator Minchin—We have nothing to add on that matter, Senator Conroy.

Senator CONROY—Have we been able to ascertain the correct amount of the overstatement?

Dr Watt—We are still looking at the nature of the estimating assumption and its implications.

Senator CONROY—You indicated last night about the spot price of \$4.75. There was a discussion about \$5.25 and the number in there. I was wondering why you picked \$4.75. I have here a copy of the ASX Telstra share price for the last six months, and \$4.75 is not on the chart. It has been tracking anywhere between \$4 and \$4.50, so I was wondering what date you picked for the spot price of Telstra.

Dr Watt—\$4.75 was the number used in the final budget outcome as at 30 June 2002. That was the price at that stage.

Senator CONROY—Thanks.

Senator ROBERT RAY—We have a few issues, and I know Senator Forshaw is coming down to deal with one. We will try to finish by 10, but it might be 10.30. Senator Minchin, you issued a press release on 14 May 2002 headed ‘Asset sale scoping studies’. I am not asking whether you recall doing it, but you know the general subject.

Senator Minchin—I do recall it.

Senator ROBERT RAY—I want to know why the announcement refers to the possible sale of Medibank Private and ComLand as entities but refers differently to the possible sale of the Defence assets of DHA. It makes a distinction. Why is that?

Senator Minchin—There is a distinction between the two on the basis that it was never contemplated that we would sell the DHA per se. As you would know, the question with the DHA is always the extent to which it retains ownership of housing within the entity, not the sale of the DHA itself. We have had that scoping study back, and I think in the budget there is reference to outcomes in relation to DHA. There is no question of privatisation of the DHA—it is always only a question of the extent to which they sell and lease back, and in what proportion—whereas with ComLand and Medibank Private as separate entities we have said that we will, as a result of scoping studies, consider the question of whether or not to propose the privatisation of the entities, the sale of those entities as such. We have not reached any conclusions on that and the government is still considering the results of those scoping studies, whereas we have acted in relation to DHA. But it was never a question of privatisation per se.

Senator ROBERT RAY—I follow. When were the scoping studies completed?

Senator Minchin—I think it was a few months ago that they were handed to us—around February.

Senator ROBERT RAY—Who did the scoping studies? Did the one firm or a combination of firms do the three studies?

Dr Watt—All outside advisers are put out to tender, so you have different firms involved in different scoping studies, for example in relation to both legal advice and business advice and in relation to any other specialist advice we might need for that scoping study.

Senator Minchin—We do not have ready to hand the individual advisers in relation to each of the scoping studies. We can get that for you; it is public information.

Senator ROBERT RAY—All right, but I think we will restrict it to DHA. We will not worry about the other two. I take it from what Dr Watt is saying that there might have been two or three outside firms doing different aspects.

Dr Watt—That is right. For example, the business adviser on DHA was Macquarie Bank. I think the legal adviser—and we will confirm this—was Coudert Brothers.

Senator ROBERT RAY—I do not know if you have at hand what the cost of the DHA scoping inquiry was.

Mr Yarra—We can get that for you very quickly.

Senator ROBERT RAY—Have you got a ballpark figure?

Dr Watt—We prefer to get an accurate number, Senator. We can get that.

Senator ROBERT RAY—I thought you were used to using ballpark figures, according to Senator Conroy.

Dr Watt—The department of finance always prefers the best possible estimate.

Senator ROBERT RAY—I didn't take his word for it.

Dr Watt—It is a judgment about what the best possible estimate is.

Senator ROBERT RAY—Could you tell us what the general results were of the scoping study into the DHA? I will repeat the question because it was rather broad. I am looking for some guidance as to the results of this scoping study involving Macquarie Bank and the legal firm.

Dr Watt—I am just trying to find the appropriate part of the budget documents, because this is released as a budget measure in the budget documents and I am having trouble finding the—

Senator ROBERT RAY—One reason we have these hearings is to make you educate us as to what is in it rather than us reading every page.

Dr Watt—I can appreciate that. It is probably best to draw your attention to the specific budget measure.

Senator ROBERT RAY—That is true, if it reflects what the results of the scoping study were. I have asked what the results of the scoping study were, not what the knock-on consequences are in the budget papers.

Dr Watt—It does reflect the results of the scoping study. The scoping study made a number of recommendations—we will get you the exact budget measure, Senator—aimed at

improving the overall efficiency of DHA, including the proportion of DHA owned property as opposed to leased property that could be reduced without compromising the needs of the Defence Force. Reducing the level of DHA property assets is expected to have a positive impact on the budget of \$103.6 million over three years. At the same time, DHA is commencing the redevelopment of housing at Puckapunyal, at an expected cost of \$44.5 million over three years. As a result of some other changes to the capital program which are expected at the same time, DHA's operating environment is expected to have a positive impact on the budget of \$47.6 million over three years.

Senator ROBERT RAY—I see. The DHA's owned assets used to be about 27 or 28 per cent. Will that continue on into the future?

Dr Watt—I think the level of owned assets comes down by a couple of percentage points under the results of the scoping study—the optimal capital structure recommended as a result of the scoping study.

Senator ROBERT RAY—I am not sure what 'a couple of percentage points' means. Could we be more precise?

Dr Watt—I think it comes down to about 25 per cent.

Senator ROBERT RAY—It comes down to about 25 per cent?

Dr Watt—I need to confirm that, Senator. I think that is the broad order of magnitude.

Senator ROBERT RAY—So it comes down to 25 per cent by a couple of points. What does 'a couple' mean?

Dr Watt—One or two percentage points.

Senator ROBERT RAY—Two?

Dr Watt—Yes.

Senator ROBERT RAY—It comes down by two percentage points?

Dr Watt—I think that is the broad order of magnitude, Senator, although we don't normally make these things public.

Senator ROBERT RAY—I didn't know that. That is not in the budget papers?

Dr Watt—The proportion of assets is not in the budget papers, no.

Senator ROBERT RAY—But it would always be subject to scrutiny, even at the Defence estimates, wouldn't it? I think that would be a legitimate question there that they would have to answer.

Dr Watt—Perhaps.

Senator ROBERT RAY—I don't think there is much perhaps about it. Is there any change on issues such as debt or equity?

Mr Yarra—The whole question of the scoping study was about their mix of their owned and leased estate. There were no specific positions reached on debt to equity—how they fund their activities per se. It was about how they use their capital base—their housing base.

Senator ROBERT RAY—That is in the scoping study. What about in the budget decision?

Mr Yarra—No, nothing in the budget decision.

Senator ROBERT RAY—So there is nothing to say that they have an alteration to their debt gearing ratio?

Mr Yarra—No.

Senator ROBERT RAY—You mentioned a figure being returned to the budget; I think you mentioned a gross figure and then a net figure because of other constructions. Could I just have those again? I think you mentioned a figure of one hundred and something and then you talked about Puckapunyal and gave me a net figure.

Mr Yarra—Reducing the level of DHA property assets is expected to have a positive effect on the budget of \$103.6 million.

Senator ROBERT RAY—Yes.

Mr Yarra—Offsetting that is that during 2003-04, DHA will commence the redevelopment of housing at Puckapunyal and that is expected to cost \$44.5 million. So there would be a netting out of those two numbers.

Senator ROBERT RAY—During the scoping study, was there consultation with the Department of Defence and liaison with defence families and personnel who occupy this accommodation?

Mr Yarra—There was consultation with Defence. There was no direct liaison with defence families.

Senator ROBERT RAY—Would you leave that to Defence?

Mr Yarra—To the extent that it was needed, yes. We relied on Defence.

Senator ROBERT RAY—You have returned \$103 million positive to the budget. The money in terms of Puckapunyal was inevitable anyway, I would have assumed. The budget position is really \$103 million better off.

Mr Yarra—No. The Puckapunyal expenditure emerged during the term of the scoping study, more recently.

Senator ROBERT RAY—I understand that, but what I am saying is that it was predestined that that would emerge because that is where the need was.

Senator Minchin—Yes, but you have to net it off to get a net impact on the budget.

Senator ROBERT RAY—Yes, but my point was that if you had not had the \$102 million, you might have had to supply the \$44 million. That is why I say that in some ways you are \$102 million better off. Do defence families have to pay an increased tariff or any part of this \$102 million? Is there any increase in the imposition of costs on defence families?

Dr Watt—No.

Senator ROBERT RAY—There isn't?

Mr Hodgson—No.

Senator ROBERT RAY—Just to recap, Minister, there is no intention to sell it off. I can accept that.

Senator Minchin—No. And the favourable budget impact is a result of selling property not of any increase in rents or anything else.

Senator ROBERT RAY—And we think the ratio of DHA-owned property assets has gone down, according to Dr Watt, from 28 per cent to 25 per cent.

Senator Minchin—Can we take that on notice? My general view is that you release information unless there is a very good reason not to. I would just like to consult with DHA as to whether there is any good reason not to publicly disclose the actual targeted figure. They are responsible for managing down their property and I think it is proper that we ensure that there is no good reason, from a market sensitive point of view, why that figure should not be released. In other words, *prima facie* I would be happy to release it, but I would like to check with DHA whether there is any reason not to.

Senator ROBERT RAY—I must say that I would find it hard to think of a reason. We are talking about a macroprocess, not a series of microprocesses that could erode their market position by unloading property. That just isn't the case.

Senator Minchin—I think it is proper for us, as joint shareholders, to consult with the company and the board before doing that.

Senator ROBERT RAY—And Dr Watt you were saying that this does not affect their—no, it wasn't you; I think it was Mr Yarra.

Dr Watt—No, I think we are all saying that it does not affect—

Senator ROBERT RAY—Their gearing ratio.

Dr Watt—No, I don't think we said that, Senator.

Senator ROBERT RAY—Well, it was their debt gearing that I was asking about.

Mr Hodgson—There was no intention in the measure to affect their gearing ratio. There was no plan for it.

Senator ROBERT RAY—No, there is no plan for it. What you may be inferring, Mr Hodgson, is that it is a possibility that that may occur. Is that what you are saying? It may not be the intention, but that may be the result.

Mr Hodgson—The planning for the management of assets is for the board of DHA, but essentially what has happened is that we have looked at their balance sheet and their assets and we suggested that some more of them could be leased rather than purchased and they will do that over a period of time.

Dr Watt—The important thing is that it is a relatively small adjustment over a two- or three-year period. They have total assets of \$1.8 billion.

Senator ROBERT RAY—They have had a bumpy ride, but also from the position of 1987 to today they have had an absolute motser of achievement in terms of increasing the quality of housing.

Mr Hodgson—While we did not interview tenants, we did talk to some tenant representatives, and they were full of praise for the good work that DHA had done.

Senator ROBERT RAY—I do not need to be convinced of that.

Senator MURRAY—Dr Watt, Budget Paper No. 2 indicates that the funding of the asset sales function in DOFA has come down from \$12.3 million to \$6.2 million. Does that have a consequence of a reduction in staffing in your department or do you simply shift people into other areas?

Dr Watt—The impact of that is we do have fewer people in the asset sales area—that is quite correct—but that is only one factor that affects our overall staffing numbers. We are, as you heard yesterday, taking on additional staff in our budget group area, for example, as a result of the budget framework and estimates review. The impact on asset sales is purely people.

Senator MURRAY—Have you lost those people or have they been shifted elsewhere? I am obviously concerned as to the expertise you have built up.

Dr Watt—I think the answer is that the number of people in the asset sales area has been falling for some period of time—Mr Yarra can undoubtedly tell you the exact time—as the work that the area has to do has been wound down. For example, we have placed some people elsewhere in the department and a couple of people have left the department. However, we are concerned to ensure that we keep a core of expertise in the asset sales area. There are still ongoing projects and obviously our government's policy suggests there will be at least one more in the future, given that the government is committed to the sale of Telstra at some stage when certain conditions are fulfilled. So we are working to keep a core of expertise in the department, some of that being in the asset sales area.

Senator MURRAY—So your view is that, if the sale of Telstra or the sale of any other major asset that is around became a real prospect for the government, you would still have sufficient expertise to manage that.

Dr Watt—That is our intention.

Senator MURRAY—Is it your intention or your belief?

Dr Watt—I believe we will achieve that. We aim to keep a number of skilled people in the asset sales area because there still are some ongoing tasks and they will be with us for some time. We also aim to keep people with asset sales skills—who are, by and large, very good people—in the Department of Finance and Administration.

Senator MURRAY—You have not answered, and I do not think it is an intentional avoidance, my core question—and I do not want to know numbers or persons—as to whether those people who have left that division are either still within your department or elsewhere.

Dr Watt—Mr Yarra or Mr Hodgson might be able to help you more specifically.

Mr Hodgson—About three years ago—and I think these figures are pretty much correct—the asset sales function, when it was in OASITO, had 77 people. It is now down to 17. Of those 77, a number left before OASITO was transferred into the department. When it was transferred into the department in November 2001, it had 32 people. Of those 32, a small number—four or five—have left the department but the great majority have been reassigned elsewhere in the department.

Senator MURRAY—That is what I wanted to know. Thank you very much.

Senator FORSHAW—I have some questions which relate to the development of the former defence land at Holsworthy—I think it is called the Voyager estate. Are there people here who can answer questions on this?

Dr Watt—I am sure we can find the right people.

Senator FORSHAW—The Voyager Point estate is former defence land that was sold off some years ago and developed as housing land by Delfin, wasn't it?

Mr Pahlow—That is former defence property, not that of the Department of Finance, Senator.

Senator FORSHAW—Are you familiar with it?

Mr Pahlow—Not terribly.

Senator FORSHAW—There is an issue at the moment about the building of a footbridge across the Georges River, which I think is the responsibility at the moment of this department.

Mr Pahlow—That is correct.

Senator FORSHAW—The footbridge that is intended to be built is to replace an existing footbridge which runs from the land where the estate is to the other side of the river at East Hills. Are you familiar with this?

Mr Pahlow—Yes, Senator.

Senator FORSHAW—Who owns the bridge which is currently there and which is not being used at the moment because it is deemed to be unsafe?

Mr Pahlow—My understand is that it is owned by the Commonwealth.

Senator FORSHAW—That is my understanding, but I gather there may have been some dispute about that as well. Are you aware that when the land was released for sale it was advertised that this area was only five minutes walking distance from shops and other necessary facilities?

Mr Pahlow—No, I was not.

Senator FORSHAW—Let me assure you that was the case, and that effectively meant that persons who purchased land in this estate would be able to cross the Georges River by use of a footbridge and access the East Hills shopping centre. The footbridge, as I understand it, was there from the days when Defence had the land and it was constructed for their purposes. The footbridge is no longer useable. Are you aware of that?

Mr Pahlow—Yes, Senator. It has been declared unsafe.

Senator FORSHAW—Do you know when that occurred?

Mr Pahlow—Not off the top of my head. I can find out for you, Senator.

Mr Jackson—It was declared approximately 14 months ago. We would have to take on notice the exact date, but it was approximately 14 months ago. The construction of the new bridge is currently in hand at the moment.

Senator FORSHAW—That is what I wanted to come to. There was always a commitment, wasn't there, by the government to maintain that bridge when it was defence land. That commitment continued, I presume, afterwards?

Mr Jackson—I am not aware of a commitment that Defence may or may not have made. Certainly, when it was brought to Finance's attention that the bridge had been declared unsafe, the government at the time agreed to repair or replace the bridge to maintain its useability.

Senator FORSHAW—When was that?

Mr Jackson—That would have been probably two months after it had been declared unsafe. There was a very short turnaround time from it being declared and the commitment being made to replace it.

Senator FORSHAW—Are we talking about the middle of 2001?

Mr Jackson—That would not surprise me. Time flies so quickly at the moment that 14 months could be 20 months. As I said, we are in the process of construction and the contract has been let and the bridge is in the process of being replaced.

Senator FORSHAW—The advice I have—and I am trying to verify this—is that the bridge was closed around about 13 July 2001.

Mr Jackson—If you have the document in front of you I would not contradict that point.

Senator FORSHAW—This is advice I have received from residents.

Mr Jackson—That can be confirmed.

Senator FORSHAW—Yes, please do. In August 2001 the local federal member, Mrs Vale, put out a media release to say that the bridge would be built and it would take approximately 48 weeks to build. It is now almost June 2003 and there has been no physical work done on constructing a new bridge. What has been done?

Mr Jackson—The contract has been let and off-site fabrication has occurred. This is a bridge and it requires a reasonable level of off-site work to be done. There was an extended period in approval process. It is a very complicated situation in as much as the replacement bridge will be transferred to both Liverpool and Bankstown city councils. It was necessary to enter into heads of agreement with both of those councils to have them take the bridge on completion.

It was further complicated by the New South Wales Waterways Authority which own the water and the airspace in which a bridge sits—you have one set of footings in one council and one set in the other and the New South Wales Waterways Authority owns the bit that sits on the top. The transport authority is also involved.

It was further complicated by an accident that occurred where a defence ship accidentally steered into one of the moorings of the bridge causing substantial damage. That has resulted in an insurance claim which further extended the design period. Both councils, having decided to take the bridge, were of a mind to go through the full development application process and approve it. In the original announcement that had not been anticipated because, as it was the Commonwealth, it was not required to follow that. There was a requirement of both councils in taking the bridge to follow that process. That took some 20 weeks plus and was

the subject of some debate between the Commonwealth and the councils to try to expedite that somehow. That happened about four months ago or thereabouts and the final development approval was received. Concurrent with that the contract had actually been let for the builder. At the same point in time we had to put that on hold while we were waiting for the councils to agree to the development and to the heads of agreement process. I am happy to report now that construction off-site has commenced and we anticipate construction on-site occurring immediately.

Senator FORSHAW—Are you aware that there was a DA lodged with the councils back in July of last year?

Mr Jackson—I would have to take the exact date on notice.

Senator FORSHAW—Take it from me for the moment that that is what did occur. Are you aware that the DA that was lodged did not contain the consent of the owner, namely, the New South Wales government?

Mr Jackson—The DA that was lodged did not contain that?

Senator FORSHAW—Yes, and that substantially delayed the whole process because the bridge was being built over the Georges River—

Mr Jackson—That is correct.

Senator FORSHAW—and the New South Wales government had a major interest in the approval process because effectively it was being built over state land or in state airspace. A DA was lodged with the councils but at that point it did not have the consent of the New South Wales government.

Mr Jackson—I suggest, given that the requirement for the DA approval was instigated by both councils, that the councils were responsible for obtaining the various approvals and I think that is potentially a matter that can be taken up with them.

Senator FORSHAW—What do you base that on? If a builder is going to build a structure and lodge a DA with the local council, they have to have the consent of the owner to do it.

Mr Jackson—The ownership of the bridge per se is Commonwealth ownership.

Senator FORSHAW—We are talking about the land or the air space.

Mr Jackson—The land is owned by the Commonwealth—the bridge, where it sits in the footings—

Senator FORSHAW—But the bridge was built over the river. The Commonwealth is having the bridge built and paying for it and there was an argument about whether or not the Commonwealth should even pay for it, which delayed it even further. But the Commonwealth has accepted that. When the DA was lodged with the council, no approach had been made to the New South Wales government for their consent. That meant that the councils were in a position where they had a DA that they could not process without first having it taken to the New South Wales government. Are you aware of that?

Mr Jackson—Again, I am aware of that. The situation is, again, because the councils were insisting on a DA process which was not actually necessary. That is then an issue for the councils.

Senator FORSHAW—Why wasn't the DA process necessary?

Mr Jackson—With regard to the fact that the bridge is in Commonwealth ownership, the Commonwealth is not required to comply or seek DA or local building approvals.

Senator FORSHAW—But your proposal and the Commonwealth's proposal was that once the bridge was built the ownership would be transferred to the councils and they would be expected to maintain it into the future in perpetuity.

Mr Jackson—That is correct.

Senator FORSHAW—You are saying that the councils really did not need to have a role in the DA process but they were going to have to assume ownership of the construction.

Mr Jackson—That is not inconsistent when other Commonwealth properties, not bridges, even buildings are sold. Those buildings quite often do not have development nor building approvals. They are built to comply with relevant codes or exceed the codes, which is Commonwealth policy. However, they do not actually have DA approval and they transfer into private ownership.

Senator FORSHAW—The point here is that it has been put about that all of the delay in the construction of this bridge has been due to the councils or the New South Wales government frustrating the process. The fact is that the Commonwealth, which eventually assumed responsibility for building the new bridge and paying for it, started the process without even approaching the New South Wales government to get their approval in that process.

Mr Jackson—Again I come back to the point that we did not actually need their approval at the time. We will have to agree to disagree on that one.

Senator FORSHAW—Why did you pursue then to negotiate deeds of agreement with the councils and the government?

Mr Jackson—Because at the time the deeds of agreement were necessary to transfer ownership from the Commonwealth to the local councils.

Senator FORSHAW—How long is that process taking?

Mr Jackson—The deeds of agreement with the councils were executed in February 2003. So it has basically taken from 13 July—yes, you are quite correct; it was close—to February 2003 to execute deeds of agreement with the relative councils. Councils quite rightly have followed their due processes and that is not an issue. We are not aware of any blame being placed on the councils.

Senator FORSHAW—Did the Commonwealth expect the councils to contribute to the cost of this bridge at the outset in the initial stages of the negotiations?

Mr Jackson—There has been no request to the councils to commit to that. The councils were already responsible for the ongoing maintenance of the bridge once it is complete and after the completion of a maintenance period to ensure that any defects that may occur from the construction have been rectified.

Senator FORSHAW—But I am talking about the actual construction cost.

Mr Jackson—There was never any request to the councils for them to contribute, that I am aware of, to fund the actual construction of the bridge.

Senator FORSHAW—You say there never was.

Mr Jackson—Not that I am aware of.

Senator FORSHAW—Didn't the Commonwealth put in the first draft agreement that the Commonwealth had agreed to contribute towards the costs of replacing the bridge and later changed that to meet all the costs of replacing the bridge?

Mr Jackson—There may have been an early draft that the funding arrangement was such that it was sufficient to cover a replacement bridge. There may have been an expectation at some point in time—

Senator FORSHAW—There may have been?

Mr Jackson—At some point in time, Bankstown City Council—and I may be wrong, but it was either Bankstown council or Liverpool council—sought to have the bridge put in a different position and attached to a transport rail bridge that was 100 metres or so downstream, in which case that may have been substantially more expensive. It was also not in the spirit of the agreement to replace the existing bridge. Therefore, if that course of action had been agreed to, it may have been appropriate to have the councils contribute any extra over-cost of replacing the footbridge that was servicing the Voyager Point estate.

Senator FORSHAW—In the first draft agreement, as I understand it, the Commonwealth indicated that it agreed to contribute towards the costs of replacing the old footbridge. In the second draft, the wording is that the Commonwealth agreed to meet all costs of replacing the bridge. Is it not the case that the Commonwealth—when it clearly had a responsibility to replace this bridge—took the position that it would contribute to the costs? That led the councils to have to negotiate with the Commonwealth to get the Commonwealth to accept its proper responsibility to meet all of the costs of the bridge. That took some months, further delaying the project. In the meantime, a lot of residents in this area had purchased land on the basis that they were within five minutes walking distance of East Hills because they could cross the river on the bridge. The bridge has been closed down because it is unsafe, and the residents and the council are being put to the substantial expense of providing alternative transport arrangements for people living in that area. Do you disagree with that?

Mr Jackson—Is there a question there?

Senator FORSHAW—The question is: wasn't the Commonwealth's position trying to get the councils to agree to the costs?

Mr Jackson—I think it is appropriate for the Commonwealth to protect its expenditure. If the councils had required a four-lane highway bridge across that footbridge which would have been far in excess of the specifications of the original bridge, the Commonwealth would not have had an obligation to pay for that. Therefore, I think it is responsible to ensure that the heads of agreement reflected the spirit of the Commonwealth's agreement to replace like with like.

Senator FORSHAW—But what you are saying is not true, is it—that is, that the councils were asking for a four-lane highway or something substantially different? What they were

after was having the footbridge replaced. Didn't the Commonwealth take the position initially that it would do something less than meet the full cost of that bridge and, subsequently, after some months, eventually agree to meet all the costs? Is that true or not?

Mr Jackson—A set of legally drafted documents—you have draft 1, draft 2 and draft 3, which is the final one—may evolve through and reflect the various states of negotiations at the time. As I mentioned, there were discussions and suggestions from one of the councils that they have the bridge attached to the rail bridge further down. That was not like for like and may have been substantially more expensive. Therefore, the Commonwealth would not have met the full costs of that; it would have contributed to the costs of that. The deed at the time may have reflected that, and I would have to take that on notice to check exactly what the status was.

Senator FORSHAW—The position that was adopted by council in its first draft agreement was taken after the concept design for the new bridge had been completed—replacing the existing footbridge, not some alternative structure further down the river.

Mr Jackson—Just to clarify, you said the draft agreement prepared by the council reflected that situation.

Senator FORSHAW—No, the draft heads of agreement that was submitted to the council—the first draft—was subsequent to the concept design having been prepared to put in the new footbridge. So it has nothing at all to do with some alternative proposition that may have been floated at the time by one of the councils. We are talking about the bridge that is going to be built now and that was always in contemplation.

Mr Jackson—I would have to check the date of that first draft agreement that you have—you have that as an advantage over me. I am happy to advise further on that if the two dates correspond.

Senator FORSHAW—I am at least pleased to hear you say that it is now going to be built and construction work is under way. You said off-site construction work. Have all the approval processes been completed and is work ready to start on actually constructing the bridge?

Mr Jackson—My understanding is absolutely.

Senator FORSHAW—Have the deeds of agreement been finalised?

Mr Jackson—Executed in February 2003.

Senator FORSHAW—When is work going to start on the actual construction of the bridge?

Mr Jackson—We are anticipating in about three to four weeks on site, with a November 2003 completion date.

Senator FORSHAW—What is the cost?

Mr Jackson—In the order of \$1.85 million or \$1.9 million.

Senator FORSHAW—On the issue of liability for any defects, can you explain what the situation is?

Mr Jackson—In accordance with most construction contracts, whether they be for civil works or a building as such, on completion of the construction the contractor is required to warrant or maintain the structure—in this case, the bridge—for a period. In this case I believe the period has been set at 12 months—I will have to check that—in which time, should there be any defects arising out of the construction, the contractor must rectify them at his cost. Using a building as an example, if one of the veneers starts peeling off the wall the builder must come and repair that. A bridge is slightly different because it is a structure per se rather than a high level of interior finishes. On the completion of that, a final certificate is issued whereby the responsible designers, engineers and the like will certify that the structure is now defect free, that all warranties and the like are in place and that it has been built in accordance with the design, in which case the contractor is released from responsibility to maintain it. Ongoing maintenance in accordance with a normal asset management program would be the responsibility of the owner—in this case, the councils.

Senator FORSHAW—You mentioned the incident where an Army vessel collided with one of the pylons. Is that what happened?

Mr Jackson—That is correct.

Senator FORSHAW—When was that?

Mr Jackson—On 24 or 25 August—during the weekend.

Senator FORSHAW—Which year?

Mr Jackson—2002.

Senator FORSHAW—The bridge had already been declared unsafe—

Mr Jackson—That is correct.

Senator FORSHAW—and it was not supposed to be being used. It was made even more unsafe by this incident.

Mr Jackson—Yes. We actually had to remove part of the bridge as a result of that accident. For your information, Senator, it has been brought to my attention that discussions actually started occurring with New South Wales Waterways in April 2002, prior to the DA approval. We have minutes of meetings that confirm they were consulted as part of the project control group process.

Senator FORSHAW—Yes, prior to the approval, but that was after the DA had been lodged, wasn't it? The DA was lodged back in August 2001.

Mr Jackson—It was 26 July 2002 that DA applications were submitted to councils. So it was actually before lodging.

Senator FORSHAW—What date did you say?

Mr Jackson—Development applications were submitted to both councils on 26 July 2002. We sought at the time to have approvals by 18 October—that was the original intention. That was delayed until December 2002. So we actually were discussing with New South Wales Waterways in April 2002 before lodging the DA approval. And I can confirm the defects period is 12 months.

Senator FORSHAW—That was in July 2002. Mrs Vale put out a media release, as I said earlier, on 10 August 2001—that is almost 12 months earlier—saying that the bridge would take 48 weeks to build. It took 44 weeks or so for the DA to be lodged, after that announcement had been made by the local member.

Senator ROBERT RAY—On a point of order, Chair, I don't think the officials should have to make excuses for lower house members and their errors.

Senator FORSHAW—Thank you, Senator Ray.

Senator ROBERT RAY—Well, I don't think they should.

Senator FORSHAW—I am not necessarily suggesting that. I was looking to understand why there was such a long delay.

CHAIR—Voicing your frustration.

Mr Jackson—The vagaries of the construction industry, Senator.

Senator FORSHAW—I see.

Senator ROBERT RAY—Or the coming adjacentness of an election. That would more likely explain the press release.

Senator FORSHAW—Including statements made by candidates in the state election.

Senator FAULKNER—Do you think Mrs Vale would be that cynical?

Senator ROBERT RAY—I think we should draw a veil over these issues.

Senator FORSHAW—I am about to. So you can assure us that the bridge will be built by November this year?

Mr Jackson—Subject to the ability of the Army to not drive another vehicle into the bridge.

Senator FORSHAW—That might give people some questions for next week's foreign affairs, defence and trade estimates.

Senator ROBERT RAY—I have some questions regarding Employment National. Minister, we have asked questions on this matter quite a few times. Regrettably, in some ways, this will be the last time. Could I ask where the sale and disposal of Employment National is now up to.

Dr Watt—Senator, while we are assembling the necessary people, I might address a couple of things we discussed in relation to DHA. You asked for the cost of the adviser to the scoping study. These numbers are rounded to the nearest thousand. The legal adviser was Coudert Brothers; the cost was \$379,000. The business adviser was Macquarie; the cost was \$124,000.

Senator ROBERT RAY—So I should encourage someone to do a legal degree, not an economics degree—is that right?

Dr Watt—I think it is an issue of whether we got value for money, Senator. With respect to the issue about DHA in the budget papers, this is shown as a parameter, another variation, because it is a variation of a previous decision rather than a new decision. The information in the budget papers is on page 6-65.

Mr Hodgson—Chair, could I clarify an answer I gave earlier to Senator Murray. I said there were 32 people transferred from OASITO to Finance. There were 32 asset sales people but there were others who were to be involved in the commercial support area. In all, 42 people transferred.

Senator ROBERT RAY—Going back to my previous question, where is the sale and disposal of Employment National up to?

Mr Williams—The sale of marketable parts of Employment National occurred in 2002. A range of business units of Employment National were sold to a number of different providers. That took place in November-December last year. Employment National is currently continuing to deliver job matching services, which are the only services that are left, through to 30 June. Post 30 June, the company will be wound up.

Senator ROBERT RAY—I assume there was some sort of due diligence process undertaken before the assets were sold off?

Mr Williams—Yes. A comprehensive asset sales program was undertaken by the company following due diligence and appointment of advisers.

Senator ROBERT RAY—So you say it is only job matching that is left?

Mr Williams—Yes.

Senator ROBERT RAY—Is it continuing to run at a loss?

Mr Williams—Yes.

Senator ROBERT RAY—Could you outline the extent of the estimated loss? It finishes on 30 June, does it?

Mr Williams—Yes.

Senator ROBERT RAY—What will be the loss for this financial year of running job matching services?

Mr Williams—Employment National is forecasting a loss in the order of \$17 million.

Senator ROBERT RAY—Are the board members still indemnified?

Mr Williams—Yes.

Senator ROBERT RAY—They are?

Mr Williams—The indemnities that were entered into some time ago continue on foot.

Senator ROBERT RAY—What is the situation regarding the remaining EN staff and the payment of their entitlements, whatever entitlements they will have due?

Mr Williams—Their entitlements will be met in full. Come 30 June they will—

Senator ROBERT RAY—There was a separate company set up to employ them, EN Services Pty Ltd. Is it done through them?

Mr Williams—That is the company that employs the staff.

Senator ROBERT RAY—Can you tell us the nature of the redundancy payments that will be necessary?

Mr Williams—There are a range of redundancy entitlements depending on the length of service and the type of employment arrangement. There are a number of AWAs; there is an Employment National award and some people are on fixed term contracts.

Senator ROBERT RAY—So I suppose these people can go and be interviewed by somebody who has bought part of Employment National—is that right, Minister?

Senator Minchin—In my dealings with the board I have been very anxious to ensure that they do their utmost to look after the interests of the staff. The interesting thing with this one is the board that has managed this wind-up. I think they have done a very good job. They have at all times placed a premium on the interests of their staff in the way they have managed this winding down and I think they have done that well. I am pleased with the way the staff have been treated. It is always difficult when you wind-up a company, but I don't know that it could have been done better from the point of view of the staff. I have been keen to ensure that all their entitlements are met in full and, to the extent that the company itself can find employment opportunities for staff, that they do so.

Senator ROBERT RAY—Will the Commonwealth get back any of the equity injection that they made into Employment National?

Mr Williams—There is an expectation that there will be some surplus funds at the end of the process, but in this budget the government has provided some money for the wind-up to cover all contingencies. Potentially, when you go into a wind-up situation, liabilities that we and the company are not currently aware of could come out of the woodwork and the government has provided sufficient funds to ensure that all unforeseen contingencies are provided for. Subject to nothing coming out, we expect a return of surplus funds.

Senator ROBERT RAY—Is that a surplus excluding the money provided in this budgetary process?

Mr Williams—Sorry, could you repeat the question?

Senator ROBERT RAY—Is the surplus going to come back from part of that equity injection or is the surplus expected because you will have to spend less of the extra money you have made available for contingencies?

Dr Watt—As I understand it, I think in 1999-2000 we provided injections to EN of up to \$68.7 million. On our current forecasts, the company's total equity requirement will be within this figure.

Senator ROBERT RAY—So it is just a prudent allocation. So how much of the other funds have you prudently allocated in case there are not enough funds available?

Mr Williams—\$2 million of the \$6 million provided for in this budget would take the total figure up to \$68.7 million. The further \$2 million may be required just to provide a cash buffer.

Senator ROBERT RAY—It is going to be a close-run thing; its not going to be a blow—I am not allowed to used the term 'blow-out'. You are not going exceed your expectations by a large margin, are you?

Mr Williams—As Dr Watt says, we expect to come within the 68.7 at this stage.

Senator ROBERT RAY—What has happened to the outreach services that EN currently operates?

Mr Williams—I believe that they currently operate eight outreach services.

Senator ROBERT RAY—I doubt that.

Mr Williams—But they have made an application to the Department of Employment and Workplace Relations for a discontinuation of six of those sites.

Senator ROBERT RAY—As a government-run entity or what? I do not understand what you mean by that. You are saying that six should continue, but under whose stewardship?

Mr Williams—They would just discontinue. There are other providers in those areas.

Senator ROBERT RAY—Mr Watt, have you learnt any lessons out of the history of Employment National? It has hardly been edifying. It is not just your government that has been involved in some of these types of things. I do not know whether you followed all the panic that occurred in December of that year, when the board was restructured, indemnity was given and there was a whole range of activities. Have we learnt any lessons out of it?

Senator Minchin—I think it is appropriate, once the company is wound up, for an assessment to be made of what the implications are from the Employment National experience for the ownership and management of government businesses, and I think we should do that. Obviously, I have come in at the latter stages of this—I have had responsibility for only 18 months. I am very pleased with the way we have so smoothly and effectively and with minimal disruption been able to wind up the company. From where I sit, it is an indication of the difficulty of government being involved in businesses of this kind when there is a clearly established private sector market. I am personally glad we are getting out of the business of job placement. As to the wider implications, I think you make a fair point that always it is important to learn any lessons that may derive from this.

Senator ROBERT RAY—I think, having followed it reasonably closely recently, some members of the previous board might feel unduly bruised by the fact that the subsequent board could not really turn it around either. A range of factors, including the way another government department decided to structure its arrangements, caused its downfall. Those people were pretty bruised when they were thrown out.

Senator Minchin—I take your point. I commend the current board on the way they have managed it. I think it is extremely difficult to run a business like this under the constraints of government ownership and according to government rules and regulations in what is now a highly competitive marketplace.

Senator ROBERT RAY—Minister, there were not that many government regulations and restraints on them. Their problem was the ever-changing preconditions put down by another department for the tendering process. We could argue until the cows came home whether that was right or wrong.

Senator Minchin—Sure.

Senator ROBERT RAY—But it seemed to me that that was the thing that really sank them. We will not go over the evaluation system of how those contracts were awarded but

there was a lot of subjectivity, in our view. That is the best way to put it. Hopefully we won't have to ask another question on Employment National.

Senator Minchin—I hope so too, Senator Ray.

Senator ROBERT RAY—We will only be asking about the wind-up. I hope it goes well.

Senator Minchin—I commend the current board on the way it has handled it.

Senator FAULKNER—I would like to ask a question about discussions between the ACT government and the Commonwealth government over the ACT fire services or fire services budget, because this matter has been subject to some press coverage, at least here in the ACT. I read a report earlier this month saying that there is now a reopening of negotiations and that there had been some unpaid invoices.

Dr Watt—I think I should say first of all that I do not believe negotiations were ever closed—not by the Commonwealth.

Senator FAULKNER—So you are saying that the newspaper article is wrong when it says:

PRIME Minister John Howard has agreed to reopen negotiations with the ACT Government after the Commonwealth refused to pay \$9.22 million to the territory's fire services budget over the past three years.

That is wrong, is it?

Dr Watt—I think the issue is rather that the Commonwealth has been unwilling to pay those amounts that the ACT government and ACT officials believe should be paid. We would be unwilling to pay, for a couple of reasons which my colleagues will go in to, but we have never stopped negotiating with or talking to them.

Senator ROBERT RAY—So we can say they have been 'reactivated'. Is that a more precise term?

Dr Watt—I think you could say the Prime Minister has indicated that we will keep talking—and we have always been willing to talk.

Senator FAULKNER—You said one of your officials could give us a bit of an update on this. I would appreciate that.

Ms Smith-Macnee—We have been in ongoing discussions and negotiations with the ACT Emergency Services Bureau for some years now in regard to resolving the matter of Commonwealth funding of ACT fire and emergency services. During the last six months of last calendar year we had at least seven meetings with the ACT Emergency Services Bureau with a view to finalising new agreements regarding the funding arrangements. Following those meetings, we had resolved all outstanding matters with the exception of the quantum of the payment, at which time Dr Watt wrote a letter the ACT Chief Minister's Department. That letter was dated 20 December 2002. We are still awaiting a reply to that correspondence, despite following it up quite a number of times over the last six months.

Senator FAULKNER—When was that correspondence sent?

Ms Smith-Macnee—That letter was dated 20 December 2002 and was from Dr Watt to Mr Robert Tonkin, the Chief Executive of the ACT Chief Minister's Department.

Dr Watt—That letter followed a discussion I had with a gentleman who was acting for Mr Tonkin while Mr Tonkin was on leave. That was Mr Tomlins, and that discussion was in late October 2002.

Senator FAULKNER—What is this about? Is it about the quantum of payments?

Dr Watt—That is the only outstanding issue.

Senator FAULKNER—I wondered if there were methodology issues, if you like.

Ms Smith-Macnee—Can I take you back through the historical arrangements in relation to the funding of the ACT. At the time of ACT self-government, one-third of the total Emergency Services Bureau budget was at that time funded by the Commonwealth. Since 1989, as you are well aware, the Commonwealth has divested significant property within the ACT.

Senator Minchin—It is important to make the point that the payment is made because we do not pay rates. Everybody else pays rates, so in lieu of paying rates on Commonwealth owned property the understanding was that we would pay one-third of the total budget, based on our property holdings for which we were not paying rates that would otherwise pay for fire protection.

Ms Smith-Macnee—The Commonwealth had been seeking for some time to formalise an agreement with the ACT. We have been unable to locate—and they have been unable to provide—anything to document the historical arrangement, and it has been of concern to us that the level of payments remain appropriate and that the Commonwealth is getting good value for money in respect of the services provided.

Senator FAULKNER—You cannot document it but everyone accepts that that figure is an accurate one or that it has been the established figure?

Ms Smith-Macnee—It has been the historical basis.

Senator FAULKNER—So there is no argument about the historical basis.

Dr Watt—There is no argument about the amount of money we paid them, no. The difficulty for us is that we do not have an agreement with them, and without an agreement we cannot keep paying the money. That is a requirement of their own legislation.

Senator FAULKNER—Is there a proposal to change the proportion or is it just to nail down an agreement, putting in black and white the proportion—or am I misunderstanding something?

Dr Watt—The issue at dispute is the future quantum that should go forward. In light of the Commonwealth's—

Senator FAULKNER—So it is not just an issue of the agreement then?

Dr Watt—The agreement is part of the story. We do not feel we can go on making interim payments in the absence of an agreement.

Senator FAULKNER—The impression from the evidence that you had given was that the issue was just not having an agreement. That is part of the story—is it?

Dr Watt—That is part of the story—correct.

Senator FAULKNER—You do not have an agreement and it sounds like you do not have agreed between the two parties the issue of quantum.

Dr Watt—That is correct.

Senator FAULKNER—So there are two outstanding issues.

Dr Watt—I think the answer is that if you agree the quantum, the agreement follows.

Senator FAULKNER—Sure. What else is outstanding?

Ms Smith-Macnee—We have a draft document that, for all intents and purposes, is agreed by both parties.

Senator FAULKNER—What is the quantum outlined in the draft document?

Ms Smith-Macnee—It is not in the document at this stage because we are still discussing the methodology that would enable Finance to justify that it is getting value for money in respect of the services provided.

Senator FAULKNER—I thought you said there was a draft document containing a quantum.

Ms Smith-Macnee—No.

Senator FAULKNER—There is a draft document—

Dr Watt—There is a draft document—

Ms Smith-Macnee—There is a draft document—there absolutely is.

Dr Watt—complete with everything but quantum.

Ms Smith-Macnee—The clause that would reflect the arrangements regarding quantum has not yet been agreed by the parties.

Senator FAULKNER—You do not expect either party to object to the agreement or, if you like, the methodology; the argy-bargy is about the quantum—is that what we are saying?

Ms Smith-Macnee—Essentially, yes. Emergency Services Bureau believes that the methodology should reflect a capability based arrangement and Finance are of the view that we should contribute some amount to reflect the unique circumstances of the ACT and the concentration of property in various areas.

Senator ROBERT RAY—But you are saying fee-for-service.

Ms Smith-Macnee—But, essentially, we should be paying on a fee-for-service basis or on a user-pays basis.

Senator ROBERT RAY—What about every time they turn up to put out a fire on Commonwealth property—can they charge you for that?

Ms Smith-Macnee—Yes, we would be happy to receive data that would reflect the call-out rate to Commonwealth properties as compared to commercial and residential properties—

Senator ROBERT RAY—And what if they do not turn out? How are you going to protect your employees and your records then?

Mr Hodgson—What we are seeking is the original basis that the ACT government was proposing or that has historically been the case, which is essentially one-third of their budget. As we said, that is not documented so there is no way that we can—

Senator FAULKNER—It is not documented but you accept it.

Mr Hodgson—It is historically the case, yes.

Senator FAULKNER—I do not understand the significance of that.

Mr Hodgson—Sorry, Senator. Under the FMA Act we are required to have—

Senator FAULKNER—Okay, but you accept the proportion and the ACT accepts the proportion. It is not a matter of argument.

Ms Smith-Macnee—Except that the level of Commonwealth property holdings within the ACT has decreased by over 50 per cent over the last decade or so.

Mr Hodgson—The point being that the Commonwealth has disposed of a number of properties in the ACT and those properties are now paying rates. So we have a considerably smaller holding now than we had some years ago and, therefore, we do not believe we should be paying that quantum. We would rather move to a basis which reflects the way it is handled in the states, which is as a percentage of your property holdings—in fact, property values. We think that is a fairer way of allocating these sorts of costs, otherwise the Commonwealth will end up paying a disproportionate amount of the costs.

Senator ROBERT RAY—How does fee for service work? If a fire starts at the forestry division, do they ring you up and negotiate a price before they come and put out the fire?

Mr Hodgson—That is not what we are proposing, Senator. We are proposing a percentage of the value of property protected.

Senator ROBERT RAY—Does that apply for everyone else in the ACT?

Senator Minchin—I think what is being proposed is a quasi rates arrangement.

Senator ROBERT RAY—Maybe you should pay rates.

Senator Minchin—The Commonwealth does not.

Senator ROBERT RAY—No it does not. Why don't you pay rates and we would not have to worry about it?

Senator Minchin—What we have to do is to find a—

Senator ROBERT RAY—You say 'fee for service'; how about rates for service? You do not want to open up that area at this stage?

Senator Minchin—No, I do not think it is wise to go down that path. I am sure agreement can be reached on the basis of the continuing property holdings of the Commonwealth that therefore reflects a quasi rate basis.

Senator FAULKNER—I am not sure that agreement can be reached, from what I have heard at the moment.

Senator Minchin—We are willing to pay a levy towards fire services on an annual basis. From what I understand, the parties are not that far apart.

Senator FAULKNER—With due respect, Minister, you say you are willing to pay. Let us go back to the financial year 2000-01. There are underpaid invoices from that year, aren't there?

Mr Knapp—That is correct. A portion of that year was not paid.

Senator FAULKNER—So, you were not willing to pay those, were you, Senator Minchin? Don't tell us you were willing to pay when they are not paid.

Senator Minchin—I am talking about the agreement we are proposing to reach. We have said to them that we are prepared to pay towards the cost of providing fire services in the ACT.

Senator FAULKNER—And we have just found out there are invoices in 2000-01 that are unpaid.

Senator Minchin—That does not detract from my point that we want to reach agreement with them on a proper basis for continuing to pay this levy.

Senator FAULKNER—I would have thought it brings into question the answer you have given—that you are willing to pay—when there is evidence that invoices have not been paid. This was not canvassed in the newspaper stories I have read, but I assume there are no invoices prior to the financial year 2000-01 that have not been paid?

Mr Knapp—That is correct

Senator FAULKNER—So we have to get to financial year 2000-01 for unpaid invoices?

Mr Knapp—A portion of the accounts for that year were paid to reflect the provision of the services that were provided. We did not pay the full amount at that time because the negotiations were not progressing and we were keen to try and resolve those negotiations.

Senator FAULKNER—And they are still unpaid?

Mr Knapp—That is correct.

Senator FAULKNER—What about the financial year 2001-02?

Mr Knapp—At this stage we have not paid those amounts because we have not been able to complete those negotiations, as Mr Hodgson pointed out, because of the requirements of the FMA Act.

Senator FAULKNER—As I say, it does not sound like people are willing to pay. What is outstanding? What is the dollar value of the outstanding invoices in 2000-01?

Ms Smith-Macnee—For the ACT I believe it is \$9.22 million. We can reconcile it to \$9.2 million in relation to the outstanding invoices.

Senator FAULKNER—Is there is an argument over \$20,000?

Senator ROBERT RAY—You were asked about a specific year. Is that the figure for the specific year?

Ms Smith-Macnee—No.

Senator ROBERT RAY—Let's answer the question. Then we can do an add-up at the end of what is owing. I think it will come to your figure, but you were asked what was owed for 2000-01 on the part-paid invoice. That was the first question.

Mr Knapp—\$3 million was still owing in 2000-01. The remaining \$6.2 million was for the next financial year.

Senator ROBERT RAY—How much did you actually pay in the year 2000-01?

Mr Knapp—In 2000-01 it was \$3.8 million.

Senator ROBERT RAY—Are you saying you still had \$3 million owing in that year?

Mr Knapp—The amount of \$3 million was what the ACT government believed was owed.

Senator FAULKNER—You paid \$3.8 million and they expected you to pay \$6.8 million. Is that the best way of putting it?

Mr Knapp—That is correct, yes.

Senator ROBERT RAY—So the \$9 million owing is based on your calculations, not theirs?

Senator Minchin—No, the reverse.

Ms Smith-Macnee—No, it is theirs.

Senator ROBERT RAY—If it was \$6.8 million in 2000-01 and you have not paid anything in 2002-03, is that another \$6.8 million?

Mr Knapp—No. They invoiced us for \$6.2 million in that year—\$6.2 million plus \$3 million gives \$9.2 million.

Senator ROBERT RAY—What do you maintain that you should have paid in that time, at your best guess?

Mr Knapp—That is a matter for the negotiations. We have been trying to reach agreement on that methodology so that we can pay an appropriate amount reflecting the property that currently the Commonwealth owns and allowing for the capacity to deal with circumstances that are special to the ACT, which Ms Smith-Macnee referred to earlier.

Senator ROBERT RAY—I am not trying to undermine your negotiating position, but I thought you had a clear idea of what the fair figure was. I assume you put it to them. That is why I asked what you think is the bottom line.

Mr Knapp—We have put a proposed methodology to them, and we have a view on what is an appropriate amount to pay, consistent with that methodology.

Senator ROBERT RAY—I am asking what that appropriate amount is.

Mr Knapp—That is part of the negotiations.

Mr Hodgson—We would really prefer to keep that confidential at this stage; otherwise we will end up with difficulty.

Senator ROBERT RAY—I am asking what you have put to them, not what you have decided to try to skun them with, because in that case you are right: they are not entitled to advance warning. I am asking whether you have put a bottom line figure to them. They know

it already. You are not going to hide it from them if you have put it to them. Have you put it to them?

Dr Watt—We have not put a bottom line figure to them. We have told them that we thought the estimates should be a lot lower than they currently are. We have suggested that they might like to think about coming down very substantially.

Senator FAULKNER—What did the Commonwealth actually pay in 2001-02?

Ms Smith-Macnee—There has been no payment made in 2001-02.

Senator FAULKNER—There hasn't been?

Ms Smith-Macnee—No.

Senator FAULKNER—I see. So did the total quantum actually reduce from 2000-01 to the next financial year by \$600,000?

Mr Knapp—That is correct.

Senator FAULKNER—So it has reduced from \$6.8 million to \$6.2 million.

Mr Knapp—That is correct.

Senator FAULKNER—They are described as 'invoices' in the press, but is this done by invoice? Do the ACT submit invoices to you?

Ms Smith-Macnee—They do; that is right. That is based on the actual invoices that they have issued to us.

Senator FAULKNER—So no invoices have been paid for 2001-02?

Ms Smith-Macnee—That is correct.

Senator FAULKNER—And a little over half of the quantum of the invoices was paid in 2000-01.

Ms Smith-Macnee—That is correct.

Senator FAULKNER—I think we all know about the seriousness of the recent fires here in the ACT. Has that had an impact on these negotiations or discussions at all?

Ms Smith-Macnee—As I mentioned earlier, we have been unable to elicit a response from the ACT government since the secretary's letter on 20 December to the ACT Chief Minister's Department. In respect of the impact of the Canberra bushfires on Commonwealth property here in the ACT, the Commonwealth property damage is roughly \$7.9 million to \$8 million of insured property losses. That compares to roughly \$250 million total insured property losses, including household and domestic. I can give you a breakdown. Domestic property loss is estimated at \$188 million, commercial property loss at about \$40 million, motor vehicle loss at \$20 million and other, including the Commonwealth, at about \$20 million.

Senator FAULKNER—I don't know all the details, but I think we all know about the situation at Mount Stromlo, for example. I imagine that is a fairly significant proportion of the Commonwealth property losses.

Senator Minchin—It is not Commonwealth.

Senator FAULKNER—It is not?

Ms Smith-Macnee—No, ANU owns the majority of the facilities at the Mount Stromlo Observatory.

Senator FAULKNER—That is not counted as a Commonwealth property loss?

Ms Smith-Macnee—No.

Mr Knapp—They are privately insured, Senator. They are not covered by the Commonwealth insurance arrangements.

Senator FAULKNER—What are we talking about when we talk about a Commonwealth property loss?

Ms Smith-Macnee—The \$8 million losses, roughly.

Senator FAULKNER—This just sounds like a definitional fudge, if Mount Stromlo is not a Commonwealth property.

Ms Smith-Macnee—No, the majority of the loss involved equipment up at Mount Stromlo owned by one of the Commonwealth agencies, Geoscience Australia. They had some specialised technical equipment up there. In addition to that, the AFP at Weston incurred loss in relation to their facilities.

Senator FAULKNER—Are we saying the campus of the Australian National University is not Commonwealth property now?

Mr Knapp—That is correct. It is not Commonwealth property.

Senator Minchin—Not per se. It is owned by the ANU, which is—

Senator ROBERT RAY—It is a distinction between what is insured and what is not insured.

Ms Smith-Macnee—That is correct.

Senator ROBERT RAY—So they are insured, but this other \$8 million is not insured?

Mr Knapp—The ANU would pay for ACT fire services, like any other private sector organisation in Canberra, through rates. They pay their fire service levy that way.

Senator ROBERT RAY—Universities pay rates.

Dr Watt—The ANU is not insured through Comcover.

Senator FAULKNER—Let me ask this question: is it a Commonwealth asset? If fudging these definitions is part of this process, I just want to understand.

Dr Watt—The question I think you need to ask, Senator, is: is the ANU shown on the Commonwealth's balance sheet?

Senator FAULKNER—You can answer that question, if you would like to. I asked whether it was a Commonwealth asset.

Dr Watt—Then the question is whether or not it is shown on its balance sheet.

Senator FAULKNER—You can reinterpret my question; I appreciate that level of expertise.

Dr Watt—We will see if we can get you an answer, Senator.

Senator ROBERT RAY—I thought you had the answer.

Senator FAULKNER—Do you mean you are proposing a question you don't know the answer to? That is very risky, Dr Watt.

Dr Watt—The ANU is a very interesting creature in the way we treat it in an accounting sense.

Senator FAULKNER—If it is very interesting, let us hear it.

Mr Kaufmann—In terms of the Australian National University, we take the position, along with government finance statistics, that the ANU is not a controlled asset of the Commonwealth.

Senator ROBERT RAY—You mentioned earlier that you cannot actually make these payments because of the FMA Act—is that right?

Ms Smith-Macnee—That is correct.

Senator ROBERT RAY—You will assure me, of course, that you did not make payments in breach of the FMA Act prior to when you ceased these payments.

Mr Hodgson—That is what we are investigating, Senator.

Senator ROBERT RAY—I am just asking the question: if you are that certain that you cannot make them now, what made you certain that in the year 1999-2000 when you made the payments you were not in breach of the FMA? Surely you have established that. Has the Auditor-General looked at this area of your potential breach?

Mr Hodgson—I am not aware of the Auditor-General looking at it. This problem has been an ongoing one for, to the best of my knowledge, 3½ years. We have been trying to establish with the ACT government the basis for payment and they have assured us that they have documentation which supports it but they have been unable to provide it.

Senator ROBERT RAY—What you are saying to me—and I am not actually challenging this aspect—is that you cannot pay the \$6.8 million or the \$6.2 million because you might be prohibited under the FMA. But you were paying it and I want to know whether you were paying it in breach of that act. Surely you can answer that.

Mr Knapp—We conducted a review of all the agreements starting in 2000 that were in place with all the states and territories. Through that process we updated agreements and have been able to put in place agreements with the states and territories other than the ACT to enable us to pay—

Senator ROBERT RAY—I think there is at least one other outstanding agreement, isn't there?

Mr Knapp—Sorry. With South Australia we have reached agreement but we have not actually signed the documentation.

Senator ROBERT RAY—That is good.

Mr Knapp—We have reached agreement on the methodology and the quantum. It is just having to get the paperwork finalised.

Senator ROBERT RAY—When you did this review in the year 2000, did it indicate to you that you might be paying this in contradiction of the FMA?

Mr Knapp—When we looked at the ACT we had on our files the information from the ACT government that there was an agreement that dated back to 1989. As part of that process in our discussions with the ACT government we asked them for a copy of the document. They kept saying, ‘Yes, this document does exist from 1989.’ The point was reached where we just had to accept that there does not seem to be any evidence of the document. We certainly have not been able to find anything and we have gone back through our files. We have asked the ACT government on a number of occasions to provide evidence, preferably the actual document. They have not done so. Once we were convinced that the document did not exist, we did not make any further payments.

Senator FAULKNER—Why do you think the FMA prohibits these sorts of payments?

Mr Hutson—The principle in the FMA Act is that payments would only be paid if there is an appropriate authority for the payment to be made. The question which arises, and which arose in this particular case, is in recent times whether there is an obligation to pay. The decision which has been taken by the department was that, in the absence of an agreement, there was no obligation to make that payment.

Senator ROBERT RAY—We have had evidence that you cannot make the payments because of the FMA. What you have said is an entirely different explanation, and we will take that at face value. Let us move back to the explanation we were given earlier and test its veracity.

Senator Minchin—I really have to go by 11 a.m.

Senator ROBERT RAY—We were ready go to let you go by 10.45 a.m! That is why I went and talked to the chair, so you are right.

Mr Hutson—I am sorry, Senator, just to clarify: when I said there was no obligation, the absence of the obligation stems from the absence of an agreement.

Senator ROBERT RAY—I understand all that. There is no agreement—we accept that. We accept you are in negotiations. But what we have been told is that in fact you cannot pay because you are prohibited by the FMA. That begs the question: when did that cut in? Suddenly in the year 2000? Were you acting unlawfully, illegally or improperly prior to that? That is what we were asking. So now we are asking what part of the FMA prohibits you making these payments?

Dr Watt—It might be useful if we tried to give you an answer on notice on this.

Senator ROBERT RAY—That might be the way through. But we had to take the evidence at face value. Now it is challenged and you cannot actually give us the explanation. We cannot do follow-through questions and it may be incorrect evidence. There is no great crime in incorrect evidence provided it can be corrected rapidly.

Dr Watt—We will do our best to correct it rapidly.

Senator ROBERT RAY—Our whole line of questioning is: why isn't there agreement, why did payments stop? We are told: 'Well, the FMA said you can't do it.' That is pretty compelling to us. But if that is in doubt we have to pursue the answer now being given.

Dr Watt—I think Mr Hutson was saying just what we said earlier here.

Senator FAULKNER—Has the department sought legal advice on this?

Ms Smith-Macnee—Yes, we have.

Senator FAULKNER—Who from?

Ms Smith-Macnee—The Australian Government Solicitor.

Senator FAULKNER—When was that forthcoming?

Ms Smith-Macnee—I will just have to refer to my file. The date of the advice is 11 April 2001.

Senator FAULKNER—When were the invoices for 2000-01 paid?

Ms Smith-Macnee—I would have to take that question on notice. We could get that information quite shortly.

Mr Knapp—I can give you that, Senator. They were paid at the end of that financial year, but prior to the legal advice.

Senator FAULKNER—I am sorry, can you give me the date again of the legal advice?

Mr Knapp—The legal advice was 11 April 2001.

Senator FAULKNER—Yes. And how is that before the end of that financial year?

Mr Knapp—And the payments were made prior to the legal advice. The part payment—remember, in that year, 2000-01, we only made a part payment.

Senator FAULKNER—I see. So, say, after about half way through the financial year the invoices—

Mr Knapp—We can check the actual date.

Senator FAULKNER—Yes, but that is the point you are making.

Dr Watt—It is a part payment—that is correct.

Senator FAULKNER—And part payment in the sense not part of the invoices—

Dr Watt—That is correct.

Senator FAULKNER—but you stopped paying the invoices in full at some period.

Senator ROBERT RAY—You are not going to stump up with the legal advice at this stage, but did the legal advice go to the question of legality under the FMA? Was that one of the items sought to be clarified and established?

Dr Watt—We will see if we can clarify that.

Senator ROBERT RAY—Okay.

Mr Hutson—With respect to the question: 'Does the legal advice deal with the FMA Act?' the answer is yes, it does.

Senator ROBERT RAY—To the legality of payments?

Mr Hutson—Yes.

Senator FAULKNER—There is no argument here, of course, that these services have not been provided, is there? The services have been provided by the ACT—what is the fire service called there?—ESB, isn't it?

Senator ROBERT RAY—They must be because they are pulling up outside here—outside my office—for anthrax scares every other week.

Senator FAULKNER—So the services have been provided—that is not in dispute, is it?

Dr Watt—No.

Mr Hutson—No.

Senator FAULKNER—Did you seek legal advice on what legal obligation you have to pay, given that the services have been provided?

Ms Smith-Macnee—Yes, that is covered in the advice as well.

Senator FAULKNER—So you sought that legal advice at the same time?

Mr Knapp—There is no question: we know that payment has to be made. We are putting provisions in our account for the payments, so the payments will be made once we reach agreement. That is understood.

Senator FAULKNER—It may be understood, but I am asking about legal advice. I am trying to nail this down and I am getting mixed messages, with respect. Was legal advice sought on the obligation of the Commonwealth to pay once the services had been provided? Either it was, which I think is what I am being told, or it was not.

Mr Hutson—The legal advice I have here clearly asked the question about Commonwealth obligations to make payments in respect of fire protection services.

Senator FAULKNER—So advice was sought on that issue?

Mr Hutson—Yes.

Senator FAULKNER—That is the same advice that goes to the issues surrounding the FMA Act?

Mr Hutson—It also addresses issues associated with the FMA Act.

Senator ROBERT RAY—I want to make clear the questions we would like answered on notice, as we want to reflect a bit more on this. Does the FMA Act prohibit the payment of these things without the appropriate agreements being entered into? Does this imply that, in the absence of an agreement, previous payments are vulnerable to question so that you do not have to commit yourself too far? These are the sorts of things we would like to know. And if you put provisions in your accounts for the payment of this, are they identifiable in the budget statement?

Mr Knapp—It is part of the overall funding for Comcover, which is received through premiums. It is not identified as a separate line item.

Senator ROBERT RAY—I thought they would have blown your bottom line negotiations, if they were, but they are not, so it is okay.

Mr Knapp—But we have provided for that, as I indicated earlier.

Mr Hodgson—We have been trying for some time to reach agreement with the ACT government. My observation of those negotiations is that they are just prepared to stonewall—they repeat like a mantra, ‘This is our price. Go away.’ We have been very keen to try to reach agreement on the quantum. We have been, I think, fairly flexible in our negotiations. Ultimately, we do have to reach agreement. We have reached agreement with the other states, other than South Australia, and to just stand and stonewall gets us nowhere.

Senator FAULKNER—That is a very honourable attempt at spin, and it may be right for all I know, but it may not be. So that I understand the spirit of this, Dr Watt, would you agree to table the letter—the letter of December 2002, from recollection; the one that went to the Chief Executive of the Chief Minister’s Department in the ACT?

Dr Watt—I would like to reread that letter. I have not had a chance to do that in the run-up to estimates. Subject to that rereading, yes, I would agree.

Senator ROBERT RAY—I think you will need the permission of the recipient as well, on this occasion—I have to say out of fairness. Usually, for correspondence between governments, both sides need to agree to release it.

Dr Watt—I will certainly ask Mr Tonkin whether he is willing to release it.

Senator FAULKNER—Thank you.

Proceedings suspended from 10.44 a.m. to 11.02 a.m.

Senator Abetz—I understand that Mr George Thompson, a former senior adviser to Senator Faulkner, has gone to greener pastures, or other pastures. I want to place on the public record our thanks for the cooperation that we received from him whilst he was in that position with Senator Faulkner.

I also raise a matter which I suppose is ultimately for the committee—that is, I note that before we broke for morning tea there was considerable questioning about the ACT fire services levy. It is quite a proper matter to be raised. The question is where it should have been raised. I understand it was raised under general questions as opposed to the appropriate output. Whilst I understand general questions are for matters that run across different areas, where you have a specific area of some considerable detail, it may be beneficial to keep it within those areas. But that is a matter for the committee to determine.

Senator ROBERT RAY—Chair, last night I outlined certain matters that would be raised this morning. I said they would be raised under 2.1 et cetera. Because we were in general questions, it was just misadventure that they were not read out under those programs. In fact they were raised under the proper programs on that occasion. It is just that last night, for our convenience and for that of the minister, we were trying to put some certainty into the program, which we did. We are essentially pretty much on track at the moment.

Senator Abetz—Good. Let’s hope we stay there.

[11.05 a.m.]

ACTING CHAIR (Senator Brandis)—Thank you, Minister. We will turn now to consideration of output group 3.1, Ministerial and parliamentary services.

Senator FAULKNER—A matter was raised in a radio report in relation to Commonwealth cars. I assumed it related to Commonwealth cars that had been on-sold by the government. Are you aware of this radio report?

Senator Abetz—Yes, with the computerised destinations of certain VIPs still left in them?

Senator FAULKNER—That is right. As you know, that received some notoriety and public comment. I wonder whether somebody from the department, or yourself, Minister, if you care to, could give us an outline of what was behind those reports?

Mr Sweeney—That is correct, Senator. There was an ABC Radio report, I understand on 8 March—

Senator ROBERT RAY—Was it a biased report?

Mr Sweeney—I couldn't comment.

Senator ROBERT RAY—Thank you.

Mr Sweeney—It raised the issue of alleged information in Comcare vehicles that were on-sold—former Comcar vehicles. Indeed, in 2000, the year of the Olympics, 15 vehicles were purchased by the supplier to Comcar which had satellite navigation units fitted in them. They were used in Sydney during the Olympics. Those vehicles—

Senator FAULKNER—Let me interrupt you there. This is because we saw during the Olympics—I think you or someone else has given evidence about this—that some drivers were brought from the ACT and some from interstate who, obviously because they were coming from different cities, did not have the same level of experience in terms of the Sydney road network and the like—is that right?

Mr Sweeney—That is correct, Senator. As I understand it, after the Olympics 13 of those 15 vehicles remained in service in the Sydney area and two of them came to the ACT. At the point in time when those vehicles reached the specified end of their lease period—that is, they had reached either the kilometres or the age—they were returned to the service provider for sale. The vehicles that were returned from Sydney, as I understand it, still had the satellite navigation units attached to them. Due to a security lapse, it would appear that the information contained in those units was not entirely erased.

Senator FAULKNER—I want to be clear first on the numbers of vehicles. There were 15 vehicles with satellite navigation units. Is that correct?

Mr Sweeney—That is correct.

Senator FAULKNER—Thirteen remained in service in Sydney?

Mr Sweeney—Yes.

Senator FAULKNER—And those are the 13 we are speaking of. Are you able to nail down how many vehicles were involved in the security lapse? I thought from what you were saying that there were 13, but I may have misunderstood you.

Mr Sweeney—As far as we understand, that is the answer, yes—13.

Senator FAULKNER—So there are 13 vehicles on-sold with the satellite navigation units in place?

Mr Sweeney—Correct.

Senator ROBERT RAY—And when you say ‘not entirely erased’, does that mean not erased at all, partly erased or selectively erased? What does that term mean?

Mr Sweeney—The answer to that is that, since this matter was brought to our notice, following advice, we have contacted, through the lease provider, all individual owners of the vehicles at this point in time.

Senator ROBERT RAY—No, that is not answering my question. You implied ‘not entirely erased’ at the point of disposal. Was anything erased before the point of disposal?

Ms Mason—Of the 13 vehicles disposed of that had global positioning systems installed in them, we are not sure how many of those systems actually had data stored in them, to start with. Of those that did, which may be 13 or some lesser number, none of the information was erased. But as some of them may have had no information there to start with—

Senator ROBERT RAY—We just have to be a little more careful when we are giving evidence here. The term ‘not entirely erased’ was used. There was no attempt to erase it.

Ms Mason—Senator, there is another relevant point that Mr Sweeney was leading to, and that is that once this matter came to our notice we had contacted the people, and for five of the 13 vehicles we have succeeded in erasing any data that was contained in those five vehicles.

Senator ROBERT RAY—I am sure that will be one of Senator Faulkner’s follow-up questions, but a reasonable person listening to Mr Sweeney’s evidence—I know that he was not trying in any way to mislead us—when he used the term ‘not entirely erased’ would have wanted to know: was there an attempt to erase it and why did it fail? If there is no erasing at that point—at a later point, we concede—we need to know it. In many ways it is better for you not to have attempted to erase it and leave it on than not to erase it at all. So what is the answer to that?

Mr Sweeney—My understanding of the situation, Senator, is that there was no attempt made to erase the information from the 13 vehicles that were on-sold.

Senator FAULKNER—When were the vehicles on-sold? Was it a job lot?

Mr Sweeney—The vehicles were returned, as I understand it, Senator, at the expiration of the two-year leases in August 2002.

Senator FAULKNER—Thank you; August 2002. So it was a job lot, effectively, though?

Mr Sweeney—I am not privy to the basis on which the lessor disposes of their vehicles.

Senator FAULKNER—Who is the lessor?

Mr Sweeney—LeasePlan, Senator.

Senator FAULKNER—Earlier in your evidence you used the terminology ‘service provider’. Is that also LeasePlan?

Mr Sweeney—It is.

Senator Abetz—Just going back, in fairness to Mr Sweeney, as I understand it there were 15 cars originally with this system in them. Two of them were returned to Canberra with the units removed.

Senator ROBERT RAY—Before they were on-sold?

Senator Abetz—Yes. I assume it was erased or taken out in relation to those two vehicles, but the other 13 that remained in Sydney were held by LeasePlan, sold by LeasePlan at Pickles Auctions and, as I understand it, went to a diversity of new owners.

Senator ROBERT RAY—Just coming back to the two sold here, we don't want to examine just the failure in those two, we want to examine the success here: how did we successfully do it here in Canberra? Who disposed of them, who took the units out and under what guidance did they do so?

Senator Abetz—That I don't know.

Senator ROBERT RAY—I didn't think you would.

Mr Sweeney—As I understand it, they were taken out by Comcar at the Canberra depot prior to being returned to LeasePlan.

Senator ROBERT RAY—Did they have any guidance to do this or did they just use their own initiative?

Mr Sweeney—It was before my time in the business, Senator. To the best of my knowledge, it was on the initiative of the manager at that point in time.

Senator ROBERT RAY—There's a gold staffer.

Ms Mason—Certainly, Senator, now that this issue has come to our notice, we have put in place clear procedures to prevent any recurrence. I think it is fair to say that the technology at that time was relatively new and this exposure was not one that was at the forefront of the minds of the people concerned.

Senator ROBERT RAY—Mr Sweeney used the term—I wrote it down—'security lapse' in describing it.

Ms Mason—Yes.

Senator ROBERT RAY—So it was a security lapse?

Ms Mason—That is the way we view it, yes.

Senator FAULKNER—So the 13 cars were back with LeasePlan in August 2002. Is that correct, Ms Mason?

Ms Mason—Yes.

Senator FAULKNER—We will come back to that, but I want to understand when and how you became aware of what has been described as the security lapse.

Mr Sweeney—I was made aware of the ABC news story.

Senator FAULKNER—You did not actually know about this until 2003?

Mr Sweeney—Correct.

Senator ROBERT RAY—I just want to write this down: government informed by the ABC. I will just send a note round to Senator Alston.

Senator Abetz—What it shows is that the ABC doesn't get it wrong all the time. There are the exceptions that prove the rule, Senator Ray.

Senator FAULKNER—Let's hope that goes onto Senator Alston's web site: 'ABC triumph'.

Senator Abetz—Oh, a huge scoop!

Senator FAULKNER—'ABC discovers Senator Abetz's security lapse eight months after it occurs'. I am sure Senator Alston will give that due publicity.

Senator ROBERT RAY—So you find out from the ABC.

Ms Mason—Yes, Senator. Insofar as there was data stored on the systems, we do view it as a security lapse. However, as I mentioned earlier, it is not clear to us that data was actually stored on each of the 13 systems. In fact, of the five that we have since examined, some of them did not have any data stored.

Senator ROBERT RAY—So where are the other eight?

Ms Mason—They are in the hands of private owners. They have been on-sold. Although those owners have been contacted by the department via LeasePlan, not all of those owners have responded to that contact.

Senator ROBERT RAY—Five have and eight have not; is that basically the—

Ms Mason—That is correct.

Senator Abetz—And our contact, because of privacy or other laws, is not direct. It has to be via LeasePlan.

Senator ROBERT RAY—Yes, I understand that; although the intellectual property is yours. Or is that legally in doubt once the car is on-sold?

Senator Abetz—We will get our in-house lawyer to assist us on that one.

Mr Taylor—I don't think there is a clear answer to your question, Senator. We certainly considered the issue of intellectual property but it is not a clear one. Hence the approach was, through LeasePlan, to contact the new owners and have them contact Comcar to make arrangements for a time when they could bring the vehicles in.

Senator ROBERT RAY—You did not think of offering a minor inducement for their cooperation—the famous PM&C theatre tickets, a free dinner or something?

Senator FAULKNER—Or, even better, in DOFA, a massage.

Mr Taylor—No, Senator.

Senator ROBERT RAY—So eight people have just failed to respond.

Ms Mason—That is correct.

Senator ROBERT RAY—I do not want to say 'not cooperate' but can't be bothered responding. Is that a fair—

Ms Mason—Or have chosen for whatever reason not to respond. It is not a mandatory recall or anything of that nature. It is a request.

Senator ROBERT RAY—I am just wondering if there should be an appropriate letter. I understand Mr Taylor's point about the lack of clarity regarding intellectual property, but should there be a letter to those eight people saying that the disclosure of any of that information may well be a breach of intellectual property. Within legal bounds, I am wondering whether that is possible.

Mr Taylor—Any approach would need to be made through LeasePlan—

Senator ROBERT RAY—Yes, I understand that.

Senator Abetz—I am sure they would cooperate.

Senator FAULKNER—So, Ms Mason, this is drawn to your attention as a result of the ABC news broadcast?

Ms Mason—Yes.

Senator FAULKNER—This is one occasion when—

Senator Abetz—This is the great coup for the ABC!

Senator FAULKNER—No. This is one occasion when opposition senators had the same source as the department, I am pleased to say.

Ms Mason—I think it is fair to say that had we become aware of it sooner or via other sources we would have taken immediate action when it came to our notice.

Senator FAULKNER—Of course, I accept that. What was the date of the broadcast again—March, wasn't it?

Mr Sweeney—Saturday, 8 March 2003.

Senator FAULKNER—So you did not know about this from August 2002 until the 8 March 2003?

Mr Sweeney—That is correct.

Senator ROBERT RAY—Did anyone get back to LeasePlan and tell them, and they did not pass it on to you?

Mr Sweeney—Prior to 8 March?

Senator ROBERT RAY—Yes. Have you asked LeasePlan whether they knew it? We know you did not know it, but did LeasePlan know of this?

Mr Sweeney—In all the discussions I have had with LeasePlan I have not asked that question. However they certainly have not indicated to me that they were aware of that fact.

Senator FAULKNER—Did you hear the radio broadcast yourself, Ms Mason?

Ms Mason—No, Senator.

Senator FAULKNER—You were not listening to the ABC.

Senator Abetz—Very wise!

Ms Mason—I believe I was in transit at the time but it was promptly drawn to my attention.

Senator FAULKNER—You are forgiven. What did Max do when the information about the radio broadcast was drawn to your attention?

Mr Sweeney—It was drawn to my attention. From recollection I informed my general manager and at the first available opportunity in the following working week I made approaches to LeasePlan to ascertain whether they indeed were aware of the news bulletin and whether they had any information that could assist me to resolve the matter.

Senator FAULKNER—What was the outcome of those discussions?

Mr Sweeney—Initially, I think it would be fair to say that the people I spoke to at LeasePlan were as unaware of the circumstances surrounding the news bulletin as I was. We then undertook in a cooperative way to address the matter in a way to resolve the outstanding issue as expeditiously as we could.

Senator FAULKNER—What was that cooperative way?

Mr Sweeney—In addition to several meetings that I had with officials from LeasePlan, there was ultimately an exchange of correspondence that culminated in LeasePlan approaching the people that the vehicles were on-sold to.

Senator FAULKNER—Are you able to provide the committee with the approximate date when LeasePlan actually approached the new owners of the vehicles about this issue?

Mr Sweeney—I would have to check my records. I have got that information but I do not have it with me.

Senator FAULKNER—Are you able to say approximately? Did it take a couple of days, a couple of weeks, a couple of months? Did it just happen yesterday?

Mr Sweeney—From recollection, within a working week we had progressed the issue to a point where correspondence that we were happy with and that LeasePlan were happy with to approach the new owners of the vehicles had been, by and large, resolved.

Senator FAULKNER—Let us tie this evidence up: let us know correctly what happened in relation to the 13 units, please.

Senator Abetz—There have been eight non responses and there have been five responses. What has happened with those five responses?

Senator FAULKNER—So far eight people have not responded to the communications at all?

Mr Sweeney—They have not responded to the department of finance and Comcar.

Senator FAULKNER—Whether they have responded to LeasePlan, you do not really know.

Mr Sweeney—I am unaware.

Senator FAULKNER—You have a reasonably cooperative relationship with LeasePlan, haven't you?

Mr Sweeney—We certainly have. However, as has been drawn to our attention by an earlier witness, there are privacy issues here. Of course, we do have to respect that. So, in a contractual sense, we are not in a position, as I understand it, to do any more than ask LeasePlan how that matter is going, and I have done that. At this point we have five positive responses from individuals to the Comcar contact person.

Senator FAULKNER—What has happened in those instances?

Mr Sweeney—As of last Friday, four of the five vehicles had been attended to by Comcar staff and the information on the GPS tracking system had been erased.

Senator ROBERT RAY—Let us go to the nature of that information, just for my information—not individually per system or per person. For instance, did it have addresses of judges on it?

Mr Sweeney—Senator, I am not in a position to disclose the information on the system in relation to individuals.

Senator ROBERT RAY—I am asking you for general categories; I am not asking you whether justice so-and-so was on it. I need to know in terms of the security whether it applied to people like judges, ministers and others. I think I am entitled to know that.

Mr Sweeney—Certainly what I can share with you is that the data that we have been made aware of that was stored in the memory of the navigational units is indeed limited to a suburb or a street or address name. The information, as I understand it, as of last Friday, when four of the five units had been cleared away, did not include any names.

Senator Abetz—The units that were purchased were VDO Dayton MS5000, which included features such as: unit activated once a destination is entered into the system by the driver; automatic voice assisted mapping of the route determined by using the global positioning system technology; and data can be keyed in and stored in memory but is limited to—as Mr Sweeney said—a suburb, street, address and a name. The system—

Senator ROBERT RAY—And a name?

Senator Abetz—And a name. The system does not store any other details such as a log of trips.

Senator ROBERT RAY—Thank you for that, Senator Abetz. Mr Sweeney did not include ‘name’ there. That goes back to my original question.

Ms Mason—Perhaps I can clarify the matter. The system has the capability to store a name. Whether or not it is stored is a different option on the system.

Senator ROBERT RAY—My direct question is: were names stored in any of the four that you have retrieved? That is not classified.

Senator Abetz—I wanted to point out that the features of the system did include that possibility. I didn’t want you to leave here thinking—

Senator ROBERT RAY—I accept that.

Senator Abetz—The next question is whether or not names were actually entered into the system.

Mr Sweeney—My preliminary advice is that no names appeared but I would like to confirm that and come back to you with the answer.

Senator ROBERT RAY—Take that one on notice. Could you also take on notice—and I am not seeking any individual names—if there are names recorded, the sort of categories that they represent. Quite clearly, one of the names in there could be Prince so-and-so who you had in there for two weeks going to the Carlton hotel et cetera, all of which would be totally irrelevant today. But if there were Family Court judges or others, I do not want to know their names, I just want to know whether the broad category exists with the names in it. I am not going to ask about an individual here.

Ms Mason—Senator, we understand what you want and we shall get it as quickly as possible.

Senator FAULKNER—Of course, one assumes that the categories of Comcar clients are known publicly—that is true, isn't it, Ms Mason?

Ms Mason—Yes, I think so.

Senator FAULKNER—I must say I would not expect a major differentiation between the answer to the question you have taken on notice from Senator Ray and the broad categories of those who have an entitlement to use a Commonwealth car. There would be a fair intersection between the two, wouldn't there?

Ms Mason—Correct.

Senator ROBERT RAY—What happened to the two satellite navigation units that were retrieved in Canberra?

Mr Sweeney—My understanding is that they have been retained in the ACT depot—again, I would have to confirm that—but they are not in use.

Senator ROBERT RAY—They have not been on-sold.

Mr Sweeney—Yes.

Senator FAULKNER—And the information on them has been erased?

Mr Sweeney—I would have to confirm that.

Senator FAULKNER—You would not want the cars lying around with the information on them, would you?

Mr Sweeney—I would not—and certainly they would not be lying around; they would be in secure storage, if indeed they are, in the depot.

Senator FAULKNER—That leaves one more, doesn't it? There are eight where people have not at this stage responded. There are two in Canberra. There are another five, and on four of these you have taken the action that you have reported to the committee. And there is one left.

Mr Sweeney—That is correct. Again I would have to confirm with my operations manager, but we were making arrangements to have information erased. It was going to be this week, and that is why I phrased the answer the way I did. As of last Friday, four had been

erased. The other one is in the process of being erased, but I cannot be specific on whether it has actually happened. It could be happening today.

Senator FAULKNER—Have the PSCC or any other agencies been contacted about this security lapse?

Mr Sweeney—Specifically, no. Generally, the issue of Comcar security has certainly been raised with the PSCC. Again, we have a very close ongoing working relationship with that group, and we speak to them basically on a daily basis.

Senator ROBERT RAY—Clearly you have not informed them of this particular difficulty.

Mr Sweeney—We have not, to my knowledge.

Senator ROBERT RAY—You would know, wouldn't you?

Mr Sweeney—I have not raised it with them, and to my knowledge nobody else in Comcar has.

Senator FAULKNER—What level was that decision made at, Ms Mason? They are described by witnesses as a security lapse. It seems that the logical agency here is the PSCC. I wondered why, in the event of a security lapse, the PSCC might not have been contacted.

Ms Mason—I described it as a security lapse. Whether it would be viewed as a serious security lapse is another matter, given that much of the information that may be stored on the system is publicly available via other means. Certainly, what we did do was to take advice from our in-house legal counsel and to take rapid steps to try to contact the new owners of the vehicles and erase any remaining data.

Senator FAULKNER—Can you say that last part again.

Ms Mason—We took rapid action to contact LeasePlan, to seek advice from our internal legal counsel on what it was possible to do in terms of privacy and other issues—contractual matters and so on—then to write the letters, via LeasePlan, to the new owners and, as quickly as possible, in relation to those that responded, to take action to review the material stored on the system and erase it.

Senator FAULKNER—But not raise it with the PSCC.

Ms Mason—No, that has not been done.

Senator FAULKNER—Even though there are eight of these things still washing around the community somewhere?

Ms Mason—As I mentioned earlier, much of the information that might be stored on these systems is publicly available by other means—

Senator ROBERT RAY—Sorry to interrupt you, but if you are a Family Court judge with a silent number and you are silently enrolled—and I am not saying there were any—you would not want that information sloshing around.

Ms Mason—I am not saying we did not take it seriously; we certainly did and we responded quickly. Mr Sweeney has given evidence that we have an ongoing, regular relationship with security agencies in relation to services to our clients. In fact, Comcar has

under way at the moment a review by security agencies of its various security arrangements in all states. So it is certainly a matter that we are addressing on a daily basis.

Senator ROBERT RAY—I was not saying you were not taking it seriously; I was just qualifying your evidence when you said a lot of this material is publicly available. For a lot of us it is, but for some it is not.

Senator Abetz—I think Senator Ray raises a fair matter. Let us ensure it does get to PSCC, if they are not aware of it. I think it is a fair matter.

Senator FAULKNER—Have you advised clients whose data has been found in the system that this has occurred?

Mr Sweeney—No, we have not done that.

Senator FAULKNER—Did you seek legal advice on that issue?

Mr Sweeney—As we mentioned earlier, my preliminary advice is that no names were actually recorded. But, as I said earlier, I would like to check that.

Senator FAULKNER—The reason I asked you was that I heard what you said and I wondered if you had sought advice, given that nine months has elapsed since these cars were on-sold. I wondered if you might have sought advice about whether, if names were discovered, those people should be informed of the situation. Whether the names are there or not, the addresses of the clients are there. This is all on a broader Comcar database anyway, isn't it, Ms Mason?

Ms Mason—Yes.

Mr Sweeney—That is correct. Of course that information is very closely guarded by Comcar.

Senator FAULKNER—Yes, of course.

Mr Sweeney—Until we are made fully aware of how many vehicles we will have the opportunity to erase the data from, the exercise will not be complete. I guess until we are aware of what data we are erasing, we are not in a position to do a check and let the individuals know. But it is certainly something we could consider.

Senator FAULKNER—The point I am making is that you have taken this on notice and you are going to advise us about whether there are any names—I understand that—but what are certain to be there are clients' addresses. That is true, isn't it?

Ms Mason—In a small number of cases, yes.

Senator FAULKNER—In some cases.

Mr Sweeney—Yes.

Senator FAULKNER—So the issue then goes to whether you have sought advice in relation to clients who live at those addresses, or named clients, about whether it is appropriate or otherwise to inform them of the security lapse.

Mr Taylor—I cannot think of any law that would specifically require that kind of advice to be given to the clients.

Senator FAULKNER—It might be a courtesy. It may not be a legal obligation; it may actually just be a courtesy. Did anyone think of that?

Ms Mason—It becomes a bit hypothetical and academic, given our preliminary advice that it does not appear that names are stored. If it were clear that a name was attached to an address, I think it would be more likely that we would want to do that person the courtesy of telling them about the incident.

Senator FAULKNER—It is possible. The alternative view might be to think that, given that there are eight of these things sloshing somewhere—probably around the Sydney metropolitan area—and you know which clients have used those particular vehicles during the Sydney Olympics and around that time, maybe they all should be informed that there has been this security lapse. I am not certain about that judgment at all, but I would have thought that these are the issues that might cross the minds of those who have a responsibility for administering Comcar.

Mr Sweeney—I should add that those issues did cross my mind and indeed were considered. I guess the judgment call has been that we were unaware of what information was actually passed over to the new owners. Until we have actually checked the vehicles and the system, we are unaware. Rather than create a situation where people were uncertain as to whether or not information about their personal details might be stored, my judgment was that that would not be an appropriate course at that point in time.

Senator ROBERT RAY—These things are still ongoing, but what action have you taken in terms of—discipline is too strong a word—some sort of re-education process for the cause of the security lapse? I would think you do not just say: ‘Bad luck,’ and move on. What steps have you taken?

Mr Sweeney—Certainly not. An immediate instruction was issued to all operational staff that, at the point of de-hiring vehicles, that is, when they are returned to the lessor, all such client data is erased from any electronic system. I should add that there were only 15 vehicles used at that time. The satellite navigation units that we are speaking of in relation to the Olympic period are not in common use and they are not continuing to be used by Comcar.

Senator ROBERT RAY—That is step one; you have given the appropriate instruction. But, just as we have commended the manager in Canberra for his initiative, has there been any counselling about what, frankly, is a fairly stupid act of disposing of 13 cars with this information in them, albeit that we do not know the full story of how much information there was?

Mr Sweeney—I can give an assurance that the individuals involved have been made well aware of the implications of their action and that it will not be tolerated in future.

Senator ROBERT RAY—Thank you.

Senator FAULKNER—Can I ask you this, Ms Mason? Or it may be better directed to the Minister. You do accept that this security lapse is the responsibility of Comcar—it is a Comcar lapse in that sense?

Senator Abetz—I can respond to that and say that, when I became aware of it, I was not pleased and Ms Mason was not pleased, and I think things were put in place very quickly as a

result of that. It is one of those things that, unfortunately, happens from time to time. Comcar has a proud history and record, and this particular incident, unfortunately, was not one that added to that otherwise well-deserved reputation.

Senator FAULKNER—But my question was: do you and the department accept that this security lapse is the responsibility of Comcar—that it was a Comcar lapse?

Ms Mason—We do. As the minister said, we view it seriously. We were extremely concerned when it was drawn to our attention. It is something that I believe we ought to have checked. Perhaps it is something that LeasePlan also ought to have checked before they disposed of the vehicles, but I am not trying to abrogate our responsibilities in that regard. As I said earlier, this was relatively new technology and this particular issue was not one that had been contemplated. It is certainly one that is firmly in our minds at this time and it is one where we have taken rapid and very direct action to ensure that it does not recur. I would reinforce what the minister said earlier, that the department does take security issues very seriously, and Comcar is very careful in its treatment of its various clients. They are VIP clients and we treat them accordingly.

Senator ROBERT RAY—You mentioned that LeasePlan may have been more careful. Have you checked to see whether they advertised the global positioning navigation system as one of the pluses before they sold the cars?

Ms Mason—The vehicles would have been sold by Pickles Auctions. To the best of my knowledge, we have not specifically checked to see whether that feature was advertised as a selling point for the vehicles but, if I draw on my own personal knowledge of the web site that is used by that company, it generally does draw attention to the key features of the vehicles.

Senator Abetz—I understand they did not advertise the information contained in the systems!

Senator ROBERT RAY—Visit your local judge; buy this car!

Senator Abetz—In fairness to Senator Ray, one of the concerns is that if the system has a certain address to the Family Court, for example, people can make connections even if there is no name. I think it is a very valid point.

Senator FAULKNER—When were you informed of this security lapse, Minister?

Senator Abetz—That is a good question. I think it was on the same day or the next day. Somebody from Comcar rang my chief of staff, who then rang me. I remember getting the phone call at home, and it was definitely on the weekend—either Saturday or Sunday. On our reconstruction, but do not hold us to it—it was Saturday. We have some more information, I understand.

Mr Sweeney—Of the four units that have been erased to date, the information stored in them was a street name and suburb—no street numbers. Of the four units, there was one name stored.

Senator ROBERT RAY—But the one with the name would not have had a street number on it?

Mr Sweeney—The information I have is not that specific, but it does suggest there was a street name and suburb but no street number. I do not know if it adds anything to the information you are requesting, but I should mention that the system itself does not store any details such as trip details. You mentioned the High Court address. I should clarify that, indeed, there are no trip details in it at all.

Senator ROBERT RAY—Yes. I think we understood that.

Senator FAULKNER—Do you know the category of client for that single name?

Mr Sweeney—No, I do not. I would have to take that on notice and confirm it. For your benefit I can add that the two units removed from vehicles in the ACT are currently in secure storage at the ACT Comcar depot.

Senator ROBERT RAY—That expensive investment is just withering away on the vine, is it? I think we are finished with Comcar, Chair.

CHAIR—I thank the witnesses for appearing.

Senator ROBERT RAY—Minister, we had an arrangement that some officials from another section of DOFA, who deal with IT issues, would be made available. We thought that, if we proceed to that issue next, they can then leave once we deal with it.

[11.48 a.m.]

Senator FAULKNER—Minister, I am afraid my questions are on the same theme of security breaches. I hope this is not indicative of a quickly growing pattern.

Senator ROBERT RAY—Two is a pattern.

Senator FAULKNER—Well, two so far. We will get to a couple of others later. Minister, I know you are aware of the security breaches that have affected the office of the Deputy Leader of the Opposition.

Senator Abetz—Yes.

Senator FAULKNER—I assume your department is also well aware of those. Ms Mason, could you briefly outline your understanding of the security breaches that occurred there earlier this month in relation to the IT facilities.

Mr Staun—Perhaps I can best answer that. As part of a refresh being carried out in Commonwealth parliamentary offices and electorate offices, a new PC was installed in Senator Alston's office and a printer was attached to that by means of something known as Internet protocol, which specified the name in Senator Alston's PC. At a later date, a refresh was undertaken in Ms Macklin's office and the technician put the same address in Ms Macklin's PC. As a result, when she printed, the print-out occurred on Senator Alston's printer. As part of the refresh, clearly our staff appreciated that there was risk involved in this process and they issued comprehensive written instructions. Regrettably, the technician did not follow them in this particular case.

As soon as we became aware of the problem, we removed the printer from Ms Macklin's device so that that particular issue would not recur. Since then, we have implemented a further security protocol called source port, which effectively means that, even though there is a shared network in each of the Commonwealth parliamentary offices, none of the PCs and

printers that are located together in a particular office can see in other offices. We have done that in Melbourne and in Sydney and we have a technician at the moment going around to the other offices in Australia to implement that protocol.

Senator FAULKNER—It is true that a very significant number of documents were printed from Ms Macklin's computer onto Senator Alston's printer, isn't it? In a nutshell that is the problem, isn't it?

Senator Abetz—The term 'very significant' possibly can be left out. But a number of documents or papers were printed out. That is not in dispute.

Senator FAULKNER—Over what period of time, can you say?

Mr Staun—It happened on 7 May. We became aware of the issue at 10 to seven in the evening, and the capacity was removed at 8.30. As I understand it, we were notified through the MAPS state office in Melbourne who became aware of the issue from one of Ms Macklin's staff. Of course, as soon as we became aware of it, we took appropriate action.

Senator FAULKNER—Ms Mason, given your comments about the Comcar security lapse, would you describe this incident as a security lapse or is other terminology more appropriate?

Ms Mason—After consulting with my colleague, we both agree that we would deem it to be an information security issue.

Senator FAULKNER—Senator Abetz, in fact, in writing to Ms Macklin, described this as a security breach.

Senator Abetz—Yes, but there are different types of security breaches. One might relate to simple documentation and finding out information. Other security lapses are those that might endanger somebody personally. So we have to categorise, and that is what Ms Mason has done.

Senator FAULKNER—Can we try to nail down why there was not a design feature in the network that would have ensured that we would not have a mistake like this.

Mr Staun—TCP/IP is a protocol which has been around for many years and on which the state and electoral offices have operated for many years. This breach was always possible. It occurred because a system administrator put in a wrong address. As I said, as part of the refresh we have also refreshed the routers in the office. The routers have an ability, which we have since worked through with Optus and with Hewlett-Packard, to hardwire in where electronic information can be transmitted within the office. While that protocol has been in existence for many years, we will not be using it anymore in those Commonwealth parliamentary offices. We will use this new protocol which effectively means that there is a fence around each of those suites. It is secure.

Senator FAULKNER—So the systems administrator has been refreshed, to use your terminology—is that right?

Mr Staun—The systems administrator was employed by CSC whose contract, as you are aware, ends on 30 June this year. They will be replaced by Volante.

Senator FAULKNER—They will be replaced by what?

Mr Staun—With Volante, another organisation. The contract with CSC lapses on 30 June. We decided not to renew it and have a different model for the provision of infrastructure support to electorate offices. That involves a single business environment for members and senators in Parliament House and in the electorate offices, supported by DPRS in Parliament House as a contractor to us and the Department of Finance and Administration. Thereby you have only one help desk, one image on your PC with Volante providing the on-site support around Australia.

Senator FAULKNER—So there will be a physical separation of the computer systems?

Mr Staun—In one sense, no, because you will still have a single wire coming into a parliamentary office suite like Melbourne but the software in the system itself will hardwire, if you like, a separation in the various machines that use that single wire back into Parliament House. It is a secure arrangement.

Senator FAULKNER—Are you aware that if you measured the amount of material that had been printed off from Senator Macklin's office in inches—

Senator Abetz—Don't upgrade her; she's only in the House of Representatives.

Senator FAULKNER—Sorry?

Senator Abetz—Did you call her 'Senator Macklin'?

Senator FAULKNER—I may have, but I didn't mean to.

Senator ROBERT RAY—You made it worse when you started talking in inches.

Senator Abetz—I understand inches.

Senator ROBERT RAY—Nine centimetres.

Senator FAULKNER—I am sure she will forgive me for the first insult I have ever directed in her direction. I most sincerely apologise. I should have said Ms Macklin. But are you aware that when I said a significant amount of material—and I am afraid of using the old measuring standards—but some three inches of material printed from Ms Macklin's computer on to Senator Alston's printer. That is what I call a significant security breach.

Senator Abetz—If it was three inches I would agree that it was a significant amount of material. I wasn't aware and that is why I was not willing to adopt that terminology. But if you tell me that it was three inches worth, then I dare say that is a significant amount of paper.

Senator FAULKNER—It is. How did MAPS become informed of this, Ms Mason?

Mr Edge—I am the Manager of the Account Management Unit and I have responsibility for the Commonwealth parliamentary offices. My understanding is that a member of Ms Macklin's staff advised one of the departmental staff in the Melbourne office that material had been returned to their office from Senator Alston's office sometime late in the afternoon of 7 May.

Senator FAULKNER—That is right: late in the afternoon. And do you know how much material was returned?

Mr Edge—I am not aware of it, Senator.

Senator FAULKNER—About a ream and a half. Do you know for how long this material was being printed on Senator Alston's printer?

Mr Edge—I am not aware of the amount of time involved.

Senator FAULKNER—I am sure someone should have chased this down in establishing what was going wrong with the system and how it needed to be fixed. Can you help us with that, Mr Staun?

Mr Staun—I am somewhat nonplussed. As an individual, and as we all do, when I print something out on a printer I go to get it and if it is not there I wonder why. It does strike me as unusual that this amount would have been printed out without a question being asked as to where it was printing to.

Senator ROBERT RAY—Hold on. There are two printers in the office, so when it did not print out at one it may have printed out on the other. Some people have more than one printer. You obviously do not.

Mr Staun—No.

Senator FAULKNER—And some material was being printed out in her office.

Mr Staun—Yes. But it was a very large quantity, clearly.

Senator FAULKNER—She is a very busy person.

Senator ROBERT RAY—Don't you live in the real world of these printers where they are constantly breaking down and you get technicians out? Don't you live in this world? Have you got some sort of contract that we do not know about?

Mr Staun—No, Senator, I do live in this world and we are doing something about it, as I trust you are aware.

Senator ROBERT RAY—But you asked about the psychology of someone saying that they had sent something to print and it did not come back as though this is a shock and revelation and that you should immediately do something about it. It happens all the time. That is the point. You send it off to the printer again and again and eventually it comes.

Mr Staun—In that case, Senator, you have helped me understand how that was not discovered.

Senator ROBERT RAY—Good.

Senator FAULKNER—I am asking about the time, if someone can assist us. It is true, as I understand it or accept the evidence of Mr Edge, that a staffer from Senator Alston's office brought material to Ms Macklin's office. What I am trying to nail down is for how long the situation applied where some material that was supposed to be printed from Miss Macklin's computer was actually printed in Senator Alston's office. Some of the material, not all of it—which is the real point, Mr Staun—was going to a printer in Ms Macklin's office; some of it was going to Senator Alston's office. It happened for a whole day, didn't it?

Mr Staun—I am not aware. I will find out for you exactly what time. I would surmise that it happened from the moment that the PC was installed and released into the office for use. What time that was I do not know. I will have that information for you very shortly.

Senator FAULKNER—You do not know—

Mr Staun—I do not know the exact time at which it was installed and therefore from when it was not operating property.

Senator ROBERT RAY—We know it was 6 May and we know the material was brought back to Ms Macklin's office late on Thursday—was it 8 May? I could be wrong there.

Mr Edge—It was a Wednesday afternoon, which would have been 7 May.

Senator FAULKNER—I understand that for most of or nearly all of a working day some material from Ms Macklin's office was being printed in Senator Alston's office. I think that is an inaccurate summation of the situation. Can you confirm that, Mr Staun?

Mr Staun—That is my understanding, yes.

Senator FAULKNER—Can you confirm that, Mr Edge?

Mr Edge—That is my understanding.

Senator FAULKNER—Thank you. I think we have established that it was some material, basically through the working day, on that Wednesday. What are the protocols in relation to an office when this sort of thing occurs? Are there any obligations on, in this case, Senator Alston's office? I do not know if there are or not. If, for example, I went down to my office here in Parliament House and a whole lot of material for Senator Alston was being printed on the printers in my office, what are the obligations on me? Are there any protocols that apply here?

Senator Abetz—As I understand it, there are no departmental protocols and it is a matter of each individual senator or member determining the appropriate course of action. Even within this place we every now and then get letters delivered to the wrong parliamentary office. Some people, I understand, take delight in opening them and doing whatever; others notice straight away and write on the envelope: sent to the wrong office by mistake. Each office handles it differently. I suppose we would all hope that people deal with the situations in an honourable fashion.

Senator ROBERT RAY—For what it is worth, as far as I can establish, this happened on Thursday the 8th.

Mr Edge—My understanding is that it happened on Wednesday the 7th.

Senator Abetz—Possibly what we need to do is to take some of this on notice and find out exactly when on 6 May the installation was completed.

Senator ROBERT RAY—Yes, but there is some doubt, Minister—this is a genuine question—about whether it was the installation in Jenny Macklin's office or the installation in Richard Alston's office that caused the problem. I need to get to the bottom of that, which may help with Senator—

Mr Staun—The two are linked, of course.

Senator ROBERT RAY—Yes.

Mr Staun—The installation in Senator Alston's office used an IP address, then Ms Macklin's office used the same IP address, so I am surmising that the situation occurred from

the time it was installed in Ms Macklin's office, which was on the 6th. We were notified about it at 6.50 p.m. on Wednesday the 7th.

Senator FAULKNER—By whom?

Mr Staun—By the MAPS office.

Senator FAULKNER—Who had been notified by Ms Macklin's staffer?

Mr Staun—That is correct.

Senator FAULKNER—Are you aware what action Senator Alston's office took?

Mr Staun—Only that I am told that they returned material to Ms Macklin's office.

Senator FAULKNER—No, that was at the close of play. They notified Mr Tony Nutt from the Prime Minister's office. That's what they did, isn't it? That's right, isn't it, Mr Edge?

Mr Edge—I am not aware of what actions they took.

Senator FAULKNER—Well, I am, because Senator Macklin and her staff inquired—

Senator ROBERT RAY—Ms Macklin, not senator.

Senator FAULKNER—She really will have to forgive me. Ms Macklin—

Senator ROBERT RAY—We had a Senator Macklin—Michael Macklin.

Senator FAULKNER—We did.

Senator Abetz—A Democrat.

Senator FAULKNER—I bet they wish he were still here—maybe they don't. Ms Macklin's office were informed by Senator Alston's office that they had taken the matter up with Mr Nutt from the Prime Minister's office.

Senator Abetz—Whether or not that occurred, we are unable to say. It does not fall within the province of either my ministerial responsibilities or within the department, whether or not that occurred, but to assist us in reconstruction I do not know whether Ms Macklin's office has any record of the times when the printers were activated and then—

Senator FAULKNER—They told me it happened on Wednesday the 7th.

Senator Abetz—At what time on Wednesday the 7th?

Senator ROBERT RAY—At 9.30 in the morning—the first occasion. This is what I have been informed; I cannot guarantee that.

Senator Abetz—Right.

Senator FAULKNER—And late that afternoon, having had 'some material from her office' being printed on Senator Alston's printer, Senator Alston's staffer fronted up with copies of that material or the originals of that material for Ms Macklin.

Senator Abetz—So that which is within our province is that MAPS were notified of this error by a technician at 6.50 p.m. and it was remotely disabled—I am not sure exactly what that means—by 8.30 p.m. that same evening.

Senator FAULKNER—No, MAPS weren't notified by a technician. Is that what you are saying?

Senator Abetz—No, I said that when MAPS were notified of an error made by a technician then, within one hour and 40 minutes, it was disabled. So from a MAPS point of view, once they were made aware of it, they moved as expeditiously as possible, given that it was after hours. Having said that, the technician should not have failed to follow the installation instructions and it astounds me that a test print after installation was not sought to be undertaken. But unfortunately, even with protocols in place, as I said before the people who do a wonderful job delivering correspondence around this place every now and then get a few batches muddled up, with letters and envelopes being delivered to the wrong office. Unfortunately these things happen. The issue is how often they happen and, once discovered, how quickly they are rectified.

Senator FAULKNER—You might take on notice, given that you have indicated that you do not know, the question as to whether Mr Tony Nutt from the Prime Minister's office, was informed of this by Senator Alston's office.

Senator Abetz—I will not take that on notice.

Senator FAULKNER—Why not?

Senator Abetz—Because it does not fall within my ministerial responsibility whether Senator Alston's office made a call to somebody else, be it Mr Nutt or indeed Joe Bloggs. That is not within my responsibility.

Senator FAULKNER—At the end of the day the buck stops with you in relation to security at these offices—

Senator Abetz—That's right.

Senator FAULKNER—and I would have thought you would be concerned about it.

Senator Abetz—I am and that is why—

Senator FAULKNER—I would have thought you would be concerned about the fact that a lot of material—intermittent printing of material during a work day and that went on for a full work day—was provided by hand delivery to an officeholder of the opposition party by a staff member in a government minister's office, literally after hours and hours of having that material printed in the government minister's office, and a situation where a senior staffer in the Prime Minister's office had been informed, but no-one informed—

Senator Abetz—They may all be very valid concerns.

Senator FAULKNER—They are.

Senator Abetz—I cannot vouch for the times but I accept that you say the printing started at 9.30 a.m. et cetera. I am willing to accept that but, as for the technical errors, rectifying those technical errors and what was actually done with the material et cetera is not something for which I would take ministerial responsibility, and I do not think anybody would expect me to take ministerial responsibility.

Senator ROBERT RAY—But as part of the security, your normal expectation, when it is a printing error fault, is for whoever the unintended recipient was not to have copied any of the material.

Senator Abetz—Once again, I cannot comment on that. That is not part of my ministerial responsibility—what people do within their own personal offices.

Senator ROBERT RAY—No, but an error having occurred—and none of us would say the error was in any way Ms Macklin's responsibility—there must be some responsibility for the security of the material if it goes to another member's office. Presumably some of it was there for seven or eight hours and was then taken around, we assume in whole, and given to a staff member. As I understand it, when asked directly there would be no guarantee given that that material had not been copied.

Senator Abetz—That may or may not be the case. I do not know whether what you are advising me is or is not correct, but either way it does not fall within the responsibility of this portfolio.

Senator ROBERT RAY—You are not responsible for the action of another minister in his office; I accept that. What you are responsible for is the security of the material and finding out whether the material was secure. That you are responsible for.

Senator Abetz—No, not in all circumstances. What happens in Senator Alston's office or somebody else's office who gets information by misadventure is not my responsibility.

Senator ROBERT RAY—I am not saying what his actions are, but the security of Ms Macklin's material is your responsibility.

Senator Abetz—Clearly. And that is a matter of concern.

Senator ROBERT RAY—If someone had that material in an unauthorised way and copied it, it would be.

Senator Abetz—No, I would respectfully disagree with you. What is my responsibility is that if a technician does not follow written instructions under a contract that the department has, then that is a matter of concern. When we were advised of the difficulty at 6.50 p.m., it was corrected by 8.30 p.m. I think that is pretty expeditious given that it was after hours et cetera that the disablement occurred so quickly.

Senator ROBERT RAY—But you are not able to say to us that you have taken any steps to establish whether the material, through the fault of the department was sent to someone else, was in fact securely held or whether it was copied or not. You are not even interested in that.

Senator Abetz—It is not a matter that is within my responsibility.

Senator ROBERT RAY—If we get material that is inadvertently meant for you and it comes to me, the first step you would take is to put the Federal Police onto it.

Senator Abetz—I am not sure that necessarily follows.

Senator ROBERT RAY—We have had evidence about the amount of—

Senator Abetz—If an attendant accidentally delivers a letter for me to your office, I do not think I would be ringing the Federal Police.

Senator ROBERT RAY—You would get it back unopened; I can guarantee that.

Senator Abetz—I believe that is the honourable course to take but that is for each individual member and senator to determine what they are going to do.

Senator ROBERT RAY—We have had the curious case already that I have raised at estimates committee where I was sent a fax by the National Secretary of the Labor Party. The phone number—it was not his fault but it was the fault in the system—was in fact allocated to a Liberal senator who then switched that message across to a fax and took the speech, which was going to be delivered by the national secretary to a South Australian conference. I realised that because it did not come—that speech was never delivered—and, lo and behold, extracts of it were quoted in the House of Representatives eight months later. That is poor form and that having happened to me is why I want to know about this and whether there should be some investigation.

Senator Abetz—I do not know whether what you are saying is right or wrong. I am willing to accept at face value that what you are telling me is right. But, once again, that is not this department's responsibility. What it does show is that even in a highly sophisticated office such as Labor Party headquarters there are assistants there that accidentally dial wrong numbers. It is the same with the CSC—they have a technician who does not follow the written instructions, makes an error and, as a result, information goes to the wrong place.

Senator ROBERT RAY—When you are allocated an office here temporarily, after moving out of the ministerial wing for two days and you move on the third day, they do not actually allocate your fax number to someone else straightaway; they allocate it as a phone number. So it needs to be a pretty devious individual to do this: hear the fax beeps, transfer the call to their own fax, walk it around to the Prime Minister's office and give him the speech, and then it is used later.

Senator Abetz—Chair, this is all very interesting and Senator Ray now has it on the *Hansard* record—

CHAIR—We are stuck on the same issue.

Senator ROBERT RAY—It is already on the *Hansard* record.

Senator Abetz—All right, it is on the *Hansard* record again, but I am not sure that it is necessary.

Senator ROBERT RAY—I have no idea of the nature of the material printed by Ms Macklin. I have not talked to her. I have no idea of the nature of the material, but I would have thought anyone with any decency and honesty in government would have said, 'No, we did not copy that.' They should have at least had the honesty to say that. And I think you as a responsible minister should have made inquiries to find out whether the material—inadvertently sent, through your own error—remained protected at all times. It is your responsibility.

Senator Abetz—I respectfully disagree with that, Chair.

CHAIR—We have traversed this issue a few times, Senator Ray.

Senator FAULKNER—It is not the only breach of security in the Commonwealth parliamentary offices in Melbourne, is it?

Senator Abetz—Let us move on to the next question.

Senator FAULKNER—No, I am asking Ms Mason: how regular an occurrence are security breaches at the Commonwealth parliamentary offices in Melbourne?

Senator Abetz—With respect, Ms Mason cannot answer that because there may be a lot of security breaches that occur that are never reported—

Senator FAULKNER—If there are, we ought to hear about them.

Senator Abetz—so if you have got a specific one—and I think I know what you are talking about—tell us.

Senator FAULKNER—I am interested in the ones that have been reported to MAPS.

Senator Abetz—Reported ones? All right.

Senator ROBERT RAY—If you are going to run this interference, we will be here all day. Let us get on with it. Really!

Senator FAULKNER—Let us be quite clear: if they have not been reported, Ms Mason would not know about them?

Senator Abetz—Exactly. I was just making the point.

Senator ROBERT RAY—I thought that even you would understand that.

Senator Abetz—If you do not frame your questions properly, don't blame me.

Senator ROBERT RAY—Don't misinterpret the question—really!

CHAIR—Order! Let us hear from Ms Mason.

Senator Abetz—You have rephrased your question and we can now answer it.

Ms Mason—From time to time there are security issues that arise. The department and parliamentary services within the department view each and every occasion as a serious matter. To the extent that those issues draw attention to flaws in our procedures or practices we take proper steps to address those issues to attempt to prevent recurrence. I think it is fair to say that we are not perfect and we cannot guarantee that there will never again be a security issue. What I can say is that we do attempt to minimise and to eliminate them and we do take rapid action when we identify them. In terms of coming back to your specific question about reported security incidents, I think that Mr Edge can possibly help you with that.

Senator FAULKNER—To narrow it down, Mr Edge, why don't we just deal with the calendar year at the Melbourne Commonwealth parliamentary offices?

Mr Edge—Is your question: how many security breaches have we been notified of?

Senator FAULKNER—Yes.

Mr Edge—I would have to take that on notice; I do not have that information in front of me. I should also point out that PSCC is responsible for, effectively, what you might call 'perimeter security' at the Commonwealth parliamentary offices. Under a contract arrangement they station the APS guards.

Senator FAULKNER—Take the number on notice. Now could you please inform the committee about those that you are aware of and are briefed on?

Mr Edge—I am aware of an incident that occurred in February this year.

Senator FAULKNER—What was that?

Mr Edge—It involved the provision of access to an office that was being used by Ms Macklin in the CPO.

Senator FAULKNER—Yes, that is one.

Mr Edge—That is the one that I am aware of.

Senator FAULKNER—Let us deal with that particular one. Is that a security breach, Mr Edge?

Mr Edge—I would imagine that you would regard it as a security breach, yes.

Senator FAULKNER—Can you explain to the committee what happened?

Mr Edge—My understanding of the incident is that a senator who had booked a visiting office in the Melbourne CPO was escorted to the office on level 4 of the CPO that was from time to time occupied by Ms Macklin and her staff. None of her staff were in the office on that day. My understanding is that the security guard provided access to the office for the senator involved.

Senator FAULKNER—Yes. The senator involved was a government senator?

Mr Edge—That is correct.

Senator FAULKNER—So a government senator was given access to Ms Macklin's office?

Mr Edge—That is correct.

Senator FAULKNER—In Melbourne.

Mr Edge—That is correct.

Senator FAULKNER—What did that senator do?

Mr Edge—I am not aware of what that senator would have done while that senator was in the office.

Senator FAULKNER—Right. They could have done anything, I suppose. What did the senator do with the computer system in the office?

Mr Edge—It is quite difficult for me to say what someone would have done while they were sitting in an office using the computer.

Senator FAULKNER—But he used it—

Mr Edge—He used it, yes.

Senator FAULKNER—Did the government senator log on and use the computer in Ms Macklin's office in Melbourne?

Mr Edge—That is my understanding of what occurred.

Senator FAULKNER—Is it an understanding or is it a fact?

Mr Edge—We had been told—

Senator Abetz—The department was told by Ms Macklin's office.

Mr Edge—that the system records show that the computer was used.

Senator Abetz—By Senator Chapman.

Senator FAULKNER—What did you do when that matter was raised with you, Mr Edge?

Mr Edge—We contacted the PSCC. When we determined that the access had been provided by the APS officer who was stationed at the guard desk in Melbourne on that day, we contacted PSCC and raised our strongest concerns to them about the incident and requested an explanation as to what had occurred and how it had occurred.

Senator FAULKNER—You say this office is an office used from time to time by Ms Macklin. In fact it is the office of the Deputy Leader of the Opposition, isn't it?

Mr Edge—That is correct.

Senator FAULKNER—To say it is used from time to time is a very unreasonable description of these premises. It is the Deputy Leader of the Opposition's office, isn't it?

Mr Edge—That is correct, Senator. I only put it in those terms because the office was not occupied on the day of the visit, and at the time of the visit there was no signage on the office to indicate—

Senator FAULKNER—It is not used from time to time; it is the permanent office of the Deputy Leader of the Opposition.

Mr Edge—That is correct.

Senator Abetz—No, it was not, as I understand it. It was not in constant use and did not have the appearance of a member's office. If it were the ongoing office of the deputy leader, or the one that she always used, it would be highly unlikely that there would be no staff in it or around it. So, in fairness, it did not have a name on the door; somebody is directed to that office; it does not look, if you like, permanently lived in; as a result a senator gains access; nobody else is around; he uses the stuff in there and goes. I do not know how long he was in there for. Do we know that?

Mr Edge—We understand it was about 20 minutes.

Senator Abetz—He was in there for 20 minutes. If it were in permanent use by—

Senator FAULKNER—Does it have Ms Macklin's name on the door?

Senator Abetz—No.

Mr Edge—At the time this occurred it did not.

Senator Abetz—No. That is what I have just said.

Senator ROBERT RAY—Has Ms Macklin moved to 4 Treasury Place from somewhere else, like Senator Conroy?

Mr Edge—That is my understanding, yes.

Senator ROBERT RAY—So it is basically the department's initiative to put them there. I think that is true of Senator Conroy—that he was encouraged to move there.

Senator Abetz—No, I am not sure that was the case in the end, but we won't traverse all of that again.

Senator ROBERT RAY—I thought we had evidence that he was encouraged to move there—for good reason, because moving people out of 100 Collins Street meant the rent per individual was going to go up and all the rest. Nevertheless, they were encouraged to move to 4 Treasury Place.

Senator Abetz—The lease had expired, if I recall.

Senator ROBERT RAY—They were encouraged to move to 4 Treasury Place rather than somewhere else. That is true, isn't it?

Ms Mason—Senator, it is my recollection that 4 Treasury Place was offered to Senator Conroy as an option for him to move from his previous accommodation. We have covered this previously. The old accommodation was not available any longer because the landlord was unwilling to renew the lease for a relatively small portion—

Senator ROBERT RAY—I have no intention of revisiting all of that. The only point I want to make—if it is valid, and that is what I want answered—is to find out whether it was the department that suggested Ms Macklin move to 4 Treasury Place. It is pretty easy to answer yes or no to that.

Senator Abetz—In relation to Ms Macklin's office accommodation, on 13 May 2002 I approved Ms Macklin's request that she establish a joint electorate officeholder's office in the Melbourne suburb of Heidelberg. Ms Macklin subsequently decided she did not wish to proceed with this arrangement. She has retained her Heidelberg electorate office, and MAPS has provided her with ongoing exclusive use of a VMO within the non-government area of the CPO. Ms Macklin had indicated that she was prepared to establish this as her permanent officeholder's office, but on 9 May 2003 she wrote to MAPS advising that she wished to establish an office elsewhere within the city.

Senator FAULKNER—She would, after Grant Chapman was using her office. You can't blame her for that. How would you like it if a Labor senator came into your ministerial office and used the computer.

Senator Abetz—I was just going to say you have been to my ministerial office, but I understand what you are saying and what you mean.

Senator FAULKNER—I didn't go into an empty ministerial office and use your computer.

Senator Abetz—And I think that is the big difference, that you are in working hours—

Senator FAULKNER—I did visit your office, invited by you—and a very pleasant experience it was, too. That is a very different situation and a silly analogy to draw.

Senator Abetz—With great respect, Senator Faulkner, I think you would find that, if you were to stumble into my office during working hours, you would not be rumbling around for 20 minutes without any staff members becoming aware—

Senator ROBERT RAY—That is because you have a big staff. Oh, good, you are going to double our staff. Great!

Senator Abetz—The simple fact is: nobody was there.

Senator FAULKNER—Yes, Senator Chapman was there in Ms Macklin's—

Senator Abetz—No, from Ms Macklin's staff as deputy leader.

Senator FAULKNER—They may well have been at her Heidelberg office.

Senator Abetz—Exactly.

Senator FAULKNER—They may well have been in her Canberra office. They may well have been travelling with Ms Macklin.

Senator Abetz—That is why the office did not have the look of permanent occupation about it.

Senator FAULKNER—Ms Macklin has a very small staff, unlike you. Obviously, from time to time, there are not going to be staff present at her office holder's office. Obviously from time to time that will be the situation. It is still her private office, and we had a government senator attending the Deputy Leader of the Opposition's office and using the computer. The real analogy to draw is if an opposition senator—a Labor senator—went to a minister's office outside the Parliament House region. There would be outrage. You know, don't you, Minister, that this is an unforgivable breach of security.

Senator Abetz—When we start talking in those terms we know we are seeking headlines rather than—

Senator FAULKNER—How do you describe it?

CHAIR—Senator Faulkner, allow the minister to respond.

Senator Abetz—The simple fact is: Senator Chapman had booked the use of a visiting member's office. When he arrives, he asks the guard, 'Where do I go?' He is shown or told where to go. He goes into that office. There is no name indicating that it is somebody else's office on the office door. He goes in and it does not look as though that office is in permanent use. He therefore sits himself down, uses the facilities and, indeed, leaves behind the fact—I do not know how; somehow it was traced on the computer—that he had gained access.

Senator ROBERT RAY—He did not know how to log off.

Senator FAULKNER—Otherwise they would never have known, perhaps.

Senator Abetz—He did not log off, which indicates that his presence there was absolutely and utterly innocent, because I am sure that—

Senator FAULKNER—No-one is suggesting he is guilty.

Senator ROBERT RAY—Not of that, anyway.

CHAIR—There is no evidence of any malicious intent.

Senator Abetz—Therefore the issue is with the Australian Protective Services officer who misdirected Senator Chapman to that particular office.

Senator FAULKNER—But Minister, it is inexcusable, isn't it?

Senator Abetz—Human error does occur. I do not know if it occurs with you, but sometimes it does occur.

Senator ROBERT RAY—It seems to be all one-way, though.

Senator FAULKNER—But it is inexcusable, isn't it?

Senator Abetz—No, I disagree. Human error—

Senator FAULKNER—Why did you write a letter to Ms Macklin saying it was inexcusable? That is what your letter says. These are your words in the letter you wrote. It was inexcusable when you wrote to her but it is not inexcusable now?

Senator Abetz—What I am saying is that you can understand that these errors occur. From Ms Macklin's point of view, of course, it is inexcusable. A staff member or a contractor makes an error from time to time—unfortunately yes, that will occur. We have to put in train such mechanisms that will ensure that those sorts of mistakes do not occur at all or, if they do, they are minimised. It would be an interesting exercise to see how many VMOs are in fact booked at the CPO in Melbourne, and how often these staff in fact do get it right. Having said that, one error is one error too many, and we try to avoid them.

Senator FAULKNER—But in the view of MAPS—Ministerial and Parliamentary Services—which is your ministerial responsibility, this incident involving Senator Chapman is inexcusable, isn't it?

Ms Mason—I have said many times that any security issue that comes to our notice is viewed seriously. For the record, there is no suggestion that Senator Chapman sought access to Ms Macklin's office.

Senator FAULKNER—I am not asking that; I am asking whether Senator Abetz, who objected to my use of language, accepts that this incident is inexcusable. I want to be clear that you do accept that it is inexcusable.

Senator Abetz—If I were Ms Macklin, of course I would be upset and concerned that this had occurred.

Senator ROBERT RAY—So would we.

Senator Abetz—There is no doubt about that, no argument about that and that is why Ms Macklin has been told—

Senator FAULKNER—Why did you write her a letter saying—

Senator Abetz—that measures have been put in place to avoid a recurrence.

Senator ROBERT RAY—What measures, Minister? What measures?

Senator Abetz—Just bear with us.

Mr Edge—I can perhaps help with that. As I mentioned at the beginning, we do not have direct responsibility for the supervision of the APS guards at CPO.

Senator ROBERT RAY—You just pay for them.

Mr Edge—No, PSCC pays for them. We have no direct relationship with them. We must raise concerns we have about actions that guards take with PSCC. I have raised concerns with PSCC about this incident on a number of occasions and—

Senator ROBERT RAY—What have they said?

Mr Edge—They have referred it to the APS. The latest advice I have is that the APS have investigated how it happened, counselled the guide involved and looked at the training procedures that have been provided to the guard.

Senator ROBERT RAY—Have they issued an apology to your organisation for this occurring?

Mr Edge—They have—not formally, but they have advised me that they regret the incident.

Senator FAULKNER—Can you now confirm, Minister, that you wrote to Ms Macklin yesterday saying, ‘MAPS, Ministerial and Parliamentary Services, regards this incident as inexcusable’?

Senator Abetz—‘And has vigorously expressed its concerns to the two agencies involved with the provision of security services within the Commonwealth Parliament Offices.’

Senator FAULKNER—So you can now confirm to the committee that you did write to Ms Macklin saying the incident was inexcusable?

Senator Abetz—That MAPS considered it inexcusable.

Senator FAULKNER—And do you?

Senator Abetz—As I indicated earlier, if I were Ms Macklin, I would see it as inexcusable. Human error, unfortunately, does occur. I regret that that incident occurred but, when you are dealing with, I imagine, hundreds if not thousands of bookings, every now and then an error will occur. That is to be regretted. You have to minimise it and try to avoid it.

Senator FAULKNER—Is that a yes or a no? Do you agree with MAPS that the incident is inexcusable? Answer it how you like, but I want to know whether you agree with it.

Senator Abetz—I have already, Mr Chairman.

Senator FAULKNER—Do you agree with them or not?

Senator Abetz—I have already answered it.

Senator FAULKNER—Do you agree with them that it is inexcusable?

Senator Abetz—I have already answered it as I like.

CHAIR—The minister has answered it.

Senator FAULKNER—You are hoisted with your own petard.

CHAIR—I think it is time for the luncheon break.

Proceedings suspended from 12.38 p.m. to 1.43 p.m.

Senator Abetz—Senator Faulkner, you had some questions and comments about the proceedings earlier today. The first answer I have is in relation to the printer in Ms Macklin’s office. It was installed to the network at approximately 4 p.m. on Tuesday, 6 May. When two printers have the same IP address, the document will go to whichever printer responds first, hence some documents would have gone to Senator Alston’s office and some would have gone to Ms Macklin’s.

Senator FAULKNER—That is interesting to know because that explains the intermittent nature that I was talking about.

Senator Abetz—Yes.

Senator FAULKNER—Mr Staun, the IT expert at the table, made the point that he was flabbergasted that you would not have worked out that some of the material was going elsewhere. The whole point is that it was intermittent—some of it was being printed and apparently some of it was not.

Senator Abetz—In fairness, I think he accepted Senator Ray's explanation that not everybody has a printer immediately next to them in their office, et cetera. I think he was then gracious enough to accept that the scenario painted by Senator Ray was one that he had not necessarily been aware of.

Senator FAULKNER—Senator Ray's point is a very astute one. You have also made the point that there is a technological issue here. There is intermittent printing on two printers.

Senator Abetz—That is right. That provides further explanation to the committee. Whilst I do not consider it my responsibility, as I said at the beginning of hearings, I am from the government and I am here to help. I have a letter from Senator Alston—

Senator ROBERT RAY—So have I. I was about to acknowledge it and put some of it on the record, but why don't you?

Senator Abetz—I will allow you, Senator Ray.

Senator ROBERT RAY—No, you do it. It is a helpful letter.

Senator Abetz—This is a letter from Senator Richard Alston to Ms Jenny Macklin, Deputy Leader of the Opposition, dated today's date:

I am writing in response to your 9 May letter regarding a security breach on 7 May which resulted in documents prepared in your Treasury Place office being printed out in my office. I acknowledge the statement in your letter that the security breach was no fault of my office.

I have spoken to my chief of staff about this matter who has checked with the junior officer in my Treasury Place office. The junior officer indicated that as soon as he became aware of the problem, my Melbourne office informed the security guard at Treasury Place, presumably assuming that the matter would be brought to the attention of your office.

My chief of staff has indicated he was told about the security breach mid-afternoon on 7 May by my junior officer. The Prime Minister's office was informed shortly thereafter and it was agreed that the material should be returned by mail to your Melbourne electorate office. Your Canberra office was then immediately informed by my chief of staff that this would occur. Your staff picked up the material very soon thereafter—

which I think is a bit different from what Senator Ray indicated—that is, that Senator Alston's office had delivered it—not that there is anything material in that—

before my junior officer was able to post the material as agreed.

Your letter asks where the documents were located and how many people handled them prior to them being handed to your office. My chief of staff has spoken to the junior officer about this and he has indicated that the documents were printed on a printer in the office where he works. He has also

indicated that he was the only person who handled the documents from the time that they printed out on the printer to when they were handed back to your office.

As you indicate in your letter, my chief of staff informed your office the next day that the Government did not have any copies of the documents. I have checked with my chief of staff who has confirmed that this is this case. He has also assured that he has double-checked with the junior officer who has confirmed that he has no copies of the documents and that he has never provided any of the documents to any person other than your chief of staff who picked them up at our Treasury Place office.

I trust that this letter provides the assurances that you are seeking and demonstrates that my office has handled this inadvertent security breach in a responsible manner.

Yours sincerely

Richard Alston

Senator ROBERT RAY—Thank you for putting it on the record, Minister, even though it is not within your ministerial responsibilities and you would not answer questions on it earlier.

Senator Abetz—As I said, I am here to help.

Senator ROBERT RAY—I think the estimates committee has certainly assisted in getting the response that we very much appreciate because it has answered some of those questions we were asking.

Senator Abetz—Of course.

Senator ROBERT RAY—The power of the estimates committee gets a letter back the same day—it is great.

Senator Abetz—A copy of it.

Senator ROBERT RAY—Yes. While I am on congratulations, I have noticed an increasing tendency, Minister Abetz, for your office—no doubt with the assistance of the department—to send out written guidance on some of these entitlements issues. That has not been a notable factor in the previous 20 years and I want to thank you and your office for that. It is very valuable in making up our minds about how to properly access our entitlements. Some of them have been irrelevant to me because I do not access those entitlements, but overall members of parliament can be well pleased that they are now getting that written guidance.

Senator Abetz—Thank you for that.

Senator ROBERT RAY—I just have one more question on this issue of computers and printers. It is something I do not take a close interest in in my own office: I usually close the door when there are problems and open it two weeks later when they are solved.

Senator Abetz—They get solved that quickly in your office, do they?

Senator ROBERT RAY—I am wondering about the charging regime because, in my office, they were out for two weeks in a row. They were out all the time. It was repaired, it would go off and you would have to get them back. Is the department paying individually for these or is it part of a service contract so it is in their interests to get it fixed rather than have to go to the expense of them coming all the time? Do you understand the question?

Mr Staun—Yes. There are in fact service level agreements within the contract with CSC which specify minimum performance standards that they have to achieve. However, I will be honest and say that it has been problematic in enforcing those standards. It has been an issue that we have had continually in dealing with CSC. Under the new contract that we have signed with Volante, we believe that we have a much better specification of the service level agreements and standards that must be achieved. We would expect that the sorts of situations that you have described, and the frustrations that have come from them, would not be repeated.

Senator ROBERT RAY—There are two levels of frustration. One we will dispense with, which is the continual revisits and their failure to work properly. I am concerned that when they fail to repair it in the first instance and have to come back five, six or eight times they are not charging us—and by ‘us’ I mean all of us—each time for their first failure.

Mr Staun—No, that would not be the case.

Senator ROBERT RAY—That is good.

Senator Abetz—Can I assure you that the delays you experience are unfortunately not isolated; they occur in another electorate office with which I am very well acquainted.

Senator ROBERT RAY—I am sure that has a much more intense workload than mine so that would be a difficulty. I previously asked a question and I think, Minister, you said you would have a look at it.

Senator Abetz—What was that?

Senator ROBERT RAY—That was about staff travel budgets. I think I noted that adjustments have been made to a variety of allowances or entitlements within your prerogative and I pointed out that this one has not been adjusted for some time and was continuing to put a bit of pressure on particularly backbench members who are having to juggle that budget carefully. Have you had a review of that? I thought you said you might.

Senator Abetz—We have to a certain extent. The department is still reviewing it. Extensive research has been undertaken into the use of the electorate staff travel budget over the last three years. Of the factors that influence expenditure on electorate staff travel, no pattern of budget usage has been identified. Several options are being tested against the data. Regardless of the possible changes to the budget, I consider that senators, members and their staff should be properly informed of how the travel budget is derived. This will encourage better budget management. It is anticipated that a recommendation from the review will be available in time for application in the 2003-04 financial year—which means about a month to go. Information on the method used to calculate staff travel budgets will be provided at that time.

Senator ROBERT RAY—Has any consideration been given to a carry-over element to the budget? Usually you tend to underspend the budget in one of the three years and in the other two years you are under pressure. It is all very well to study past patterns and to say that the budget must have been adequate because people met the budget, but they may have met the budget with different sorts of sacrifices which you would not know about. I mean, they may have had to stay on intervening weekends or decided not to bring a staffer up for this

particular period. That is information you would not have. What about a carryover facility like you have for postage?

Senator Abetz—And for the charter allowance I think you can carry over 20 per cent.

Ms Clarke—That is one aspect that we have been looking at. It will be looked at in the review.

Senator ROBERT RAY—That is good. In terms of the negotiations on the certified agreement, one aspect of it—and I do not think that this is confidential, but stop me if it is—was mentioned in terms of the travel allowance being set at a fixed rate of MPs' travel allowance in Canberra, which will mean an increase. Would there be an automatic increase to the staff budget, if that occurred, outside this review?

Senator Abetz—Yes.

Ms Clarke—Yes, that is correct.

Senator Abetz—As I understand it, there are four aspects to the travel budget, although it is in a global budget. Senator Brandis will be impressed by this description; he will recall another time when I tried to explain this, no doubt.

Senator ROBERT RAY—What, explain global budgeting to Senator Brandis?

Senator Abetz—No, not to Senator Brandis personally.

Senator FAULKNER—It is hard to impress Senator Brandis.

Senator Abetz—When there is an increase in the cost of air fares to and from a destination, or in travel allowance, which is another part, which is for 100 days, that commensurate increase for that item then has the commensurate increase in the global budget.

Senator ROBERT RAY—That is good.

Ms Mason—May I clarify something? If I heard you correctly, you were suggesting that, if the certified agreement is passed, it had as part of the offer a matching of—

Senator ROBERT RAY—Not a matching; I thought it was a tying to but at a lower level.

Ms Mason—Yes, at a different level.

Senator ROBERT RAY—Yes, I understood that. I think they use the word 'matching'.

Ms Mason—I just did not want to leave it stand if it was incorrect.

Senator FAULKNER—I think we have finished with that issue, unless you had something else that you wanted to respond to.

Senator Abetz—No.

Senator FAULKNER—Minister, can I go to another matter?

Senator Abetz—You shouldn't ask me; you should ask the chair, but I am sure he won't disagree.

Senator FAULKNER—It is just a courtesy.

Senator ROBERT RAY—It is just a courtesy. Don't get carried away; you don't get much, I know.

Senator Abetz—I know.

Senator FAULKNER—After all, the chairman is very busy on other issues at this stage.

Senator ROBERT RAY—He is so far in front—you can vote for Senator Mason now—he has got so many votes he doesn't need them.

ACTING CHAIR (Senator Brandis)—Order!

Senator FAULKNER—Mr Acting Chairman, I want to ask some questions about an issue that arose during the New South Wales state election campaign. I do not know, Minister, whether you are aware of this but do you recall the publicity surrounding two members of Mr Anthony's staff who were convicted and fined on Monday, 7 April for stealing election posters during the New South Wales state election campaign? I was wondering whether that matter had been drawn to your attention.

Senator Abetz—It has been drawn to my attention and it has also been drawn to my attention that the matter is the subject of an appeal.

Senator FAULKNER—Yes. I was going to ask you whether it was the subject of an appeal. Are we clear where that process is up to?

Mr Taylor—Yes, it is the subject of an appeal, and I believe that the appeal is scheduled for July this year.

Senator FAULKNER—I thought that was the case. That will have the impact of limiting some areas of my questioning, which means that, for the particular matters that I intend to go to, we will just have to wait for another estimates round. Nevertheless, there are some matters that I wish to raise. The issue I want to go to is the use of a Commonwealth car on Tuesday, 11 March 2003.

Senator Abetz—Without being too pedantic, you raised the issue of a Commonwealth car. It was in fact a car hired by the Commonwealth.

Senator FAULKNER—Minister, thank you for that information. I understand the proper distinction you draw in that regard. Perhaps, Ms Mason, for the benefit of the committee, you could just outline it. There are some limitations on us here because of the pending legal action, but perhaps you can provide the committee with detail about the particular vehicle in question. First of all, what hire company was used?

Senator Abetz—I understand the answer is Avis.

Senator FAULKNER—Thanks very much. Just on the other matter we were discussing, because you have indicated the matter is subject to appeal, if there are any internal departmental inquiries or processes—I am not suggesting there even are but, if there are any—are they put on hold as a result of that appeal too?

Ms Mason—If there were to be internal inquiries—and I am reluctant to comment in detail on this particular case for obvious reasons—we would be conducting our inquiries carefully in a manner that might not interfere with any legal proceedings, although it would be unlikely of course that we would come to any conclusion while the matter was still before the court.

Senator FAULKNER—Avis is the hire company here, so I think you can confirm for us, Ms Mason, that this is a self-drive vehicle. Is that correct?

Ms Mason—Yes, Senator.

Senator FAULKNER—Could you explain to the committee what the relevant entitlement here is in relation to the use of such a self-drive vehicle please.

Mr Gavin—The staffer of a member is able to hire a self-drive vehicle for 10 days on any one occasion.

Senator FAULKNER—For how long?

Mr Gavin—For 10 days, for use within the electorate.

Senator FAULKNER—A member or senator?

Mr Gavin—A member or senator. And in relation to a minister there is a rule that goes back in fact to your days that you cannot use the vehicle in the city where the minister's state or electorate office is located.

Senator ROBERT RAY—In the capital city usually, or otherwise.

Mr Gavin—Yes.

Senator ROBERT RAY—So where was this car hired from?

Senator Abetz—Preliminary advice is Coolangatta Airport. Actually, it is now confirmed that it was Coolangatta.

Senator FAULKNER—Which member's or senator's name was this car hired in?

Senator Abetz—It was booked through Synergi. It was rented by Mr Peter McConnell. I am not sure who has put the notation on it but there is on it 'Lawrence Anthony'. The documentation I do not think otherwise disclosed anything.

Senator FAULKNER—What is the documentation you are referring to? This is the invoice from the hire car company, is it?

Senator Abetz—Yes, it is an invoice from the hire car company.

Senator ROBERT RAY—Was it hired through the use of a government credit card?

Senator Abetz—I would doubt it, if it was booked through Synergi Travel. I understand there were no government credit cards used. Anyway, it is on the Synergi account.

Senator ROBERT RAY—I don't know that there were. I am asking a question for an answer; there is no trap in the question.

Senator Abetz—It was just on the Synergi account, which would then be split up to the various ministers and departmental officers, I would assume.

Senator FAULKNER—What is the name of the staff member—is it Mr McConnell? That is what I thought you said.

Senator Abetz—Wait a minute. That is the name on—

Senator FAULKNER—I am asking for the name on the invoice.

Senator Abetz—Right: Peter McConnell.

Senator FAULKNER—Is Mr McConnell a staff member of Mr Anthony's?

Senator Abetz—Yes, he is.

Mr Taylor—Senator, I think it is just trespassing now into an area that causes some concern, and certainly it is an issue that you seem to be concerned with—the upcoming appeal.

Senator FAULKNER—Yes, I am—I am always sensitive to these things. In this particular case we have got some legal action pending, an appeal pending, in relation to these two individuals who have pleaded guilty to theft—as I understand it, but you are the legal expert so you can inform us, Mr Taylor.

Mr Taylor—That is correct.

Senator FAULKNER—They pleaded guilty to theft and are appealing the severity of their sentence. Is that right?

Mr Taylor—I understand that is correct.

Senator FAULKNER—Okay. So let's get real about it.

Senator Abetz—I do not think there is any dispute that a car was hired.

Senator FAULKNER—No.

Senator ROBERT RAY—It was hired through Synergi—we have established that.

Senator Abetz—Yes. In the name of Peter McConnell, who is a staff member of Mr Anthony's.

Senator ROBERT RAY—And whose entitlement derives from his position as a staff member for Mr Anthony?

Senator Abetz—Yes.

Senator ROBERT RAY—He does not have a right to a hire car in any other circumstances, is what I am asking.

Mr Gavin—No, that is right.

Senator Abetz—And if he did I dare say that would not necessarily be drawn to our attention, but his hiring of it was pursuant to his employment with Mr Anthony.

Senator ROBERT RAY—Normally if a car is hired in Queensland it cannot be driven in New South Wales, but I imagine—probably reasonably here—that Coolangatta Airport services both sides of the border and an exception is made. Is that right?

Senator Abetz—I have got no idea.

Senator ROBERT RAY—I did not expect that you would. I was looking at Mr Gavin—I thought he might know.

Senator FAULKNER—I think it is a matter that should be cleared up, if you can.

Mr Gavin—The question relates to the rules of the hire car company.

Senator ROBERT RAY—No, to your rules. You are entitled to hire a car and use it in your own state or in your own electorate. In this case it was hired in a different state, albeit pretty adjacent to the state. I am wondering if there are exemptive rules that say, 'If you've

got to hire a car, you can hire it at Coolangatta and then drive it over the Tweed and operate in the Richmond federal electorate and whatever the state electorate there is.' That is what I am trying to get to.

Ms Mason—I am informed as a practical matter that Coolangatta Airport is the closest pick-up point for a hire car vehicle.

Mr Gavin—In addition, Senator, there is no limitation in relation to ministerial staff relating to borders and so forth.

Senator Abetz—Nevertheless, I think Senator Ray has raised an interesting issue which possibly can be looked at to see what the actual rules say for members who are not ministers as to whether it would be an appropriate consideration. Undoubtedly the taxpayer would be better off if a car was hired and driven from Coolangatta into Richmond than having it hired in Sydney and driven all the way through.

Senator ROBERT RAY—That is right.

Senator FAULKNER—There may not be a plane fare in that circumstance, but no-one is arguing the logistics of it. I think the example you have drawn is probably a poor one.

Senator Abetz—As always, I would not expect you to be gracious.

Senator ROBERT RAY—Absolutely not!

Senator FAULKNER—If we can go back to the invoice, I heard Senator Ray's important question about credit cards. I would like to ask you to indicate to the committee how the invoice was paid.

Ms Mason—We have someone checking the answer to that at the moment, but I imagine, as a preliminary view, that it would have been paid when our Synergi account was paid. We are just checking.

Senator FAULKNER—If you are checking that, Ms Mason—and I thank you for that—you might check when it was paid, too.

Ms Mason—Certainly.

Senator FAULKNER—Are you able to indicate whether, in relation to the staff members in question, travel allowance was paid to Mr McConnell and Mr Damian Callachor on or around 11 March 2003?

Senator Abetz—Yes.

Mr Taylor—Travel allowance was paid.

Senator FAULKNER—In or around that period.

Mr Taylor—Yes.

Senator FAULKNER—Could you provide the committee with some more detail please?

Mr Taylor—I do not have the details with me. I can certainly check on that.

Senator FAULKNER—You know it was paid—

Mr Taylor—Yes.

Senator FAULKNER—but you do not have the details.

Senator Abetz—We know that because Ms Roxon, in the other place, asked question No. 1706—

Senator ROBERT RAY—What does that say?

Senator Abetz—She asked:

Did any staff members of the Minister for Children and Youth Affairs claim Travel Allowance for the night of 11 March 2003—

to which we answered yes—

if so, has this allowance been repaid to the Commonwealth; if so, when.

The answer to that is no. That is why we have that detail but not any further detail.

Senator ROBERT RAY—You do not know the base? You do not know whether it was in Lismore or Byron Bay or Brisbane. You have no further detail there?

Mr Taylor—No.

Senator ROBERT RAY—You do not know the rate at which it was paid?

Ms Mason—Not at this stage. We are certainly checking it.

Senator FAULKNER—That matter is being checked; thank you for that. Going back to this invoice that you seem to have in front of you, Mr Edge, tell me this: how many days was the vehicle hired for? That would be on the invoice, I assume.

Mr Edge—It says four days.

Senator FAULKNER—What are the dates, please?

Mr Edge—The car was hired on 9 March and returned on 13 March.

Senator FAULKNER—What was the cost of the car hire?

Mr Edge—The total charge on the invoice is \$422.49.

Senator FAULKNER—Has that account been paid?

Mr Edge—I would assume that the account has been paid. I think we would—

Senator FAULKNER—No, we have to be clear on this. I appreciate that you are trying to assist us and I appreciate the assumption, but let us be clear. Let us not have an assumption; let us have absolute clarity. Has the account been paid?

Mr Edge—That is what we are checking in answer to one of your earlier questions. We are assuming that it has, but we are checking that at the moment. We expect a quick answer.

Senator FAULKNER—I have asked you to check the date as well. What you have in front of you is an invoice, is it, Mr Edge?

Mr Edge—That is correct.

Senator FAULKNER—Is there any reason that a copy of that invoice could not be tabled?

Senator Abetz—I cannot see any reason why not. The only thing that springs to mind is that an invoice might not take into account if the vehicle was in fact returned earlier. At the time, it was initially hired for a four-day period with a return on the 13th.

Senator FAULKNER—I understand that point you are making. If we could have that tabled and copied, that would be appreciated. Is the department aware, Ms Mason—

Senator Abetz—Dr Watt is back.

Dr Watt—I apologise, Acting Chair, for not being here.

Senator FAULKNER—I will not make any comments about deckchairs.

ACTING CHAIR—For the record, we should indicate that Mr Edge has tabled the invoice.

Senator FAULKNER—The invoice might save a little time and a number of questions, so I appreciated it being tabled. Ms Mason, I know that you are checking whether the account has been paid and when. In the broad, do you know if any moneys have been repaid?

Ms Mason—Yes, Senator, we do know the answer to that question straightaway.

Senator FAULKNER—Thank you.

Ms Mason—The answer is yes.

Senator FAULKNER—Can you indicate to the committee what the quantum is of moneys that have been repaid?

Ms Mason—I understand it to be \$106.

Senator FAULKNER—Can you say to the committee why an amount of \$106 has been repaid?

Senator Abetz—The chances are that, if you were to divide by four—

Senator FAULKNER—If we were to divide the figure of \$422.49 by four it would be approximately \$106. Is that the answer? It is part of an answer, isn't it—chances are?

Ms Mason—The reason given for the repayment was that it represented the cost of one day's car hire.

Senator FAULKNER—Can you say who repaid that amount of money?

Mr Taylor—My understanding is that it was repaid by the staff members involved.

Senator FAULKNER—By whom?

Mr Taylor—The staff members involved from Minister Anthony's office.

Senator FAULKNER—Let me have a chance to look at the invoice. I think Senator Abetz was making the point that it is not necessarily clear.

Senator Abetz—I would correct myself on that. It was not necessarily clear that it was hired for four days, but if you have a look at the invoice it does include a refuelling charge. If they can get it as accurate as \$98.43, I dare say that is the exact amount for the hire period, so I dare say it was for four days.

Senator ROBERT RAY—I hope it was not for one day, because they travelled 996 kilometres.

Senator FAULKNER—I may have misunderstood you, but I think you were also indicating that you were not sure where the car had been returned.

Senator Abetz—I am not sure.

Senator FAULKNER—That seems to me to be the point I am making.

Senator Abetz—It was from Coolangatta to Coolangatta.

Senator FAULKNER—It seems to be clear from the copy of the invoice that has just been tabled that it in fact was Coolangatta Airport. Would that be correct, Mr Edge?

Mr Edge—That is what it says.

Senator FAULKNER—That will save Senator Abetz correcting the record at a later stage. The pen script on this invoice says 'Lawrence Anthony'. But it is pen script as opposed to the rest of the invoice, which looks to me to be computer generated or stamped. Can you explain the system to me so I understand where those words were added?

Mr Gavin—I have not seen the invoice, but I image that what has happened is that the invoice has been computer generated. It has a staff member's name on it and, in the processing, the first step would have been to establish on whose staff the person works. So the officer or staff member who received or was processing it would have simply gone to a book, if they did not know, worked out that the staff member was on Mr Anthony's and written that on the document.

Senator FAULKNER—So the words 'Lawrence Anthony' would have been added by an officer in MAPS. Is that what you are saying?

Mr Gavin—That is the most likely explanation, yes.

Senator FAULKNER—I am asking for the explanation.

Mr Gavin—It is difficult. I have not seen the invoice. But that is the process.

Senator FAULKNER—Having heard that—and I appreciate you providing that level of information—was the name Lawrence Anthony added to this invoice by an officer of MAPS?

Ms Mason—Short of asking the people who do the processing in the service centre whose handwriting this may be, it is difficult for us to say with certainty who added those words; but it is our best assumption that they were added within Ministerial and Parliamentary Services as part of our normal processing routine.

Senator Abetz—Unless there is something material that flows on from who put the name on there, I do not think it is disputed that Mr McConnell works for Larry Anthony and that the entitlement for the car hire arose out of that employment.

Senator FAULKNER—I am not disputing that Mr McConnell works for Mr Anthony.

Senator Abetz—All I am saying is that, unless there is something more material, it would have been for work.

Senator FAULKNER—I am certainly not accepting anything other than the fact that Mr McConnell works for Mr Anthony at this stage. I think I know this but, nevertheless, Mr Gavin had better tell us exactly what ASN 63337 means. This was added in MAPS, too, wasn't it?

Mr Gavin—Yes, it is an internal code within the service centre, but I do not know what ASN stands for.

Ms Mason—We have checked that the handwritten annotation of 'Lawrence Anthony' was added in the travel services area of the service centre of Ministerial and Parliamentary Services.

Senator FAULKNER—Because someone looked up the name Mr Peter McConnell and would have—sensibly—established that he works for Mr Anthony?

Ms Mason—Correct.

Senator FAULKNER—And ASN is an internal code, is it?

Mr Gavin—It is the transaction code but, as to exactly how it works from there, I could not go into the kind of detail that you are seeking.

Senator Abetz—We can take that on notice if you like.

Senator FAULKNER—We have the invoice, but what do we know about the actual booking information? Do we know who booked this car?

Ms Mason—I am answering your earlier question at this point—ASN 63337 is the Synergi booking number for this transaction.

Senator FAULKNER—That is one that I even knew myself, Ms Mason—or I thought I knew.

Ms Mason—Senator, coming to your later question as to who booked the vehicle, I am not sure this is the same answer but it was rented by Mr Peter McConnell. Whether or not he was the person who made the booking, I am not certain from the material that is before us at the moment.

Senator ROBERT RAY—I have not been through this experience, but when you rent a car as a staffer, do you have to say under what condition you rent it, such as, 'I work for so-and-so'? There must be a form that is filled out. As opposed to the invoice, there must be a booking form at Synergi.

Senator FAULKNER—Let's cut to the chase here.

Senator Abetz—I think you certify afterwards that it was within entitlement, but as I understand it a personal assistant from the office may well be told, 'Book us airfares, make sure there's a hire car there,' and then the PA does it.

Senator FAULKNER—Minister, I try not to be too pedantic at these hearings. I know I am accused of it from time to time and I probably plead guilty from time to time. This invoice is addressed to the Senate, care of Synergi Travel Australia, 55 Blackall Street Barton, ACT, and the name 'Lawrence Anthony' is underneath it. There may be an explanation for it. I am just trying to understand, because Mr Anthony is not a senator, is he?

Senator Abetz—But Synergy Travel’s office is on the Senate side—

Senator FAULKNER—I am aware of that—

ACTING CHAIR—Senator Abetz, wait until the question is finished, and Senator Faulkner, you wait until the answer is finished.

Senator FAULKNER—Is that the mailing address for all invoices that go to Synergy? It may be, but I want to understand this.

Ms Mason—We have somebody checking that at the moment, Senator. We will check that very quickly.

Senator FAULKNER—As I say, I don’t want to be too pedantic about this. I have only just been handed a copy of this invoice and I want to understand the elements of it.

Senator ROBERT RAY—Put simply—

ACTING CHAIR—Ms Mason, were you going to go on to say something?

Ms Mason—Yes, I was. I was going to pick up on an earlier point where you asked about whether there were forms to fill in for the booking. I imagine that Avis would have had forms to fill in at the time of collection. But in terms of the booking via Synergy Travel, the normal arrangements, as I understand them, are that a person would make that booking by phone rather than by using a form.

Senator ROBERT RAY—The invoice is relatively clear; Mr Anthony’s name is written on it to identify the staffer. But going to the point at which the car is booked, be it by phone or any other way, do you at that stage have to say, ‘I work for so-and-so; it’s booked in the name of so-and-so’ or not—Mr Anthony or anyone else?

Ms Mason—We have our service centre people clarifying the normal arrangements there.

Senator FAULKNER—Ms Mason, what I don’t understand—but there may be a perfectly logical explanation—is why, at the top of this invoice and at the bottom of this invoice, the name shown is ‘The Senate’, ‘Commonwealth Government’. That is on the payment slip at the bottom. ‘Please tear off this stub and return with your remittance. The Senate. Commonwealth Government.’ That appears at the bottom. At the top it is addressed to ‘The Senate, Commonwealth Government’. Senator Abetz properly makes the point, of course, that Synergy is located here at Parliament House on the Senate side of the building. We are not located at 55 Blackall Street Barton, but that may be the explanation. I am just trying to understand the process.

Ms Mason—We are checking, Senator. I do not know, but I hope to know very shortly. As soon as I do, I will pass that information on to you.

Senator FAULKNER—Why don’t we just leave that there for a little while and come back to it.

Senator ROBERT RAY—I have two other questions not related to searches. We can be assured, can’t we, that when these two individuals who have an appeal actually went to court that none of their travel costs were paid by the Commonwealth—that they did not use Commonwealth facilities to travel to and from the court case?

Mr Taylor—We can confirm that. In fact, that was the subject of one of the questions on notice and that is confirmed.

Senator ROBERT RAY—That is confirmed?

Mr Taylor—Yes.

Senator ROBERT RAY—With regard to the use of government classifications in terms of top secret security clearance as a character witness, that is not a common event, is it, Minister? It is not the purpose of top secret clearance that you use them in a reference in a court case. I find that very strange.

Senator Abetz—I think when we start traversing into that area, that actual issue may well be discussed in the court—I do not know.

Senator ROBERT RAY—In the appeal?

Senator Abetz—In relation to penalty and what thought may be given to what matters that are put before the magistrate. I think we ought to be very cautious.

Senator ROBERT RAY—I will be cautious.

Senator BRANDIS—Mr Taylor, are you familiar with the appeal papers? Have you read the appeal book?

Mr Taylor—No, they are not available publicly.

Senator BRANDIS—Okay, thank you.

Senator ROBERT RAY—A bit of pro bono work from you, George, might help.

Senator BRANDIS—Order.

Senator FAULKNER—Ms Mason, while some details are being checked, I have one other question that perhaps you could respond to at a later stage. I notice miscellaneous charges are on the invoice too. It is only a small sum of \$34.31, but you might be able to explain what it is, please.

Senator Abetz—It may well be insurance, but we will check it out.

Senator FAULKNER—Only if you are able to. We might come back to that later.

Senator ROBERT RAY—On a totally different subject, to your knowledge, how many staff are allocated to the whips' offices by category in Parliament House?

Senator Abetz—Senator Mackay asked that question on notice the last time round.

Senator ROBERT RAY—Senator Mackay will probably want to come in and follow through on that.

Senator Abetz—I am just trying to remind any officer that might have that answer.

Senator ROBERT RAY—I certainly have a page of it, but I do not have the second page for some reason.

Senator Abetz—Mr Edge, can you help?

Senator ROBERT RAY—Take me through them slowly, because I have to write them out.

Mr Edge—What exactly did you want?

Senator ROBERT RAY—To the best of your knowledge—and I know in part it is discretionary—how many staff are allocated to each of the whips' offices across parties in the Commonwealth parliament?

Mr Edge—Okay, I will get that for you.

Senator Abetz—What detail are you seeking?

Senator ROBERT RAY—How many staff are allocated to the whips' offices?

Mr Edge—Senator, I understand the allocation is as indicated in the answer to the question on notice.

Senator ROBERT RAY—I have not read it.

Mr Edge—Would you like me to go through it?

Senator ROBERT RAY—Yes, I have not read it. I know that Senator Mackay has because you have answered her, but I do not actually read all the answers to questions on notice.

Mr Edge—Mr Lloyd has two staff.

Senator ROBERT RAY—I am not asking for their salary at this stage, but do we know what level they are at?

Senator Abetz—Clerk and secretary administrative assistant are the two levels. Mr McArthur, Mrs Gash, Senator Ferris, Mr Forrest, Mr Neville and Senator McGauran all have clerks.

Senator ROBERT RAY—So we have got seven clerks and one assistant so far.

Senator Abetz—That is it.

Senator ROBERT RAY—That deals with the government. There are more staff allocated.

Senator Abetz—The opposition whip in the Senate gets a secretary administrative assistant and the opposition whip in the House gets a clerk. The Democrats get a clerk and I do not think that anybody else qualifies for party status.

Senator ROBERT RAY—Not unless there is something I have overlooked. Basically, the Democrats with eight parliamentarians get one staff—that is a ratio of one to eight—and the Labor Party gets two—that is a ratio of one to 47. That is a one to 15 ratio. If the government has eight and the opposition has got two, does this mean there is a lot more work for whips in government than in opposition—that is one possibility—or has the Labor Party managed to employ far more talent to be able to do the work with two? Finally, why would you have a clerk assigned to a whip in the Senate, albeit to a very limited individual, that has only got three people to look after?

Senator Abetz—All I can assist with at this stage is that that was the same scenario when we were in opposition. I cannot take it any further than that. I do not know how that practice grew up other than we suffered under it in opposition.

Senator ROBERT RAY—So Senator McGauran gets a clerk more senior than the opposition whip. He has a clerk and that is a higher level than assistant secretary, isn't it? That is right, isn't it, Ms Mason, the position is higher? I know he has numeracy problems and cannot fill out the ballot paper in the Senate chamber but to look after three other people—

Senator Abetz—At least he does not need people sitting next to him for a show and tell in Senate ballots as Senator Ray—

Senator ROBERT RAY—Neither do we.

Senator FAULKNER—Actually, he proved that he did need someone sitting there—

Senator Abetz—No, to assist him, not for the show and tell.

ACTING CHAIR (Senator Brandis)—Order! That is enough burlesque. Get back to the questions.

Senator ROBERT RAY—It is a serious question that a whip's assistant for the Labor Party in the Senate gets a secretary assistant but the good old National Party—your close friends and colleagues—get a clerk when you have only got three other colleagues. Why is that?

Senator Abetz—They might be living in hope, I do not know. But I understand that situation has been around for a while. What I will undertake to do is have a look at it and see what the history of it is and what justifications were around at the time.

Senator ROBERT RAY—I have tried to explain occasionally to you before when you always rely on the past that, at the start of 1983 through to 1996, things changed. I know, as a minister sitting in your place, we improved things for the opposition over that period. We did not keep things locked in time from 1983. I am suggesting that occasionally you—

Senator Abetz—Certain things were; certain things were not. Similarly, as you would be aware, we have made certain things more available to the opposition.

Senator ROBERT RAY—I am appealing to the avuncular side of your nature here—that the actual ratio of ministerial to shadow ministerial staff has a rationality in terms of workloads and everything else. But with respect to workloads for whips, when it is seven clerks to one, it is eight staff to two. That is not justifiable from a workload point of view. I think we both know that. Some thought should be given to excising that part out of the ratios and achieving a little more equitable staffing there. That is my point.

Senator MACKAY—The government actually benefits from the efficient operation of the opposition side in the Senate. You would be aware of that, Senator Abetz. We are coping, but I think that the value add to the government ought to be taken into account, particularly with respect to remuneration involved. We are not here with a begging bowl, but at least parity with the National Party in terms of the remuneration—

Senator Abetz—That's stretching it!

Senator MACKAY—I know it is a big ask.

Senator ROBERT RAY—We are more numerate; we understand the differences of intellect and all the rest.

Senator MACKAY—I would suggest that, given that we do work very cooperatively in the Senate, it is something you may wish to have a look at.

Senator ROBERT RAY—With regard to the government members secretariat, you are responsible for their resourcing but not their activities—is that right?

Senator Abetz—Yes.

Senator ROBERT RAY—Who is responsible for their activities that can be scrutinised by this committee or any other committee of parliament?

Senator Abetz—I am not sure of that, but it is not within my portfolio.

Senator ROBERT RAY—Whose portfolio is it? Then I might be able to find out who would be responsible for their activities, not their resourcing. We know you are in charge of their resourcing.

Senator Abetz—We can have a look at that.

Senator ROBERT RAY—The rationale in all the government explanations as to why staffers should not be called before the CMI committee was that their ministers are responsible for them. If there is no minister responsible for the government members secretariat, it is definitely open for us to call them to the table and ask questions to account for their behaviour, because they do not have that same and similar protection if there is no responsible or representing minister in charge of their behaviour. One of the questions I wanted to ask was whether members of the government members secretariat were in the budget lockup. But I cannot ask you that because you are not responsible for their behaviour.

Senator Abetz—That is correct.

Senator ROBERT RAY—We are pressed for time, but take it on notice that next November, I will be moving that they be called. I will be using this question as the basis for being able to call them—having an unanswered question. The same rationale was not even used with the aNiMLS group, where a minister did take responsibility for them. They were still called to appear before an estimates committee. In this case no minister is responsible for them and there is a more compelling case.

Ms Mason—Senator, my colleague has some answers to some of your earlier questions concerning the hire car invoice and related questions.

Mr Barnes—Travel allowance was paid for the night of 11 March 2003 to Mr McConnell for Coolangatta in the amount of \$141. Rental was booked through the Synergi office in the Senate, and Avis used that address for billing. The booking was first made on 5 March. I am unable to advise who actually made the booking. It was amended on 12 March.

Senator FAULKNER—I am sorry, what was the first date?

Mr Barnes—5 March. I am unable to tell you at this time who booked. The booking was amended on 12 March and unfortunately I have no knowledge as to why that alteration was made.

Senator ROBERT RAY—Before or after capture?

Senator FAULKNER—I think we know it is after capture.

Mr Barnes—The miscellaneous charge of \$38.31 is being followed up with Synergi. Unfortunately that might take a little while to get a response to. The invoice was paid to Synergi in the download of 31 March.

Senator ROBERT RAY—Voyeurism prompts us to ask what the change was on 12 March and, if you do not have that information, when do you think you will have it?

Senator Abetz—Take it on notice.

Senator ROBERT RAY—It may be relevant to other questions, Minister.

Mr Barnes—We will see what we can do, Senator, but there is no record in the system as to why the change was made.

Senator ROBERT RAY—What was the nature of the change then, if you do not know the reason for the change?

Mr Barnes—We will have to follow it up; we will have to take that on notice.

Senator ROBERT RAY—What you could take on notice is: who made the change, when they made the change, what the nature of the change was and whether it was before or after apprehension?

Senator FAULKNER—With due respect to Senator Ray, 12 March is after apprehension. We know it was on 11 March.

Senator ROBERT RAY—We know they pleaded guilty to an offence on the 11th. I do not know when apprehension occurred. Do you?

Senator FAULKNER—You might be right.

Mr Barnes—But the change was made on 12 March.

Senator ROBERT RAY—Which pretty much tells us when apprehension was made.

Senator FAULKNER—When do you think you might be able to come back on some of those outstanding issues, Ms Mason?

Ms Mason—It is difficult to give an estimate of the time required because it is not information that is held within finance systems. It is information that we will need to track back through Synergi and possible to the source, to Avis, and I cannot make commitments on their behalf. We will do it as quickly as we are able to.

Senator FAULKNER—One of the difficulties here is that, depending on the nature of the responses to these questions, there may well be a significant series of follow-through questions.

Senator Abetz—There may be, but not likely.

Senator FAULKNER—I do not know. In relation to the bookings on 5 March and 12 March, you have taken on notice, amongst a range of questions, who made the bookings. I would also like you to take on notice the name or account of which parliamentary bookings were made in.

Senator ROBERT RAY—Not invoiced but booked to.

Mr Barnes—Yes.

ACTING CHAIR—Dr Watt, did you want to say something?

Dr Watt—Yes, while there is a pause in proceedings. Earlier in the day Senator Ray asked if I would table a letter from me to Mr Rob Tonkin, head of the ACT public service, in

relation to ACT fire levies. I said I would have a look at the letter and talk to Mr Tonkin. My office has contacted his. He is happy to have it tabled. I have had a look at the letter again and I have no difficulty with it. So, if you are agreeable, we would like to table the letter now, if this is convenient.

Senator ROBERT RAY—Thank you.

ACTING CHAIR—The letter is tabled. Thank you, Dr Watt.

Senator Abetz—That is the one of 20 December?

Dr Watt—That is correct.

Ms Mason—Referring to the estimated time to get an answer to some of your questions regarding the bookings, we have been in contact with Synergi. They will need to speak with Avis and the estimate is at least 24 hours for that information.

Senator ROBERT RAY—We will let you go and assist us with your inquiries, and move on to the Australian Electoral Commission.

ACTING CHAIR—I now excuse the officers from the Department of Finance and Administration from further attendance. Thank you. Thank you, Minister.

Proceedings suspended from 2.50 p.m. to 3.00 p.m.

Australian Electoral Commission

ACTING CHAIR—I welcome to the table Mr Becker, the Australian Electoral Commissioner, and officers of the Australian Electoral Commission. Mr Becker, do you want to make an opening statement?

Mr Becker—I just want to apologise for not having name tags. Outside that, I think we will be happy to take questions.

ACTING CHAIR—It is sort of fitting that you wrote your name in pencil, as in the practice which you supervise.

Senator ROBERT RAY—I would like to go to the first issue. Could I have a comprehensive explanation of how the Electoral Commission should have so botched their allocation of funds to have \$3 million in the completely wrong program and highly embarrass the minister for finance, Dr Watt and everyone else?

Mr Becker—I just say that it was a dead straight mistake which should not have been made. When you look at it, it stands out. How it was missed, I do not know, but I have to say from my own—

Senator ROBERT RAY—How did you miss?

Mr Becker—I was going to explain that. From my point of view, I was not interested so much in how we were going to go next year; I was more interested in how we are going this year. Consequently I was focusing more on 2002-03 rather than 2003-04, which is where the mistake was made.

Senator ROBERT RAY—So it was lack of concentration by you, because you were probably looking at present difficulties and the balancing act.

Mr Becker—Sure.

Senator ROBERT RAY—So who is next down the line who should really have been looking at this?

Mr Becker—It is probably everyone from the accountant up, actually. The mistake was made, and that was it. I have no excuse for it; I am just saying that we did make a mistake—we do make mistakes—but obviously human beings—

Senator ROBERT RAY—I do not mind the abasement—and it is always good when people admit mistakes—but I would like to know that it was not something systemic in the organisation. You are out there arguing for extra funds. If you cannot get your accounts right, we worry about you managing your current funds. Have you tracked down how it happened? That is the point of my question.

Mr Becker—I will hand over to Marie Nelson, our Assistant Commissioner, Corporate Services.

Ms Nelson—We found the prime reason that it happened, when we tracked back on it, is that because of the cyclical nature of our funding over what is normally a three-year cycle the outcome appropriation or apportionment across them changes quite significantly. In this instance the mistake was in how it was apportioned to outcomes 1 and 3, where there is significant diversion of resources to meet demands in an event year, so it was a confusion with transposing an event year's funds to this forthcoming financial year.

Senator ROBERT RAY—How was the mistake discovered?

Ms Nelson—It was first brought to our attention when we had a phone call from Mr Snowdon's office.

Senator Abetz—The member for Lingiari, I understand, was in fact told of the error prior to him going on air telling the world that funds had been cut from this area.

Senator ROBERT RAY—Who drew his attention to the error? I thought the witness said that he drew your attention to the error—is that right?

Ms Nelson—That is correct.

Senator Abetz—After which he went on radio.

Senator ROBERT RAY—When did you put out a press release drawing attention to the mistake and correcting it, Senator Abetz?

Senator Abetz—I did not issue a press release. I did not consider it appropriate for me to do that.

Senator ROBERT RAY—There is a degree of independence at the Electoral Commission; I understand. Mr Becker, when did you put out a press release or public—

Mr Becker—We did not put out a press release. We were going to correct it at additional estimates.

Senator ROBERT RAY—Yesterday the Treasurer put out a press release correcting certain understatements in the budget and mistakes that were made. I am wondering why you did not. Didn't you want to draw attention to it?

Dr Watt—It was the minister for finance.

Senator ROBERT RAY—Didn't you want to draw attention to it?

Mr Becker—The mistake had been made. I do not know that there was anything to be gained because there was nothing affecting the bottom line. It was just a—

Senator ROBERT RAY—A bit of transparency and a bit of correction of the record when you make a mistake?

Mr Becker—Hindsight is a marvellous thing. Yes, perhaps next time, if it ever happens again, and we hope to God it doesn't.

Senator ROBERT RAY—When we sought an explanation yesterday—I hope I am not verballing anyone—people said, 'Mr Snowden put it on his web site that an error had been made and that would do.' With all due respect to Mr Snowden, not everyone goes to his web site every day.

Mr Becker—Nor ours.

Senator ROBERT RAY—The presumption from me is that you just covered it up—that you didn't admit to it publicly and you should have.

Ms Davis—In respect of that, Senator, we did seek advice from the department of finance as to how the error should be corrected, and a decision was taken that the appropriate time would be at additional estimates, so we were not in a position to correct, for instance, what was on our web because then we would have had a conflict with two documents. In some circumstances an erratum is produced and then added to particular documents that are issued. In this case it was decided that that was not appropriate, so any corrections will not happen until additional estimates time.

Senator ROBERT RAY—It is not appropriate to doctor-up the figures, but usually a corrigendum or something—as you say, an erratum—is produced to correct the record. Why wasn't it appropriate on this occasion?

Dr Watt—I think there are two things to distinguish, Senator. One is the general issue of correcting the record or not, which is a matter for the Electoral Commission; the other is the formal issue of whether the appropriation bills need to be corrected, for example—they don't in this case, because there is no change—or whether the PBS needs to be corrected—again, it does not because there is no substantive change to the approach.

Senator ROBERT RAY—These are documents that you put to parliament as truthful documents. It is not a question of this committee, because there has been no—

Dr Watt—That does not go to the broader issue of correction a la the minister for finance's press release, for example.

Senator ROBERT RAY—I just hope that in future some thought might be given to correcting the record. I know it is embarrassing admitting mistakes et cetera but I think on this occasion it would have been more appropriate. We have already had a discussion, which no doubt officials would have monitored, about the funding of the Electoral Commission. Did you follow that conversation yesterday?

Mr Becker—Yes, I did.

Senator ROBERT RAY—Basically, to summarise, the conversation involved asking the department of finance about how they reacted to the AEC's financial position and the review that is under way of pricing policy et cetera. But I would like you, Mr Becker, to outline to the committee how you see an unchanged financial position in the future and where that will leave you if the current funding arrangement continues into the next financial year and the three out years.

Mr Becker—And we take no steps within that arrangement to try and reduce our expenditure?

Senator ROBERT RAY—There are three levels of the ante you could give me: if there are absolutely no changes, where it leaves us; if there is a change to government funding coming out of the study, where that would leave you; or whatever other steps you can take and what you would need to—'sacrifice' is the wrong word—the other areas where you would need to find efficiencies to meet the bottom line, and what the consequences of that would be. It is a very long question but I think you get the scope of it.

Mr Becker—That is fine. In some respects it is probably a little premature to try to comment on some of that because a lot of it is yet to come through the resourcing review. It seems at this stage that over our normal election cycle we could face, without making any changes whatsoever, a \$20 million shortfall.

Senator ROBERT RAY—That is through to when?

Mr Becker—That is taking us through to 2006. If we were to make changes within the existing budget—for example, collocation of offices, and if we could get savings out of amalgamating and integrating the functions within those collocated offices—we could possibly live within the existing framework.

Senator ROBERT RAY—What do those sorts of savings amortise out to a year? Are you saying about \$6 million or \$7 million a year?

Mr Becker—We don't know, really, because we have not made any wholesale changes to the way in which we do things. Collocation has been with us for many decades so it is nothing new, but when we do collocate we do make significant accommodation changes for a start. Then of course, if you integrate the functions within that collocated office, you may make some other savings there because you are going to be averaging out the workload. At the moment, we have 2.3 million square kilometres in Kalgoorlie and we have much the same sort of staffing level as we have in Wentworth with 26 square kilometres. We have similar staffing levels in divisions where we have 27,000 transactions a year as we have in divisions where we are working on 10,000 transactions a year. There is obviously some scope there for making fairly significant changes in the way in which we actually do our business.

Senator ROBERT RAY—And to bring about those changes, you quantified a certain level of savings of costs with collocation and a higher level with integration of functions, but you cannot give me any figures?

Mr Becker—No, because we haven't done it yet.

Senator ROBERT RAY—You have collocated sometimes.

Mr Becker—Sorry, we haven't integrated.

Senator ROBERT RAY—I know, but I asked for figures on collocation at least.

Mr Becker—Every time we collocate, for a start we have one counter, one toilet, one tearoom, and one photocopier. We have one pipe or data line going in and for every division that costs us \$20,000 a year. If you have four divisions collocated, as we have in Ringwood, we save \$60,000 a year just on the data cabling alone.

Senator ROBERT RAY—If you need to go to an integrated structure, are you restricted by current legislation?

Mr Becker—No. Integration is something we are just trialling. We are not doing any wholesale changing of anything there. The integration or amalgamation that we have going at the present time only involves existing collocated offices or sites.

Mr Dacey—If we play around the edges like we are doing at the moment with some small numbers of collocations, and if we get to the stage of amalgamation, that still will not achieve anywhere near the savings of approximately \$20 million that we suggest the review may show up—and we are pre-empting the review to some extent—that we would need over the three-year cycle. The bottom line is that without additional funding or looking at some alternative saving options, the collocation amalgamation proposal, minor as it is, would not come up with anywhere near those sorts of savings over that period. It is really fiddling around the edges.

Mr Becker—Without a wholesale change to the structure.

Mr Dacey—As a short-term measure, there are a few amalgamations that we are planning at this stage to proceed with in this current calendar year and they will be some assistance to us in surviving through until we have an outcome of the review in the 2004-05 budget year.

Senator ROBERT RAY—How many collocations do you plan on for the next financial year?

Mr Dacey—Where we are looking at the possibility of amalgamations in offices, those amalgamations will be in offices which are currently collocated so we are not planning on any additional collocations.

Senator ROBERT RAY—Have you planned on any additional collocations?

Mr Dacey—Yes, we have. Certainly as part of our strategic property plan, and as properties come up for renewal, we will be looking at the market, but of those we have already identified for the rest of this calendar year, we have not got any of those set in concrete yet because we have not been to the marketplace and our agent has not assessed suitable properties at this stage.

Senator ROBERT RAY—Have you been asked to reconsider collocation by government or by local members of parliament?

Mr Becker—We have been asked to slow down—well, it is a view expressed by the minister to say that the appropriate time to look at this would be after the results of the output resourcing review.

Senator FAULKNER—Would you say that the collocation program is on hold?

Mr Becker—We cannot really put it on hold because we are not masters of our own destiny in a lot of these cases. For example, we have a motion to quit in Newcastle so we have

to move it somewhere. We are going to stick that in with another division. That is one of our problems. You still have to comply. We are not supposed to go into accommodation contracts that exceed three years. How we are supposed to do that and still maintain the integrity of the system, I don't know. It must mean that you might have to move more often than might have been the case. The reality is that in the past we have gone for longer terms but the regulations are such that they say three years.

Senator ROBERT RAY—Who gave you guidance and the request—rather than a direction—to slow down the collocation?

Mr Becker—It was not to slow it down. The minister's view—it was a view that he offered and I can quote the actual words—

Senator ROBERT RAY—Yes, please.

Mr Becker—The view that he offered was that we should 'stop mucking around with it until after the result of the output pricing review'.

Senator ROBERT RAY—Stop mucking around with it?

Mr Becker—No, it was not quite in those terms.

Senator ROBERT RAY—That does not sound like our minister.

Senator Abetz—I would have thought I was more eloquent than that.

Senator ROBERT RAY—Minister, you would have been more eloquent.

Senator Abetz—I think the relevant bit is the second last paragraph in this letter of 25 February:

I do not consider it appropriate for further decisions to be taken on the AEC's Divisional Office structure before the findings of the joint AEC/Finance resourcing review have been considered by the Government. I do not wish any further amalgamations—including the proposal affecting Berowra, Warringah and Mackellar—to occur until then.

Senator FAULKNER—What about the Newcastle one?

Senator Abetz—I was not, at that time, aware of the Newcastle one.

Senator FAULKNER—When did you become aware of it?

Mr Becker—We only got the notice to quit last week.

Senator FAULKNER—What is your attitude to that one? The same as Berowra, Warringah and Mackellar I suppose?

Senator Abetz—With all of them, yes. But when you have got a notice to quit, then the question is where you move to.

Senator ROBERT RAY—The question is do you move to collocated premises or not? You are giving guidance here; we would like some guidance again on this.

Senator Abetz—It is, at the end of the day, gratuitous advice by me to the AEC. It is their determination, but I have indicated that collocations et cetera, until the resourcing review—

Senator ROBERT RAY—It is a bit more than gratuitous advice. You are entitled to express your views to the commission although you cannot give them directions.

Senator Abetz—Yes, exactly.

Senator ROBERT RAY—And in a time-honoured fashion, knowing that you will represent them pretty strongly at ERC, they tend to put some weight on your views don't they? That is a fair way of expressing it.

Senator Abetz—I am not go to comment on that but I think—

Senator ROBERT RAY—You would, wouldn't you, Mr Becker? You would not take a direction but—

Mr Becker—Of course we would, but you have to deal with it on balance too. Do we lock ourselves into a three- or six-year term when the output pricing review may indicate that that is the way to go? I think that, at this stage, we probably would not do that; we would collocate but we would not lock ourselves into that collocation.

Senator ROBERT RAY—When do you expect the output pricing review to finish its deliberations?

Mr Becker—We are pretty close to it—about July—but then it has to be considered.

Ms Davis—Yes, we are looking at July for having a first cut of where we might be heading and, hopefully, by late this calendar year I think we should see a result in order to feed into 2004-05.

Senator ROBERT RAY—The next process.

Dr Watt—I think that is the answer we gave you yesterday: allowing this year to feed into 2004-05 budget considerations.

Senator ROBERT RAY—It just shows you how on top of the job you are.

Senator Abetz—Yes, consistency is a great thing.

Senator FAULKNER—If consistency is a great thing, I want to nail down this issue about Newcastle.

Senator ROBERT RAY—Between Labor electorates and Liberal electorates.

Senator FAULKNER—Yes.

Senator ROBERT RAY—Be unsubtle.

Senator FAULKNER—Now, Senator Ray, I am more subtle than you sometimes and, on this occasion, I was not going to mention the actual party of the members of the House of Representatives representing those electorates. But the issue of consistency is a serious one in terms of you expressing a view. Fair enough—you are entitled to express a view about Berowra, Warringah and Mackellar. I am asking you, or I am asking the commissioner or you, how this relates. I have heard about the notice to quit; I understand that. I understand the immediate pressures that are upon the AEC in this circumstance. But, you have two choices, it seems to me: one is a collocation and the other is a separate provisional office. That is true isn't it, Mr Becker? They are fundamentally the two choices you have got. Or, no office at all, I suppose.

Mr Becker—We cannot do that. We have to have one somewhere. But the point is that it does not have to be within the division of Newcastle. At this stage, it would be inappropriate

for us—and I do not think it would be good fiscal management—to go into a separate contract for a long-term relationship with somebody at a separate Newcastle office. I think that would be bad management.

Senator FAULKNER—So the option then is for a short-term lease of premises. Is that what you are saying?

Mr Becker—If you could get a short-term lease, maybe.

Senator FAULKNER—Of course you could.

Mr Becker—They are not that easy.

Senator FAULKNER—With all the expertise in the Department of Finance and Administration that we have heard about over many years, I am sure someone would be able to help you.

Mr Becker—But why would you pay for accommodation when you already have accommodation that will fit them? You are already paying for it. Why would you do that?

Senator FAULKNER—Because of a broader examination of the utility, effectiveness and appropriateness of collocation—that is why.

Mr Becker—Collocation has been with us for 40-odd years, and people have not questioned it for quite a long while.

Senator FAULKNER—They are questioning it now, aren't they? The minister is questioning it.

Mr Becker—We have not discussed at any stage what the actual benefits of collocation are. We have not had a brief to the parliament about that. We have mentioned some of these things in the JSC environment. But when 95 per cent of people deal with the AEC by a means other than attendance at the office, we can deliver resources more effectively from a collocated office than we can from a single, stand-alone office.

We quite often have to close. In the six months up until January this year, we had to close the office at Newcastle on 51 occasions because we did not have appropriate staffing. On a few occasions, the ASO2 clerk that was there moved across to Paterson so we could at least keep Paterson open and, consequently, get something done. If you had collocated offices, you would rarely be in the situation where you would have to close the office and not provide the service.

Senator ROBERT RAY—When you say you kept the joint standing committee informed, you never gave them your forward document that proposed collocations and amalgamations. We had to get that off the back of a truck.

Mr Becker—It is on the web site.

Senator ROBERT RAY—No, it was not.

Mr Becker—Sorry, it is on our intranet.

Senator ROBERT RAY—It was not on the web site so, if you do not mind, I do not think you have fully briefed the joint committee yet.

Mr Becker—I did not say I had fully briefed the joint committee. I have not even given them half the story.

Senator ROBERT RAY—Well, I think you should have.

Mr Becker—They have not asked for it either. It is very late in the day to be anti the collocations, isn't it? We have had collocated offices, as I say, for four decades.

Senator ROBERT RAY—Do not assume we are running the anti-collocation line. I am just asking you questions to get information on the record. How many representations have you had from senators about collocation, by the way?

Mr Becker—Probably half a dozen, I suppose.

Senator ROBERT RAY—Not many.

Mr Becker—No, and I have not had many from the House of Representatives either.

Senator ROBERT RAY—Have you consulted them on each occasion you have decided to move?

Mr Becker—When we have been going to amalgamate?

Senator ROBERT RAY—Yes.

Mr Becker—Sometimes we have had a few slip through, but most of the time they get consulted.

Senator ROBERT RAY—What are the ones that slipped through? What members have been told that their office is moving before they have been consulted? Mr Ruddock is one, isn't he?

Mr Becker—We have advertised them before the members have been told.

Senator ROBERT RAY—Mr Ruddock was told by you that the office was moving. He was told the office was going to be relocated, but he was not consulted on it, was he?

Mr Becker—His DRO was the one who mentioned the fact that we had it in our strategic property plan, yes.

Senator ROBERT RAY—But he was not consulted on whether he thought the move was a good or a bad thing—because he knows his own electorate.

Mr Becker—I know he knows his own electorate. He was not against collocation. I actually spent three-quarters of an hour with Minister Ruddock on this issue.

Senator ROBERT RAY—When was that? Was it following a complaint?

Mr Becker—Following a complaint from him? Yes, but from our DRO to him. The other issue is the fact that, when you get down to the tints of these issues, these people are not against collocation; they just do not want collocation in someone else's electorate. If we moved everybody from Chatswood to Hornsby, I think you would find that Mr Ruddock—which is what he said to me—would be happy with that view, but he would not be happy with moving to Chatswood.

Senator ROBERT RAY—Winners are grinners; we know that.

Mr Becker—Therefore, the issue is not collocation; it is where it is.

Senator ROBERT RAY—Yes, that is their concern: you make one happy and you make another one unhappy.

Senator FAULKNER—If it is three, as in the case of Berowra, Warringah and Mackellar, you are going to make one happy and two unhappy. This comes down to numbers. It is a bit like politics.

Mr Becker—It comes down to management too. The fact of the matter is that we have room at Chatswood to take six. We probably will not end up putting anything like that in there, but we have room there for them, we are paying for that and we are locked into a lease there.

Senator ROBERT RAY—Why did you take a lease that can take six?

Mr Becker—We did not take a lease that could take six. We put our industrial elections for the northern area out there. Now we have centralised all our industrial elections to save money yet again.

Senator ROBERT RAY—You should have thought of that.

Mr Becker—That was eight or nine years ago.

Senator ROBERT RAY—You tell us you cannot have leases for that long. How long is that lease for?

Mr Becker—The regs have just been changed. The Chatswood lease was fairly long.

Ms Davis—I think you will find that the previous lease for Chatswood was at least an eight-year lease, if not 10. I would have to confirm that.

Mr Dacey—I think it was first leased in the mid-90s, wasn't it?

Senator ROBERT RAY—I find that attitude a bit hard to comprehend: 'We are going to collocate all these things because we happen, through a leasing mistake, to have a lot of space.'

Mr Becker—It is a case of the sins of the father, if that is the way you want to put it, Senator. The fact is that that space was created by virtue of another change elsewhere in the organisation.

Senator ROBERT RAY—When you make those changes, you have to wonder what the knock-on consequences are, don't you?

Mr Becker—The consequences are that you have more room than you need, but you have also got rid of staff as well. You have made savings.

Senator FAULKNER—Did you say you had got rid of your staff?

Mr Becker—We have taken some staff out of that particular environment.

Senator FAULKNER—I hope the staff do not read that evidence; they are not going to like it very much.

Mr Becker—They are aware of it, actually.

Senator FAULKNER—Of course.

Mr Becker—The industrial elections staff.

Senator FAULKNER—Tell me this, Minister or Mr Becker: what is happening with the Berowra, Warringah and Mackellar collocation? Where is that up to?

Mr Becker—I am not entirely sure where it is up to. At this stage, for example—

Senator FAULKNER—Stop there. Can we have somebody at the table who can tell us where it is up to?

Mr Becker—Can I go a bit further, just for a moment?

Senator FAULKNER—Sorry, I thought you said you did not know.

Mr Becker—Originally, we were looking at collocating Warringah and Mackellar at Dee Why. Then, when the extra space came up at Chatswood, it was suggested we move them to Chatswood. That has not happened because the leases are not up until early next year, by my recollection. However, the members for Mackellar and Warringah are apparently not unhappy about collocating at Dee Why; they just do not want to collocate at Chatswood. So that particular exercise has to be looked at. Mr Abbott has asked the AEO for New South Wales if he would like to go and discuss the issue with him. Let us see what happens out of that. Mrs Bishop has already done that.

Senator FAULKNER—So at this stage it is on hold, is it?

Mr Becker—Yes, if you like.

Mr Dacey—Warringah and Mackellar are on hold at this stage, yes. We have not identified any premises and we have not yet been to the marketplace.

Senator FAULKNER—That is where Berowra, Warringah and Mackellar are up to.

Mr Becker—With Berowra we will see how we go when that lease expires around August or September. We may be moving that to Chatswood.

Mr Dacey—The current plan is still to bring Berowra to Chatswood, but Warringah and Mackellar have not been resolved at this stage. If we do collocate them, which we need to look at when the leases expire, we are looking at the possibility of putting them into Dee Why. We understand that that is acceptable at this stage to both members.

Senator FAULKNER—Is your industrial elections unit operating from the Chatswood premises?

Mr Becker—That is where it was operating from before it was relocated.

Senator FAULKNER—So what is there now?

Mr Becker—North Sydney, Bennelong and Bradfield.

Senator ROBERT RAY—I asked about consultation because I notice, Minister, one of your colleagues wrote to you and said: ‘Obviously, the clandestine and deceitful way in which the AEC is going about this change to the current system needs to be immediately stopped.’ It does not sound like he was consulted too strongly on amalgamations.

Mr Becker—He was obviously consulted by somebody, wasn’t he? In fact, he was consulted by his DRO.

Senator ROBERT RAY—Was he?

Senator FAULKNER—How do you know that?

Mr Becker—The terminology and the way they talk—

Senator FAULKNER—You don't know, do you, Mr Becker? This is hopeless, Mr Chairman. I think that we need accurate evidence in this committee. If you are asked a question about these sorts of matters on where this information comes from, let us not make presumptions about it. This is my objection to it, Mr Becker. You say he was obviously consulted by the DRO. Do you know he was consulted by the DRO?

Mr Becker—I do not know that one is.

Senator FAULKNER—No, you do not—

Mr Becker—You have not given me whose name it is.

Senator FAULKNER—so the evidence—

Mr Becker—Who is the member, for example? I do not know who the member was so how would I know who the—

Senator ROBERT RAY—The correspondence was to the minister

Mr Becker—So I cannot tell you who the DRO was then. If, for example, it had been Mrs Bishop, we would tell you who the DRO was that gave her the information.

Senator FAULKNER—I have got no idea who the member is. I have not seen the correspondence that Senator Ray is quoting from, but I object to evidence being given—as I always do whether it is you, Mr Becker, or any other witness—when a witness makes a statement about 'presumably' or 'obviously' somebody is consulted by the DRO, and you do not know.

CHAIR—Senator Faulkner, that is fine, as long as the witnesses are not badgered.

Senator FAULKNER—I am not badgering the witness. I am sure that you would agree with the point that I am making.

CHAIR—You are making a fair point, but it is the manner in which you are doing it.

Senator FAULKNER—It is a fair point so I would ask Mr Becker to reflect on the evidence he has given. That is not good enough.

Senator Abetz—You have done that, now let us move on.

Mr Dacey—Perhaps I could point out how I see the consultation process going with this. For example, with the current situation in Newcastle we have not gone to the marketplace. But we intend to go to the marketplace and we do not know where the office may be until we do that. In the meantime we will be writing to any affected members, or possibly affected members, in that area saying that we do have issues with property leases that are due for renewal, or that we cannot renew them, letting them know that we will be going to the marketplace and assessing what is available. We will be continuing to contact and liaise with members as the situation develops. We do not know in Newcastle where we might end up.

In relation to any other proposed collocations, the Australian electoral offices for each state would be writing to those members who are likely to be affected by any proposed collocations. As part of the correspondence to those members we are asking whether we can

set up a meeting with members to discuss their thoughts, concerns, or whatever, about proposals. That is the plan we have and that is the plan we are sticking to in relation to where we change property.

Senator ROBERT RAY—I think you wrote to Mr Tony Abbott on this subject saying:

I have written to the Electoral Commissioner—

which you have mentioned today—

informing him that I do not wish any—

and I think the ‘any’ was highlighted—

further amalgamations...

Are you drawing a distinction there between amalgamations and collocations?

Senator Abetz—I would have to re-read that letter about what occurred. This question enables me to clarify—and I am not sure whether there was an implication in Senator Faulkner’s question that I was only concerned about Liberal held electorates as opposed to a Labor one—

Senator FAULKNER—I was not making an implication at this stage.

Senator Abetz—What led to my writing to the Electoral Commissioner was a brief that I received about amalgamation of Australian Electoral Commission offices. I indicated that I noted that they had written to the members for Warringah, Berowra and Mackellar informing them that the AEC had decided to proceed with relocation to Chatswood of its divisional offices outside divisional boundaries—so that was collocation. The decision was taken without consultation with me. I indicated that I believed that to be in contravention of undertakings by the AEC that I would be consulted. But in fairness I understand there may have been a misunderstanding between our offices as to that, albeit we were of the view that consultation would take place. I therefore said:

I do not consider it appropriate for further decisions—

I emphasise ‘decisions’ plural—

to be taken on the AEC’s Divisional Office structure—

which includes co-location and amalgamations—

before the findings of the joint AEC/Finance resourcing review have been considered by the Government.

So it is in relation to both.

Senator ROBERT RAY—It is in relation to both?

Senator Abetz—Yes, co-location and amalgamation. The emphasis on these three Liberal held electorates was because that was what came before me. That is why I concentrated on those three seats in that particular correspondence. It was not that I was only making special pleading for coalition held seats.

Senator ROBERT RAY—I wasn’t confused about that.

Senator Abetz—There was some suggestion, I thought, regarding the seat of Newcastle. If there was not, that is good.

Senator ROBERT RAY—We just want the same treatment for Labor held electorates as for coalition held electorates.

Senator Abetz—Can I indicate that Labor members have spoken to me as well about this issue. I think it is a view that is held across the board, across the political divide.

Senator ROBERT RAY—There is the other side to it, of course—that is, the difficulty of such a flat employment structure in terms of career path. For New South Wales, for instance—Mr Becker or Mr Dacey may wish to comment—the fact that you have 50 people on an equal level throughout the state does not allow much for promotion, does it?

Mr Becker—It does not allow much for promotion for the ASO3 and ASO2 within those divisional offices, because in many cases they are too far away—three steps away—from the divisional returning officer classification. It makes it difficult for them to become the divisional returning officer except in exceptional circumstances. Kathy Mitchell is a classic example. She was a clerk in a divisional office and had to move into head office to get a chance of promotion. At least if you amalgamate and integrate the functions, there is more opportunity to have a broader range of classifications, and in our view it will create a much better service than we can provide at the moment and keep the offices open 252 working days of the year.

Mr Dacey—Whilst that is a significant issue—the flat structure—it is also about the imperatives that are there regarding efficiency and client service. If you can keep an office open, if it is co-located, obviously you are providing a better service than if you are keeping an office three kilometres away closed because there is only one person in that office. We are looking as best we can at trying to keep an office open at all times.

Senator ROBERT RAY—You don't have an emergency teacher type program?

Mr Becker—We don't have that luxury; we don't have the staff.

Mr Dacey—OH&S issues are such that if we have one person in an office, whilst that person may well be at work in the office, we do not open the door. I think you can understand why in some areas.

Senator ROBERT RAY—I can understand why. I have seen the co-located offices, the single offices et cetera. I have only found one thing that they are united about—they think head office is some sort of plutocratic organisation that is overstaffed and over-resourced. But why should I be surprised?

Mr Becker—Let us look at the structure of the AEC. Of the infrastructure costs on an annual basis, we spend roughly around \$81 million or \$82 million a year on our infrastructure costs; \$26 million of that comes from the central office, roughly about \$12 million from the head office and \$42 million comes from the divisional offices. If you quarantine the divisional offices when you are looking at trying to do things more efficiently, you are playing around with peanuts. And that is the problem. The other point, Senator, if you have seen co-located offices, is that you would not have seen any offices where they have in fact integrated functions. I suggest that if you ever get to South Australia, go down to Marion and see how

they have three divisions working together in the enrolment cells and what have you. It is also the case to a lesser extent in Ringwood, if you have time to go there and speak to the people at Ringwood about how they organise their work. Theirs is not fully amalgamated, but those people will tell you it is a much better arrangement than the straight co-location, with the little silo on each corner.

Senator ROBERT RAY—I suppose it also has to be said that during an election period you open an active office in each electorate, whether there is an electoral office or not, for the purposes of pre-poll et cetera.

Mr Dacey—That is correct, and that has been the practice with all the co-locations we have had, and it is certainly a practice that we plan to continue.

Senator ROBERT RAY—Minister, has there been any contemplation of legislating in this area?

Senator Abetz—I do not want to comment on what we might or might not contemplate. I do not comment on what I might be contemplating. If a decision is taken—

Senator ROBERT RAY—Have any resources been devoted to studying the question of legislation?

Senator Abetz—Resources have been allocated to a range of options.

Senator ROBERT RAY—Thank you. I understand that code, even if you do not.

CHAIR—Senator Ray, is this a convenient time for Senator Brandis to ask some questions? I do not wish to interrupt.

Senator ROBERT RAY—It is a good time. We are nearly finished on this.

Senator BRANDIS—Mr Becker, are you aware of a press report in April 2003 that indicated that the McKell Foundation would be wound up?

Mr Becker—Yes, but I will hand over to Kathy Mitchell, if that is all right, Senator.

Ms Mitchell—Yes, we are aware of that press report.

Senator BRANDIS—Is the McKell Foundation an associated entity for the purposes of the act?

Ms Mitchell—Yes, it is.

Senator BRANDIS—Are you aware that, according to that report, ‘not one Labor MP has made a bid for using the foundation’s fund for overseas travel since Mr Brereton departed as shadow Minister for Foreign Affairs in 2001’?

Ms Mitchell—I am aware of what the report said, yes.

Senator BRANDIS—Wouldn’t that tend to suggest that the foundation was an associated entity for Mr Brereton rather than for the Labor Party?

Ms Mitchell—I think that is an issue we could look at again if the foundation requested us to do so. However, the information we had at the time we made a decision on whether it was an associated entity indicated that it was an associated entity of the party.

Senator BRANDIS—Do you find it strange that a Labor Party associated entity would provide travel to one shadow minister but not another shadow minister?

Ms Mitchell—I do not really think that is something I can comment on.

Senator BRANDIS—According to the press reports, the fund contains around \$100,000. If the McKell Foundation is wound up, will the AEC have an interest in or audit where the money goes?

Ms Mitchell—The Electoral Commission will expect to see a final return from the foundation for any part of a financial year in which it was active. There is a process that the AEC uses to determine which parties and entities get selected for what we refer to as compliance reviews, which most people would know as an audit. If the McKell Foundation met the parameters for being selected for an audit, then they may be subject to an audit for the period of time they were operating.

Senator BRANDIS—Would that reveal the destination of the \$100,000 when the foundation is wound up—in other words, who the payee or payees will be?

Ms Mitchell—When the AEC is conducting compliance reviews, it looks at the financial accounts of an organisation. If that is covered in the financial accounts, which one might usually expect it to be, then, yes, we would be aware of that. But it would not necessarily be an issue that we would look at, because it is not information that is required to be disclosed in a return.

Senator BRANDIS—Nevertheless, if the remaining fund or a substantial proportion of the fund was distributed to a particular individual or to another entity associated with a particular individual, might that cause you to reconsider the retrospective status of the McKell Foundation as an associated entity of the Labor Party?

Ms Mitchell—There may well be things that come out of the compliance review that will make us look at the issue of whether or not the organisation had a disclosure obligation but, given that the disclosure has already been achieved, I do not see the point in going back and deciding that it should not have been done.

Senator BRANDIS—How can we guarantee that, if these funds and assets are given to the New South Wales branch of the Labor Party, or some other organisation or person, they will be accounted for if there is no entity remaining that can fill in a donor return?

Ms Mitchell—There remains an obligation on the person who was the financial controller at the time to properly complete their annual disclosure return and there would be an obligation on the recipient of the funds, if they have a disclosure obligation, to make sure that that money is included in the appropriate disclosure return. For example, if the money went from the McKell Foundation to the New South Wales branch of the ALP and it was \$100,000, that is an amount that is required to be disclosed in a party's return. Therefore, it would be up to the agent of the party to ensure that it was disclosed in the return.

Senator BRANDIS—That would operate in the event that the donee of the distribution on winding up is a person or entity with a disclosure obligation. I suppose what I am trying to get at is: would the AEC necessarily know from the point of view of the donor—that is, from the

point of view of the McKell Foundation—who were the payees of its distribution of its assets upon its winding up?

Ms Mitchell—If we conducted a compliance review and looked at the financial accounts, one would expect to see those sorts of things in the financial accounts.

Senator BRANDIS—Will you undertake to do that?

Ms Mitchell—No, as I have explained, organisations come up for compliance review based on a set of criteria and if they meet those criteria, then a compliance review is conducted of those organisations. We do not have the resources to conduct compliance reviews of every organisation or person with a disclosure obligation.

Senator BRANDIS—Is it relevant to the criteria that you apply that this particular institution has been a matter of public controversy and the disbursement of its funds and assets on its winding up is of interest to at least some members of the Senate?

Ms Mitchell—Not particularly, because the sorts of issues that we look at in assessing compliance audits are whether or not the disclosure obligations have been met. There is no legislative requirement for an organisation that has been wound up to disclose in a disclosure return where their money went to. The only requirement in a disclosure return is for the organisation to disclose total expenditure. There is no requirement for detailed disclosure of expenditure.

Senator BRANDIS—Presumably, whether it is wound up by a liquidator or it has been wound up by a more informal process, in the end, as one would expect in the case of a company being wound up, the cheques will be written to liquidate the bank balance and the cheque counterfoils and the statement of receipts and payments would indicate the destination of those payments on the final disbursement of funds and assets. Will you examine those financial statements?

Ms Mitchell—When we do a compliance review, we examine an organisation's financial statements and their records. We will look at bank records, audited financial statements—the full range of financial records that you expect an organisation to have is what we would look at. I will clarify that: the full range of financial records that an organisation has is what we look at, but we look at that in terms of whether or not the organisation has met its obligations under the provisions of the Commonwealth Electoral Act. That is the sum total of the power that we have when we are conducting compliance reviews.

Senator BRANDIS—But you have a discretion. Mr Becker, perhaps I might direct the next question to you. As I understand it, you have a discretion to decide whether or not to conduct a compliance audit. As I understood Ms Mitchell's evidence, that discretion is exercised either by you or the appropriate officer in accordance with certain criteria. I take it that those are internal criteria—in other words, they are not statutory criteria.

Mr Becker—That is right.

Senator BRANDIS—Are you the ultimate decision maker as to what those criteria are?

Mr Becker—If needs be, I would be, but it has not got to that stage. I will say that—and Kathy has alluded to this—the resources that we have are pretty well fully committed.

Senator BRANDIS—Can I then put to you the question I put to Ms Mitchell. Will you, as the decision maker who determines what the criteria are, consider adding to those criteria—if it is not already there—the issue of whether or not a particular entity or institution is a matter of public controversy as being one of the criteria according to which a compliance audit ought be conducted?

Mr Becker—We can consider it, but we have never used public controversy as being a criterion for whether we do a compliance audit or not—knee-jerk reflexes and so on we went through a few years back, Senator.

Senator BRANDIS—I know you have not, Mr Becker, and I am asking you to reconsider that question—that is, whether that ought to be added to the criteria so that that would be a new criterion according to which that discretion might be exercised.

Mr Becker—We can consider it but I would not guarantee that we could do anything about it.

Senator ROBERT RAY—You do not feel pressured to do it just because Senator Brandis has raised it.

Mr Becker—No.

Senator FAULKNER—When was the McKell Foundation determined to be an associated entity of the Australian Labor Party?

Ms Mitchell—I cannot remember the exact date. I can get that information for you.

Senator FAULKNER—When did the McKell Foundation first lodge returns or material with the AEC?

Ms Mitchell—The first set of returns were when we were getting ready to make returns publicly available for the 2001-02 financial year. If I remember rightly, we had returns lodged that were not correctly completed and we went back to them. Ultimately the correctly completed returns ended up being lodged after the due date. That is starting to prompt my memory. I think we got an initial lot of returns about September and the properly completed ones gradually came in from November through to February, in time to go on the web site.

Senator FAULKNER—There has been evidence to the committee previously about those issues that you are referring to.

Ms Mitchell—It was early in that year, but I am not sure of exactly when. It was certainly before the end of the financial year.

Senator FAULKNER—What is the current number of associated entities? There may not be a need to do this; the material may now be available on the web site. Are the associated entities of all the registered political parties now publicly listed on the web site?

Ms Mitchell—No, we have not been able to quite make that enhancement yet.

Senator FAULKNER—There was some talk about it, wasn't there?

Ms Mitchell—There was, yes.

Senator FAULKNER—I was not sure whether it had been achieved.

Ms Mitchell—It is one of the enhancements to the web site that we are considering—a list of those organisations that we consider to be associated entities and which parties they are associated entities of. We have not managed to get that enhancement up on the web site yet. There are in the order of 80 associated entities.

Senator FAULKNER—For the benefit of the committee I ask you to take on notice to provide the committee with such a list. It can be done in simple form—name of the registered party and name of the associated entity. If it is not too much trouble, it would be good for that to be provided. I hope you will be able to do it with the press of a couple of buttons.

Ms Mitchell—We are not quite that advanced, but it should not be too much more difficult than that.

Senator BRANDIS—I have another bracket of questions, to no particular officer—whoever knows the answers. Are you aware of a report in the *Age* on 19 February 2003 which indicated that a representative of AusAID had said that the AEC report for the Papua New Guinea elections had been a waste of taxpayers' money?

Mr Dacey—We are certainly aware of that, Senator.

Senator BRANDIS—Are you aware that the report says that the project might have even had a negative impact?

Mr Dacey—I am aware of the report saying that.

Senator BRANDIS—What sort of assessments have been done of the election campaign by the AEC?

Mr Dacey—Throughout its engagement by AusAID, and throughout the project with AusAID, the AEC has been providing them with regular monthly and quarterly reports. In conjunction with the PNG electoral commission, we have done an evaluation of the project that we had in PNG for the election.

Senator BRANDIS—Do you accept in any sense, or even in part, AusAID's criticism of the AEC's involvement?

Mr Dacey—No, Senator, and we have spoken to AusAID about that and in fact the report was taken out of context. AusAID did not have that particular criticism. In fact, we have correspondence from AusAID in which they have been praiseworthy of the AEC's—

Senator BRANDIS—I am quoting from the report which quotes in direct speech from the AusAID review in which they say that the impact of the project:

... seems disproportionately low for the high level of investment.

It goes on to say that the review team said that the AusAID designated project lacked understanding of PNG's political system and might even have had some negative impacts. It then stated:

Our conclusion from this assessment is that the project should not continue in its current form ...

Those are direct quotes from the AusAID report.

Mr Dacey—That is correct, but it was quite a significant report and those particular grabs have been taken from particular areas of the report. I note from the quote that it says that it is the AusAID project that had the negative impact, not the AEC's involvement.

Senator BRANDIS—Are you reviewing your involvement in overseas operations given both their expense and the assessment I have quoted to you?

Mr Dacey—Certainly our involvement in any overseas operation is always under review. In fact, in consultation with AusAID, we are developing a revised strategy for any future assistance, particularly in Papua New Guinea as a result of problems that did occur in that country with the election.

Senator BRANDIS—When will that be completed?

Mr Dacey—We are about to get to the stage of commenting, I think in the next week or so, on a draft record of understanding for the next stage of that project.

Senator BRANDIS—And will that be a public document when it is completed?

Mr Dacey—Once it is completed I am not sure. I will have to take on notice whether it is commercial-in-confidence, but I expect that it would be a public document.

Senator BRANDIS—Thank you. I wanted to move on to another matter—

Senator ROBERT RAY—On that matter, it is true that you gave the Joint Standing Committee on Electoral Matters a full briefing on this matter?

Mr Dacey—We did, not just including PNG, but on all of our overseas assistance programs.

Senator ROBERT RAY—I think that was one of the 20 meetings in a row that Senator Brandis missed.

Senator BRANDIS—That is not an honest statement, Senator Ray.

Senator FAULKNER—It was the one you attended, was it?

Senator BRANDIS—No.

Senator FAULKNER—Right. Quit while you're behind, George.

Senator BRANDIS—Senator Ray, you made some observations in the Senate about my non-attendance at meetings of JSCEM and omitted the fact that of the first 17 meetings you referred to I wasn't a member of the committee at the time.

Senator ROBERT RAY—No, I was very precise in the way—

Senator Abetz—Ha, ha!

Senator ROBERT RAY—No, that is not true.

Senator BRANDIS—Yes, it is true, Senator.

Senator ROBERT RAY—I was very precise. I calculated the figures from the day you joined the committee, so that is a total mislead. Go back to the record and check it.

Senator BRANDIS—Are you aware of comments made by the Labor MP for Lingiari, Mr Warren Snowdon, in relation to the amount of money available for electoral education?

Mr Becker—Yes, that is the portfolio PBS error. Yes, we are aware of the comments.

Senator BRANDIS—These were comments made on ABC Radio in Darwin and Alice Springs.

Mr Becker—That is correct. We are aware of them, Senator.

Senator BRANDIS—Do you remember when he made those remarks?

Mr Becker—It was the 15th of this month.

Senator ROBERT RAY—We've done all this. The minister's done it.

Mr Becker—The 16th sorry.

Senator BRANDIS—Do you agree with his comments?

Mr Becker—I think we have said that the portfolio budget statement was wrong and his office was notified that there was no cut to the education programs. It was the 15th I think.

Senator BRANDIS—So to that extent his comments were inaccurate.

Mr Becker—To that extent, his comments were inaccurate, yes.

Mr Dacey—There may well have been a misunderstanding of his reading of the PBS, but when his office advised us of the problem with the PBS, we then advised his office in turn, on 16 May, of the error in the PBS and that the bottom line was not an issue; it was an attribution error.

Senator BRANDIS—Did Mr Snowdon or any member of his office at any prior to his comments on the ABC attempt to contact the AEC to verify that electoral education funding was being cut?

Mr Becker—That was on the 15th.

Mr Dacey—On the day before.

Senator BRANDIS—Are you saying that Mr Snowdon's office knew the truth about this matter prior to having made the statement on Northern Territory radio?

Mr Becker—Mr Snowdon's office was told that there was no cut to the education program and that it was most likely a mistake.

Senator BRANDIS—Do I understand that his office was told that at about 1.30 on Thursday, 15 May 2003?

Mr Becker—That is correct.

Senator FAULKNER—How would Senator Brandis know that?

Senator ROBERT RAY—Because Senator Abetz gave him the question earlier.

Senator FAULKNER—That explains it.

Senator BRANDIS—I just want to be clear on this point: Mr Snowdon's office had been told that there was no cut in funding; it was simply an accounting error in the portfolio budget statement. Is that right?

Mr Becker—Subsequently, yes.

Senator BRANDIS—Yet there is Mr Snowdon on local ABC Radio in the Northern Territory on Friday, 16 May 2003 making claims that he knew or should have known were false. How do you explain that?

Mr Becker—I cannot explain that, Senator.

Senator ROBERT RAY—He can't explain why they didn't point out the mistake.

Senator BRANDIS—It could be the case that his staff member simply refused to inform him of the conversation with the AEC, or it could be the case that Mr Snowdon showed a callous disregard for the truth and went ahead with the story anyway.

Senator ROBERT RAY—I raise a point of order, Chair. They are now asking questions that you would rule out if we asked them. I know that he is a close mate of yours, but pull him into order. You wouldn't let us ask those sorts of questions; you shouldn't let him.

Senator Abetz—You do get away with it, though. No statement has been made.

Senator ROBERT RAY—No, to be fair, Senator Brandis has raised two or three points of order that were fairly valid during the hearing and I was ruled against. Just for the first time, I am putting—

Senator FAULKNER—It is a big test for Senator Mason.

Senator BRANDIS—I will rebut the question, Senator Ray.

Senator FAULKNER—So you have ruled in favour of that point of order, Mr Chairman?

CHAIR—I am not going to rule—

Senator BRANDIS—I have withdrawn the question.

CHAIR—Senator Brandis has voluntarily rephrased his question.

Senator FAULKNER—No need to rule?

Senator BRANDIS—Having had regard to Senator Ray's point of order, I will rebut the question. Tell me if I am being fair to your evidence. Your evidence is that Mr Snowdon's office had been advised, at about lunchtime the day before Mr Snowdon went on the wireless, what the true position was—that information was given to a member of his staff.

Mr Becker—He was advised that there was no cut to the education budget and that it was most likely a mistake in the portfolio budget statement.

Senator ROBERT RAY—A mistake. Come on, Mr Becker!

Senator FAULKNER—How are you aware of that, Mr Becker?

Senator ROBERT RAY—Three million dollars?

Senator FAULKNER—How are you aware of all this detail about—

Mr Becker—From a file note.

Senator FAULKNER—I see.

Senator ROBERT RAY—Who wrote the file note?

Mr Becker—A person who was speaking to the member for Lingiari.

Senator ROBERT RAY—I am asking who.

Senator FAULKNER—Who?

Mr Becker—Philip Diak.

Senator FAULKNER—And when was that file note written?

Mr Becker—At the time, I presume.

Ms Davis—Yes.

Senator FAULKNER—You have read it.

Mr Becker—That's when you read—

Senator FAULKNER—When was it dated?

Mr Becker—I honestly don't know. It was dated that day, 15 May.

Senator FAULKNER—And who was the file note to?

Mr Becker—It was a file note.

Senator BRANDIS—It was a note to the file, presumably.

Senator FAULKNER—That's right. So you normally read these file notes, do you?

Mr Becker—No, I don't.

Senator FAULKNER—I see. Why did you read this one?

Mr Becker—It was put in front of me.

Senator FAULKNER—Who by?

Mr Becker—By an assistant commissioner.

Senator FAULKNER—I see. Why?

Mr Becker—Because it had hit the press and he had been advised in advance that the—

Senator FAULKNER—When was it put in front you by the assistant commissioner?

Mr Becker—First thing this morning.

Senator FAULKNER—First thing this morning—the day of the estimates.

Mr Becker—We were aware of the fact that he had been—

Senator ROBERT RAY—This morning.

Senator FAULKNER—When did Mr Snowden make the comments?

Mr Becker—On the 16th.

Senator FAULKNER—And when was the file note dated?

Mr Becker—The 15th.

Senator FAULKNER—And when was the matter put in front of you?

Mr Becker—The matter wasn't put in front of me.

Senator FAULKNER—No—

Mr Becker—The file note was put in front of me this morning, Senator, but I was aware of it.

Senator FAULKNER—Okay—point made. Pathetic!

Senator Abetz—What is pathetic in this is that—

Senator ROBERT RAY—Mr Chairman—

CHAIR—Order!

Senator Abetz—It is different to deliberately repeating something as a fact when they know it is an error.

Senator ROBERT RAY—That is what you are saying; you haven't proved it.

Senator FAULKNER—It is abysmal when you involve the commissioner—

Senator ROBERT RAY—In your own dirty political work.

Senator FAULKNER—in your own dirty work at an estimates—

CHAIR—Order! Senator Faulkner—

Senator FAULKNER—It's abysmal.

CHAIR—Senator Faulkner, please. Senator Brandis has the call, Senator Faulkner.

Senator FAULKNER—Let Senator Brandis continue—

CHAIR—He has the call, Senator Faulkner. If you have a point of order, please make it.

Senator FAULKNER—I do have a point of order. My point of order is: is it competent for Senator Brandis to read into the *Hansard* record questions that have been provided by Minister Abetz for him to ask at this estimates committee hearing?

CHAIR—I do not know if that is the case, Senator Faulkner.

Senator BRANDIS—That is not the case.

Senator FAULKNER—I am just asking. I am taking a point of order. You should rule on it.

Senator Abetz—It is a classic case of an assumption being made and written into the *Hansard*—

Senator BRANDIS—Can I speak to the point of order?

CHAIR—Yes.

Senator BRANDIS—What Senator Faulkner has said is quite false. The question to which he has taken a point of order, which is no point of order, is a question that I am asking extemporaneously—

Senator FAULKNER—Oh, rubbish!

Senator BRANDIS—on the basis of the evidence provided by Mr Becker a few moments ago.

Senator FAULKNER—You are reading religiously from a document in front of you.

CHAIR—There is no point of order.

Senator FAULKNER—It is very loyal, and a very wise thing to do.

CHAIR—I have ruled on the point or order.

Senator BRANDIS—Mr Chairman, if Senator Faulkner continues to defy your rulings you ought to name him.

CHAIR—Senator Faulkner, please! Senator Brandis, you have the call.

Senator BRANDIS—Mr Becker, your evidence, as I understood it—

Senator FAULKNER—You have lost control of this committee, Mr Chairman.

CHAIR—You used to be more polite, Senator Faulkner.

Senator BRANDIS—Your evidence, as I understood it, Mr Becker—

Senator Abetz—I raise a point of order, Mr Chairman. Senator Faulkner has been allowed to cast aspersions on the commissioner, on me. With great respect, he was not pulled up in relation to that. I sought to intervene. You allowed Senator Faulkner to talk over everybody and then continue making allegations in relation to Senator Brandis. This sort of behaviour, with respect, is completely and utterly unacceptable.

CHAIR—You are quite right, Minister.

Senator Abetz—Could I just invite you to apply the standards that are appropriate to Senator Faulkner, despite his bullying.

CHAIR—Perhaps if there could be some more cooperation all round it would be very useful to the committee's deliberations.

Senator FAULKNER—Very wise counsel, Mr Chairman.

CHAIR—Thank you, Senator Faulkner.

Senator BRANDIS—Mr Becker, your evidence, as I understand it, was this: an officer of the AEC gave some information to Mr Snowdon's office at about lunchtime on 15 May concerning the AEC's electoral education program. Is that right?

Mr Becker—Mr Snowdon's office initiated the call to the AEC.

Senator BRANDIS—I did not ask who initiated it.

Mr Becker—I am sorry. Yes, that is true.

Senator BRANDIS—In any event, that information was provided at about lunchtime on 15 May. Then we have heard the evidence of, I think, Ms Davis that a file note was created by the officer of the AEC at that time recording that fact. Correct?

Mr Becker—Yes, that is correct.

Senator BRANDIS—We nevertheless know, because it is a matter of public record, that Mr Snowdon went on the radio the following day in Darwin and Alice Springs and made statements which were quite inconsistent with the information that had been provided to his office. Correct?

Mr Becker—That there had been a cut to the education budget: yes.

Senator BRANDIS—Are you satisfied that the information provided to Mr Snowden's office was correct?

Mr Becker—Yes, I am.

Senator BRANDIS—So, in making the claims, these are the possibilities: either Mr Snowden had not been informed by his staff member of the matter concerning which the Electoral Commission had advised him. Correct?

Mr Becker—Yes.

Senator BRANDIS—He had been informed but he chose to disregard it because he did not accept the accuracy of the information provided to him.

Mr Becker—That is possible, yes.

Senator BRANDIS—Could there, in your view, have been any rational or legitimate basis for him not to accept the information provided to him?

Mr Becker—I cannot comment on that, Senator.

Senator BRANDIS—Or Mr Snowden made the statement knowing the statement to be false.

Mr Becker—I cannot comment on that either. I do not know.

Senator ROBERT RAY—While we are on Mr Snowden's statement, you have got a transcript of what he said?

Mr Becker—No. We probably have it somewhere but I do not have one. I am sorry, we do have one here.

Senator ROBERT RAY—When did you first read this transcript of what he said?

Mr Becker—I did not. I was just briefed on what he had said.

Senator ROBERT RAY—So you had not read it before you gave evidence here?

Mr Becker—No.

Senator ROBERT RAY—You have not read what Mr Snowden said?

Mr Becker—No. Why would I?

Senator ROBERT RAY—I think you might like to know what he said. You are giving evidence here. You were happy to answer questions on it. Are you seriously telling me—

Mr Becker—Do we get the questions in advance now, Senator?

Senator ROBERT RAY—I am sorry but you were given a file note on this today, you are giving all this evidence and you have not actually read Mr Snowden's comments.

Mr Becker—I was given a file note. I have seen the reports.

Senator BRANDIS—Mr Chairman, Senator Ray is now badgering the witness.

Senator ROBERT RAY—I do not think I am. I want a straight answer on this.

Mr Becker—This is not the transcript, I am sorry—it is the media release.

Senator ROBERT RAY—Right. This refers to what he said on ABC Radio—or have I got that wrong?

Senator Abetz—That is what was in the question.

Senator ROBERT RAY—Yes. And you have not read what he said on ABC Radio, Mr Becker?

Mr Becker—No, I have not.

Senator ROBERT RAY—Who at the table has?

Ms Davis—Yes, Senator.

Senator ROBERT RAY—When did you read it?

Ms Davis—The morning of 16 May.

Senator ROBERT RAY—Did you do a file note on it?

Ms Davis—No, I did not.

Senator ROBERT RAY—You did not think it was that important?

Ms Davis—No, we were in the process of preparing a brief for our own minister to alert him to the error.

Senator ROBERT RAY—You were more concerned about the error than the politics, weren't you?

Ms Davis—Yes, Senator, that would be a fair statement.

Senator ROBERT RAY—It's a pity the rest of you weren't.

Senator FAULKNER—Mr Dacey, you provided the commissioner with a copy of this file note this morning?

Mr Dacey—No, I did not.

Senator FAULKNER—I thought that was what the commissioner said.

Ms Davis—The file note came from—

Senator FAULKNER—Mr Becker, I thought you told me it was Mr Dacey—

Senator Abetz—An assistant or deputy commissioner.

Mr Dacey—An assistant commissioner.

Senator FAULKNER—Who provided the commissioner with a copy of the file note?

Mr Becker—Mr Hallett showed me a copy this morning.

Ms Davis—Mr Hallett is our Assistant Commissioner, Information, Research and Education.

Senator ROBERT RAY—Is he here?

Ms Davis—Yes, he is.

Senator FAULKNER—Mr Hallett, welcome to the table. Did you provide the commissioner with a copy of this file note dated 16 May this morning?

Mr Hallett—Yes, I did.

Senator FAULKNER—Why did you do that?

Senator Abetz—What date was it dated?

Mr Hallett—Perhaps if I give you some background, Senator, it might help to clear it up. The Director, Information, Mr Diak, who is not present today, advised me that he had had a call from Mr Snowdon's office, as has been described. Once the telephone discussions had been completed, he completed a file note, as would be standard practice. We do keep records of these sorts of discussions. In our preparations for this hearing today, we had a meeting and I brought to Mr Becker's attention the fact that a file note had been kept.

Senator ROBERT RAY—How many file notes would you have dealt with in the last year?

Mr Hallett—I could not say, Senator.

Senator ROBERT RAY—How many other file notes did you bring to Mr Becker's attention?

Mr Hallett—On this particular issue there was only that one.

Senator ROBERT RAY—No, not on this particular issue. I asked: how many file notes have you brought to Mr Becker's attention in preparation for the estimates committee? That is a fair question.

Mr Hallett—I think we would have to take that on notice. The short answer is that obviously we prepare for the hearings.

Senator ROBERT RAY—No, that is not the question. Let's get the question right. I know it is easy to not grasp them here. Sometimes we are inarticulate. I am asking you how many file notes you brought to the attention of the commissioner in preparation for the estimates committee—not how many other documents or any other preparation.

Mr Becker—For this committee? One.

Senator ROBERT RAY—Just one?

Mr Hallett—I think it would be fair to say it was just this one.

Senator FAULKNER—What was the date on that file note? I thought it was 16 May.

Mr Hallett—I would have to check. It was certainly done after the discussion with the—

Senator FAULKNER—Has one of the officers got a copy of the file note with them?

Mr Hallett—Yes, I do.

Senator FAULKNER—Can't you just check that then?

Mr Hallett—Yes.

Mr Dacey—While Mr Hallett is checking that, on the day that the director, information, took the phone call from Mr Snowdon's office and pointed out that it was likely to be an error, probably an attribution error, and that the bottom line was okay, Mr Becker was in fact not in the office that day. As deputy, and I think acting commissioner the next day, I was certainly

aware that that was happening through email traffic in our organisation. So it did not come as a surprise to me today.

Mr Hallett—Senator, to go back to your earlier question, I do have a copy of the note that was prepared by Mr Diak but it is not dated and it is not signed. I can confirm that it was completed after the discussion with Mr Snowdon's office.

Senator ROBERT RAY—We had evidence that we knew the date of it. How did we get that evidence that we knew the date of it if it is not dated?

Ms Davis—Senator, I think I relayed that advice, and that was on the basis of what I knew had transpired on the afternoon of 15 May.

Senator FAULKNER—So it is an undated file note, is it?

Ms Davis—I imagine there will be a file copy on file, so we can provide that.

Senator ROBERT RAY—But it is not signed either?

Mr Hallett—In addition, there was, to my knowledge—and I do not have it with me—an email communication between Mr Diak and Mr Snowdon's office to confirm the telephone discussion. I can obtain that and table that if it is required.

Senator FAULKNER—Thank you.

Senator ROBERT RAY—I just want to be clear: it was not dated, though?

Mr Hallett—The document that I have in front of me prepared by Mr Diak is not dated and it is not signed.

Senator ROBERT RAY—But, Mr Becker, didn't you tell us that the file note was dated?

Mr Becker—I thought it was dated that because—

Senator ROBERT RAY—How did you make that mistake? You only saw it this morning, so how did you make that mistake?

Mr Becker—I thought it was dated, but I was not worrying about that so much as the confirmation that the actual file note said what it said.

Senator FAULKNER—So we can now correct the record on that again, can we?

Mr Becker—I am happy to go back and check—

Senator FAULKNER—Hang on: we can now correct the record on that.

Mr Becker—Yes.

Senator FAULKNER—Thank you, Commissioner.

Senator ROBERT RAY—Don't volunteer at estimates until you are asked.

Mr Becker—I am reasonably certain that there was an email communication with Mr Snowdon's office by Mr Diak. I do not have that with me, but I am happy to table that if it exists. I am reasonably certain that it does.

Senator FAULKNER—There is no need to do that.

Senator BRANDIS—I will ask if you could locate the email. You might take that on notice and produce it subsequently, if it exists.

Mr Hallett—Yes.

Senator ROBERT RAY—I see, we are ‘producing’ the email, are we?

Mr Hallett—It would be a print of the email.

Senator ROBERT RAY—I want to know how many other documents we can have while we are at it. That is good. We can ask for whatever documents we like, and you agree—just because it was a government senator that asked. That is not the normal procedure. If we can have that transparency, just let us know.

Senator FAULKNER—That, I now assume, is a precedent, is it Mr Becker, in relation to communications between the AEC and a member of the House of Representatives.

Senator ROBERT RAY—You have just agreed to produce the email. I am about to ask you to produce all correspondence to you relating to the collocation and amalgamation of electorate offices. I am entitled to that under the same principle, aren’t I?

Mr Becker—I can bury you in paper, yes, certainly.

Senator ROBERT RAY—So I can have all of that? Thanks.

Senator FAULKNER—Excellent; thanks very much. That is good. Thank you, Commissioner. Thank you, Senator Brandis. What is this undated, unsigned file note headed, please, Mr Hallett?

Mr Hallett—It is headed ‘Details of contact with Warren Snowdon’s office’. It is something I asked the director of information to provide to me as part of my preparation for this hearing.

Senator ROBERT RAY—The main reason for taking a file note was to record the fact that the AEC had made a massive blunder—over \$3 million—in its allocation of funding from program 3 back to program 1. That was the whole thrust of it.

Mr Hallett—Yes, a mistake was made. When Mr Snowdon’s office rang an officer in my branch, we said it was a mistake and there was no cut.

Senator BRANDIS—And you corrected the mistake. That is what the file note records—the fact that Mr Snowdon’s office had told—

Senator FAULKNER—How do you know? Have you seen the file note?

Senator BRANDIS—I am putting the proposition to them, Senator Faulkner.

Senator FAULKNER—No, you are not; you are making a statement.

Senator BRANDIS—I am putting a proposition to them. Is this right, Mr Pickering: what the file note records—

Senator ROBERT RAY—I have a point of order. Can we remove ‘Mr Pickering’s’ name tag, because we are confusing everyone here. That is not Mr Pickering there.

Senator FAULKNER—That is Mr Hallett.

Senator ROBERT RAY—They have not got a replacement name tag.

Senator FAULKNER—We have got a replacement person.

Senator ROBERT RAY—We are going to confuse Hansard massively.

Senator BRANDIS—Sorry, Mr Hallett.

Senator Abetz—But, whilst we are clarifying, Senator Faulkner indicated in his question it was an undated file note—

Senator FAULKNER—That is what I was told.

Senator Abetz—No, the note that is in front here is undated, but the file note itself may well be dated, and that is something that still needs to be determined, so we cannot just blandly assert that it is undated.

Senator FAULKNER—Thank you for clarifying it. That is important, Senator Abetz, and I appreciate you clarifying it. Mr Hallett, I do not want—

Senator BRANDIS—Mr Chairman, I thought I had the call at the moment.

Senator ROBERT RAY—Except that the minister has intervened on another subject.

Senator FAULKNER—The minister has intervened, coming back to me. I do not mind ceding to you, but I would like to deal with that issue. But whatever suits, Senator Brandis.

CHAIR—Let Senator Faulkner ask his question and we will go back to you.

Senator FAULKNER—You do appreciate that the minister has come back to me on another issue, but I am happy to cede to you and come back to it again.

CHAIR—We will come back to you, Senator Faulkner.

Senator BRANDIS—Mr Hallett, is this correct? This is what I gather from your evidence. Tell me if this is correct or if it is not correct; you tell me what qualifications we should put on this statement. There is a file note that was prepared at or shortly after the time of the communication with Mr Snowdon's office which records the fact of that communication and the fact that, during the course of that communication, Mr Snowdon's office was told that the information in the portfolio budget statement was incorrect and the incorrect information in the portfolio budget statement was corrected. Is that the substance of the file note?

Mr Hallett—That is correct, and my understanding is that there is also an email from the director of information at the Australian Electoral Commission to Mr Snowdon's adviser, pointing that fact out too, which I expect would also be on the file.

Senator BRANDIS—Yet, Mr Snowdon went on the radio the following day and republished the incorrect information which had in the meantime been corrected.

Mr Hallett—That is my understanding. I am aware of the broadcast the following day on the ABC.

Senator BRANDIS—Thank you.

Senator ROBERT RAY—You must have been grateful that Mr Snowdon pointed out this mistake. You have taken the trouble to do a file note. You have taken the trouble to email his office. You are probably not happy with what he said. Who then contacts Mr Snowdon's office to say—

Mr Becker—Thank you very much.

Senator ROBERT RAY—No, not thank you very much—not at all.

Mr Becker—He said he pointed out the fact that he had made an error.

Senator ROBERT RAY—Yes, that he had also made an error. Who took it up with him so it could be dealt with offshore?

Mr Hallett—My understanding is that there was a further email on 16 May—about the middle of the day—where, again, the director of information, the same officer who had taken some questions on notice, so to speak, to find out more information about exactly what the problem was provided further information to Mr Snowden's office the next day.

Senator ROBERT RAY—I am glad you did that; I think it is a good and fair thing to do. I am asking whether anyone took umbrage or questioned Mr Snowden's comments on ABC radio, because at least one of you had access to the transcript, not the commissioner, who has never seen it. Have you seen it, Mr Hallett?

Mr Hallett—Yes, I have.

Senator ROBERT RAY—When did you see it?

Mr Hallett—I saw it on the same day—on the 16th—as soon as it arrived.

Senator ROBERT RAY—Did anyone then make contact with Mr Snowden's office and say, 'Hold on you've got this wrong. We're correcting the record,' et cetera?

Mr Hallett—Mr Diak had been dealing with the adviser to Mr Snowden and I would have to take it on notice to check whether he actually also raised the matter about the content of the ABC broadcast.

Senator ROBERT RAY—So you don't know.

Mr Hallett—No.

Senator Abetz—It is interesting though that Mr Snowden was told, I am advised, on 15 May that it was probably an error et cetera.

Senator ROBERT RAY—Probably?

Senator BRANDIS—Or was an error, in fact.

Senator Abetz—Whatever the wording was. Then on the 16th, Mr Snowden says, amongst other comments, on the airwaves, 'A deliberate attempt by the government to ensure that people who they do not think will support them don't get to exercise a vote.' A deliberate attempt by the government.

Senator BRANDIS—Minister, my point is that either, when he said that, Mr Snowden knew it to be false or, at best for him, he ought to have known it to be false.

Senator Abetz—That is a matter for conjecture.

Senator FAULKNER—You are supposed to be asking questions.

Senator ROBERT RAY—To nail a few things down: when are we going to get a copy of these emails?

Mr Hallett—My understanding is that there is one email and I can provide it reasonably promptly.

Senator ROBERT RAY—I think you have indicated that there are two emails now.

Mr Hallett—I would have to check that.

Senator ROBERT RAY—I think that is what your evidence was.

Senator Abetz—There was one on the 15th and one on the 16th.

Mr Hallett—I think that may be the case. I can do that reasonably promptly.

Senator ROBERT RAY—How quickly can we get the correspondence from all the MPs that have written to the Electoral Commission about collocation and amalgamation? How long will it take? That question is not to you, Mr Hallett, that is to the commissioner or to Mr Dacey.

Mr Becker—How long will it take to get emails from—

Senator ROBERT RAY—No. We have been through the commitment to provide emails; now I am going back to the commitment to provide correspondence on collocation and amalgamation. I asked how long it would take to get the emails, because the officer at the table was best suited to this. Now I am asking you, Mr Becker, how long will it take to provide this committee with the correspondence?

Mr Becker—Subject to the members who have written to us and to the minister, because a lot of them did not come straight to us, they went to the Minister.

Senator ROBERT RAY—Oh, it is subject to them. So this commitment on the emails will be subject to Mr Snowden, will it?

Senator Abetz—The commissioner is saying that there may be a difference between people that write to me and I respond to them as opposed to those that have direct communication with the AEC.

Senator ROBERT RAY—Minister, I never once asked for correspondence written to you. I did not ask that. You can go back and check the record.

Senator Abetz—All right, just so long as we are clear on that.

Senator ROBERT RAY—I would not ask for that. What are you saying about that now, Mr Becker? Are you going to provide information or not or are you qualifying it?

Mr Becker—If that is okay with the members concerned, yes.

Senator ROBERT RAY—If it is okay for the members concerned, it has to be okay for Mr Snowden to produce the emails—is that right?

Mr Dacey—In relation to the email, that was an email from an AEC officer to Mr Snowden, so the AEC can probably make that judgment.

Senator ROBERT RAY—It is still correspondence between the two of you. I am just looking for consistency here.

Senator BRANDIS—That is not right, with respect, Senator Ray. There is no obligation of confidentiality binding the dispatcher of an item of its own correspondence. What Mr Dacey says is quite right. If the AEC, as the sender of the email, wishes to produce it then that cannot be a breach of any confidentiality belonging to Mr Snowden.

Senator ROBERT RAY—So we are going to have two different standards here—that is what you are arguing ?

Senator BRANDIS—No, I am not arguing; I am simply pointing out to you something elementary, Senator Ray.

Senator ROBERT RAY—No. You asked for one lot of correspondence. It is coughed up—

Senator BRANDIS—Confidentiality inheres in the person who is the dispatcher of the correspondence. If the AEC decides to produce its own item of correspondence, that is a matter for it.

Senator ROBERT RAY—I just make the point that Senator Brandis, being a government member, asked for the email and got an instantaneous, ‘Yes, you can have it.’ There was no thought, no deliberation just: ‘Of course you can have it, Senator Brandis. What else would you like?’ I asked for this other stuff and they say, ‘Yes you can have it.’ I go back to find out when and then I am told, ‘We have to consult with A, B and C.’ I do not object to consulting with A, B and C because that is proper procedure. What I object to is the level and standard of evidence we get when you get an instantaneous reaction without thought. Let us have some thoughtful responses. I accept that, for correspondence to the Electoral Commission from other MPs, you need their permission to release it. But that was not the evidence initially given, Chairman. That is my point.

CHAIR—All right.

Senator FAULKNER—Let me ask this: is it the case that Mr Snowden issued his press release on 15 May 2003?

Mr Hallett—The press release that I have seen on his web site is dated 15 May.

Senator FAULKNER—Thank you. Is it true that Mr Snowden recorded the interview that we are talking about on the evening of 15 May 2003 in the ABC studios in Darwin and that it was broadcast nationally?

Mr Hallett—I do not know. The only thing I know is that our media monitors picked up that there was a broadcast on the 16th, as I understand it, in Darwin and in Alice Springs.

Senator Abetz—Yes, but the important point was that on the 15th, even if he issued his media release, one would have hoped that he would have issued his media release after contacting the AEC. If he did not, what he did was to issue a media release to try to get mileage and then thought, ‘Oh, I had better double-check to make sure that I have got it right.’ Then, when he is told that chances are that he has got it wrong or that there was an error, he does not bother to ring up the ABC and say, ‘There is a problem with this.’

Senator BRANDIS—If the briefing or the communication to his office was at 1.30 p.m. on the 15th and he recorded the interview, as Senator Faulkner has asserted, on the evening of the 15th, at the time he made the statement, he either knew it to be false or ought to have been aware that it was false because it had been contradicted earlier in the day.

Senator Abetz—Yes, quite right.

Senator BRANDIS—The position had been corrected earlier in the day.

Senator Abetz—Modern communications.

Senator FAULKNER—Can I now continue with my questioning that you allowed Senator Brandis to interrupt?

CHAIR—Yes.

Senator ROBERT RAY—As we did.

CHAIR—Thank you, Senator Ray. I was about to say that.

Senator FAULKNER—We have established, Mr Hallett, that Mr Snowden's press release was dated 15 May.

Mr Hallett—I am reasonably certain of that.

Senator FAULKNER—I am absolutely certain. Are you aware that Mr Snowden's interview that was broadcast on ABC radio Darwin news at 7 a.m. on 16 May was prerecorded on the previous evening?

Mr Hallett—No, I am not.

Senator FAULKNER—I did not expect you to be but, just for your information, take my word for it. You are aware of course—

Senator Abetz—If it was in the evening, it would have been after he was told that it was a mistake.

Senator FAULKNER—Senator Abetz, if I were you, I would just be quiet.

CHAIR—Senator Faulkner, it is getting late.

Senator Abetz—I think we have heard evidence, and unless you are suggesting that the evidence that there was no phone call at about 1.30 from Mr Snowden's office to the Electoral Commission is wrong, then that is fine. But other than that, I would have thought Mr Snowden's office and staff would have been clothed with some information that should have been used in his prerecord on the evening of the 15th.

Senator FAULKNER—Really?

Senator ROBERT RAY—There is no file note on the 15th, is there?

Mr Hallett—I am not sure, Senator. I would have to check.

Senator ROBERT RAY—It is on the 16th. Even though it is undated, it is the 16th?

Mr Hallett—As I said to you, I am aware that Mr Diak documented the discussions after the event.

Senator ROBERT RAY—Was this on the same day or the day after?

Mr Hallett—Of that I am not certain.

Senator FAULKNER—Is the radio broadcast that you are referring to a broadcast on the ABC Darwin news of 7 a.m. on 16 May?

Mr Hallett—I do not have the transcript in front of me, Senator, but I am reasonably certain that it was ABC in Darwin. Yes, that is correct.

Senator FAULKNER—I want to be clear on this: when do you say by email to Mr Snowdon's office that you were able to confirm this information about the basis of the error in the PBS?

Mr Hallett—Looking at my notes, Senator, it appears that the email was sent on the 16th, but I am absolutely certain that there was a phone call on the 15th because Mr Diak, who I supervise, came to see me about it to bring it to my attention.

Senator ROBERT RAY—Now let's answer the question: when was the email?

Mr Hallett—My understanding from my notes is that it was on the 16th, but I would like to look at the email and check for myself.

Senator FAULKNER—What time on the 16th?

Mr Hallett—I do not know.

Senator FAULKNER—It would be after the 7 a.m. news in Darwin, though, wouldn't it?

Mr Hallett—I would expect it would.

Senator FAULKNER—What did the email say?

Mr Hallett—My understanding is that it was confirmation of the telephone discussion that there was an attribution error and that there was no cut to the education program.

Senator FAULKNER—Confirmation of a telephone conversation?

Senator BRANDIS—That is the 1.30 p.m. on the 15th telephone conversation?

Mr Hallett—Yes.

Senator ROBERT RAY—So the email mentions a telephone conversation?

Mr Hallett—As I say, I don't have it in front of me, Senator. But it is reasonably standard procedure—where there is a telephone inquiry from the media or a member of the public about a particular issue, it is quite often followed up by an email.

Senator ROBERT RAY—And you would say, 'Following our phone conversation yesterday'?

Mr Hallett—I would expect it would be something along those lines. As I say, I do not have the email in front of me, so I would really like to check.

Senator FAULKNER—You would be wrong if you thought that, Mr Hallett, but you check.

Mr Hallett—I will check, Senator, and I may be wrong.

Senator FAULKNER—You would be wrong if you thought that.

Senator BRANDIS—Senator Faulkner thinks he is a witness.

Senator FAULKNER—No.

CHAIR—Any further questions on this issue?

Senator FAULKNER—Yes. Anyway, Mr Hallett, in terms of preparation for the estimates committee, this note was drawn to the attention of the commissioner—is that right?

Mr Hallett—That is correct. I showed it to Mr Becker this morning.

Senator FAULKNER—Was it a signed note or was it the same note that you have in the file in front of you? I appreciate there may be two file notes; we are not certain about that. But we know there is this unsigned note and there may be a more formal note for file—is that right?

Mr Hallett—That is correct. I have in front of me an unsigned, undated note, which is part of the materials that I put together as part of my preparation, and I showed it to Mr Becker this morning.

Senator FAULKNER—That is what I want to know.

Senator ROBERT RAY—You showed that to Mr Becker this morning?

Mr Hallett—The unsigned—

Senator ROBERT RAY—That is what I wanted to know.

Senator FAULKNER—So you showed the unsigned, undated note to Mr Becker this morning?

Mr Hallett—Yes, but to be fair, when I did bring it to his attention, if I recall correctly, I did refer to it as a file note.

Senator FAULKNER—There is no signature on it, is there?

Mr Hallett—No.

Senator FAULKNER—Did you see a note with a signature? Can we confirm for the record that that evidence was incorrect, Mr Becker? There is no signature on the note that you saw this morning?

Mr Becker—There is no signature on that note there.

Senator FAULKNER—Thank you. Let the record stand corrected on that. It is a comparatively minor note.

Mr Becker—I don't recall saying I saw a signed note.

Senator BRANDIS—The witness never said that it was signed.

Mr Becker—I never said I saw a signed note. I believe the note was dated the 15th.

Senator BRANDIS—You are being very unfair to the witness because you are mischaracterising his evidence.

Senator ROBERT RAY—You said it was dated, didn't you?

Mr Becker—Yes, I thought it was, because we had been talking about the dates and so on. I was more interested in the content of the file note, not the actual—

Senator ROBERT RAY—You thought you saw a date on it that wasn't there.

Mr Becker—I was more interested in the content of the file note.

Senator FAULKNER—We all are.

Senator Abetz—That does not cover up the fact that Senator Faulkner has tried to allege on the record that the commissioner said something when clearly the *Hansard* will show whether or not he did say that he saw a signed file note.

Senator FAULKNER—Well, let's be clear about it.

Senator Abetz—I would just invite Senator Faulkner to be very careful about the allegations and suggestions he makes in relation to witnesses. Verballing them is not an appropriate course of action.

Senator FAULKNER—Have you finished? I of course do not make allegations; I only ask questions.

Senator Abetz—No, that is not the case, Senator Faulkner. I would invite you to read the *Hansard*.

CHAIR—Let us not get into that.

Senator FAULKNER—Are you able to confirm now, Commissioner, that the note you saw this morning—if we characterise it is a file note it may be misleading, so let us just call it the note; I think we all know what we are talking about—was neither signed nor dated?

Mr Becker—That is correct.

Senator FAULKNER—Thank you. Mr Hallett, was it of your own initiative that you decided to present this particular file note for Mr Becker's attention?

Mr Hallett—That is correct.

Senator FAULKNER—No-one suggested to you that it might be sensible a sensible thing that, in preparation for the estimates hearing, be done?

Mr Hallett—No, it was of my own volition.

Senator FAULKNER—Thank you. I think we have completed questioning on the file note.

Senator Abetz—Would it be convenient to take a break at the moment?

Senator FAULKNER—I do not think we have that long to go. It might be convenient, if you would like to, but I do not think there is long to go for the Electoral Commission if you would like to knock it over now.

CHAIR—Let us carry on.

Senator Abetz—That is fine. There is a matter I want to attend to, but if you are not going to be long, that is fine.

Senator FAULKNER—Do you want to provide some more—

Senator Abetz—No.

CHAIR—Senator Faulkner, how long will you be?

Senator FAULKNER—I think we will not go for any longer than 10 or 15 minutes. That would be my expectation, because we have certainly indicated previously, as you would appreciate, Mr Chairman, that we wanted the AEC to be concluded by five o'clock. I think we will be able to conform to the prearranged timetable. Commissioner, did you see an article in

today's Sydney *Daily Telegraph* that is headed 'Ruddock denial'? I will quote directly from it very briefly:

Immigration Minister Phillip Ruddock yesterday denied a \$3000 donation to the Liberal Party led to an asylum seeker getting a visa.

Labor has a letter from Mr Ruddock to Parramatta MP Ross Cameron indicating that a visa would not be granted to Bedweny Hbeiche as no new information has been provided.

A spokesman for Mr Ruddock said last night approaches were then made by community leaders and following a review a visa was granted to the man.

Has that article been drawn to your attention?

Mr Becker—No, it has not.

Ms Mitchell—We do not have the *Telegraph* article; I have the *Age* and the *Courier Mail*.

Senator FAULKNER—So the issue has been drawn your attention?

Ms Mitchell—Yes.

Mr Becker—Not to mine.

Ms Mitchell—Sorry, I only noticed it just before we came up here, so I have not raised it with Mr Becker.

Senator FAULKNER—That is fair enough. Mr Becker, you are not aware of that issue?

Mr Becker—No, Senator.

Senator FAULKNER—And, Ms Mitchell, this issue has only just been drawn to your attention, has it?

Ms Mitchell—Yes.

Senator FAULKNER—When was it drawn to your attention?

Ms Mitchell—As I think you are aware, we have a clippings service.

Senator FAULKNER—Yes, because I generously receive a copy of it, which, as I have said before, I appreciate.

Senator ROBERT RAY—We salute you.

Senator Abetz—There is a cost saving measure!

Senator FAULKNER—That is one you could make. I do not think it would save too much money but—

Senator Abetz—No, I do not think I could make it. It would be at the discretion of the AEC.

Ms Mitchell—I only got the chance to look at today's clips just before I came to the committee.

Senator FAULKNER—That means that, at this stage, no action has been taken in response to this issue?

Ms Mitchell—No.

Senator FAULKNER—No investigation has been commenced?

Ms Mitchell—No.

Senator FAULKNER—Given the nature of the allegations that are made, what processes would follow internally on a matter like this that comes to your attention via the AEC clipping service—if any; maybe you would take no action?

Ms Mitchell—No, certainly I do make a practice of looking at issues that are raised in the clips and identifying what issues might need to be followed up in terms of whether there are disclosure obligations. It is a standard practice that I carry out. As I said, I have only just looked at this issue, so I would have to assess what has been raised in the articles and whether any of the issues raised fell within the parameters of the electoral legislation and then, if disclosure obligations were identified, I would have to consider whether those disclosure obligations had been fulfilled. If I felt that they had not been fulfilled, I would follow up.

Senator FAULKNER—Given that this issue has been raised in the parliament, does that give more urgency to your assessment of the issues? I am not going to the point that was made previously by another member of the committee that it might add certain weight to considerations. I wonder whether it affects the urgency of your consideration of the assessments that you might make.

Ms Mitchell—Among the issues that we would look at in terms of urgency of follow-up would be the materiality of the disclosure obligation and whether or not the disclosure obligation had fallen in a previous financial year or whether it looked like it was in the current financial year and therefore there was no return due yet. We would consider whether we had already done a compliance review. If we had compliance reviews scheduled for the near future, we might leave it until we conducted the compliance review. If we had already done a compliance review on the particular return, we would follow it up immediately with a letter. It depends on the point in time we are at and the materiality of the issue that has been raised.

Senator FAULKNER—Just so I am clear, in relation to this particular issue of the \$3,000 donation to the Liberal Party, what are the next steps in terms of your role? What now happens given that this matter has, in a formal sense, come across your desk?

Ms Mitchell—One of the things I will need to do is to try to identify when the purported donation was made. We would then have to look at whether it fell within the definition of a gift in terms of the act. As I think you are aware, the definition of gift in the act to a large degree has some complexity to it. Given that the definition talks about whether or not there was consideration received equal or partially equal to the financial outlay, we would have to look at whether there was a gift in terms of the legislation. More specifically, oftentimes amounts paid at fundraising functions are not considered to be gifts and this, to a large degree, is in the mind of the giver because it is not just about tangible things that a giver might receive in return. If a giver believes that they have received \$3,000 value from attending the fundraising function, there is no gift disclosed.

Senator FAULKNER—I hear what you say about the next steps, if there is any further action, who would you report outcomes to?

Ms Mitchell—If there is any further action, the main way in which an outcome will be brought to the attention of the public is through a return for the appropriate financial year appearing on the AEC's web site.

Senator FAULKNER—But that is in terms of the public return. I appreciate that. I am asking in an administrative sense whether, if you undertake those examinations and processes you spoke of, there is an internal AEC reporting mechanism for you. Do you report that to the commissioner?

Ms Mitchell—I would usually report it to my immediate supervisor and then matters might well be raised through my supervisor to the commissioner.

Senator FAULKNER—Thank you for that, Ms Mitchell. Mr Hallett, in your role, or that of your division at the AEC, do you monitor the web sites of parliamentarians who might be making public comment on electoral issues or issues relevant to the AEC or about the AEC?

Mr Hallett—Not web sites, no. We have a media monitoring service that monitors the standard media—that is the electronic media and the press. That is Media Monitors. We do not monitor web sites.

Senator FAULKNER—What about something like the last case we were examining here: the issue of Mr Snowdon's press release and public comments on ABC radio. Would you or your officers take a close look at how that issue evolved?

Mr Hallett—I think it is fair to say that we probably would. As part of an issues management protocol, you want to keep informed. I have a duty to keep the commissioner informed of what is developing so, if it were appropriate to look at a particular web site, either I or one of my officers would do so.

Senator ROBERT RAY—Did you get the original press release off the web site?

Mr Hallett—From Mr Snowdon?

Senator ROBERT RAY—Yes.

Mr Hallett—Yes, I did.

Senator ROBERT RAY—On what date did you do that?

Mr Hallett—I actually had a look at his web site today.

Senator ROBERT RAY—Today? You were not monitoring it at the time? You or someone else did not take the press release off at the time?

Mr Hallett—I did not, no.

Senator ROBERT RAY—But did someone else?

Mr Hallett—Not to my knowledge, no.

Senator FAULKNER—Did Mr Snowdon on 17 May record on his web site the AEC's views—after they had been communicated to him on the 16th—that they had actually made a mistake in the PBS?

Mr Hallett—When I looked at the web site this morning, I noticed that there was a footnote in the form of a correction to that effect.

Senator ROBERT RAY—Yes. We have not had that in evidence, have we? I wonder why not. Can you explain that? I would have thought that was very relevant.

Mr Becker—I was not aware of it.

Senator ROBERT RAY—I would believe that, because I think you would have told us that Mr Snowdon actually corrected the record on the 17th.

Mr Hallett—But to be fair, we were not asked.

Senator ROBERT RAY—Do you have to be asked everything to round out the picture? Did you know that he had corrected the record on the 17th?

Mr Hallett—I became aware today when I looked at the web site.

Senator ROBERT RAY—Yes, but was anyone aware prior to that that he had corrected the web site?

Mr Hallett—I think the answer to that is no.

Senator ROBERT RAY—Having showed Mr Becker the file note, why did you not also inform him that on the 17th the record had been corrected on the web site? You have left him in an awkward position. He did not know that. He is your boss.

Mr Hallett—It was an oversight.

Senator ROBERT RAY—A convenient oversight.

Senator FAULKNER—Mr Hallett, there was a phone call on the 15th; you are quite right to say that. Can you now say to the committee who initiated that phone call and whether it came from Mr Snowdon's office or the AEC?

Mr Hallett—The advice I have is that an adviser to Mr Snowdon, in his office, rang the director of information.

Senator FAULKNER—Thank you. It was initiated by Mr Snowdon's office.

Mr Hallett—That is correct.

Senator FAULKNER—That's right.

Senator ROBERT RAY—I think Mr Phil Diak was the person concerned.

Mr Hallett—That is correct.

Senator ROBERT RAY—Did he not say to the staffer concerned, 'I can't explain; it might be an attribution issue'?

Mr Becker—I think that is a pretty fair assessment.

Mr Hallett—I do not have a verbatim transcript of what Mr Diak said .

Senator FAULKNER—Maybe Mr Snowdon's office—

Mr Becker—I thought he made it clear at the time that it was not in fact a withdrawal of \$3 million from the education budget.

Senator ROBERT RAY—He says it might be an attribution error; he does not say it is an attribution error.

Mr Becker—Perhaps he was just confirming the fact that the budget had not been reduced by \$3 million, but an explanation might be that it was an attribution error.

Senator ROBERT RAY—It might be; not that it was.

Mr Becker—Yes, and he confirmed it the following day.

Senator ROBERT RAY—The following day, after the interview had been run—it had been recorded the night before and run that morning—Mr Snowden does the right thing on the 17th and corrects the record on his web site. It is vital information for you, Mr Becker, when you try to assess all of this, but you are not told by those further down the food chain.

Mr Becker—It is only vital in the context of the political bunfight; it is not vital in the context of the fact that we have made a mistake in the PBS. Having been alerted to the mistake in the PBS, that was really our issue. Whether he went to bat after, before or what have you, is a political matter—

Senator ROBERT RAY—That would be terrific if you were not shown the file note on it today.

Mr Becker—That is not an AEC concern.

Senator ROBERT RAY—No, of course it is not, but you were then alerted and shown the file note on all these issues today. But you were not told that on the following day, the 17th, Mr Snowden corrects the record on his web site.

Mr Hallett—From memory, Senator, at the bottom of the media release it says he was advised by the AEC two days later, which is actually not correct, because he was advised on 15 May.

Senator ROBERT RAY—He has made a mistake and you have made a \$3 million mistake. So we'll call that a nil-all draw.

Senator BRANDIS—Senator Ray, it is one thing to say that there was a mischaracterisation of a figure in a document by a Commonwealth agency; it is another thing for a member of the federal parliament to assert publicly that something is the position when he has been informed prior to that that it is not the position.

Senator ROBERT RAY—No, he has not, actually. The words used are 'it might be'.

Senator BRANDIS—So he has been alerted to the fact that it may be an error.

Senator ROBERT RAY—It may be; it may not be.

Senator BRANDIS—Yet he nevertheless asserts the position without qualification. Do you think, Senator Ray, that it is appropriate, having been alerted to the fact that that bookkeeping treatment may not be accurate, that he should have gone on the radio and without qualification assert what he has been told in the meantime may not be the case?

Senator FAULKNER—The more we find out about this, the clearer it becomes. Isn't it true, Mr Hallett, that Mr Snowden's office—and they have a very clear recollection and record of this—actually asked the AEC for a written advice or explanation about this matter as soon as possible and nothing was forthcoming until the next day? Were you aware of that?

Mr Hallett—That is my—

Senator Abetz—In the meantime he says it is a deliberate attempt by the government to ensure that certain people don't get on the roll, which is an outrageous allegation.

Senator ROBERT RAY—I am awaiting an answer to this question and then I will follow it up.

Senator BRANDIS—Why does it matter that the information was provided in writing or verbally?

CHAIR—Order! Ask your question, Senator.

Senator ROBERT RAY—No, Senator Faulkner asked Mr Hallett a question. The minister intervened, so we listened to what he had to say, but we are still awaiting that answer.

Mr Hallett—I am aware that that is the case. My understanding is that Mr Diak did spend some time trying to check the facts with our finance area and was not able to come back with a confirmed answer until the next morning.

Senator ROBERT RAY—So he didn't think—because he is good at emailing Mr Snowdon's office—to say, 'Inquiries are under way; I regret the fact that we can't respond today'? He didn't say that?

Mr Hallett—I am not sure.

Senator ROBERT RAY—It is not in the file note, is it?

Mr Hallett—No.

Senator ROBERT RAY—Which was written the next day.

Senator FAULKNER—And you have certainly not suggested there is such an email. I think Mr Snowdon's office went to extraordinary lengths to try to sort this out. I think most parliamentarians would not go to such lengths. It is to Mr Snowdon's credit that he did.

CHAIR—Is that your question?

Senator FAULKNER—No, I am just making the comment: it is to Mr Snowdon's credit that he did so. I am very surprised that we would waste so much time in Senate estimates on this issue, but I admire the way Senator Brandis batted on and read out all those questions he had been handed by Senator Abetz.

Senator BRANDIS—I never read out questions, Senator Faulkner.

Senator FAULKNER—You are a very good actor then, Senator Brandis—just another one of your skills, because you gave a terribly good impersonation of a person who was.

CHAIR—Any further questions for the Electoral Commission?

Senator ROBERT RAY—We were going to be finished by 4 p.m. before Senator Brandis opened up this line of questioning. We would like to be finished by 5 p.m., so we will cut out a couple of issues.

Senator FAULKNER—I will ask about the strategic advisory committee, Mr Becker. How is that going?

Mr Becker—Very well.

Senator FAULKNER—It still meets on a bimonthly basis?

Mr Becker—As best we can. We try to get at least five and possibly six meetings in a year.

Senator FAULKNER—For the committee’s benefit, can you briefly outline what the membership of that committee is?

Mr Becker—It consists of all the AEOs for the states and territory—I say ‘territory’ because there is not one for the ACT between elections—and the senior executive of the central office, which are the branch heads, the two first assistant commissioners, me and the deputy commissioner.

Senator FAULKNER—Where do you hold the meetings of the strategic advisory committee?

Mr Becker—Every second committee meeting is held in Canberra; otherwise it is held in a state on a rotational basis. It used to be fully on a rotational basis but it cost so much to move Canberra to another place that we do it every second meeting now.

Senator FAULKNER—I appreciate that issue—particularly, I imagine, if a meeting is in Perth, for example.

Mr Becker—We have a meeting in Perth next month.

Senator ROBERT RAY—Not on the long weekend?

Mr Becker—The week after—on the Wednesday and Thursday.

Senator ROBERT RAY—What is the total cost of moving everyone over there, in these ‘stringent fiscal times’?

Mr Becker—I do not know. We can find out for you, if you wish.

Senator ROBERT RAY—Accommodation allowances, et cetera. You must have done an estimate before you agreed to go.

Mr Becker—You have to remember that they are still part of this country and we have to get around to meet our staff. They have an opportunity to meet with us. That is what we try to do with the staff.

Senator ROBERT RAY—Everyone gets in Tuesday morning for this meeting, do they?

Mr Becker—Probably Tuesday evening.

Mr Dacey—As Mr Becker said, one of the objectives of having SAC meetings in states every second time is that we do have sessions with our staff in those states. We do sit down with the staff—we have 20 or 30 staff come in.

Mr Becker—We do meet out of session, too.

Senator ROBERT RAY—How many people do you have to fly to Perth for this meeting.

Mr Becker—From here, nine.

Senator ROBERT RAY—From anywhere other than those who are resident in Perth.

Mr Dacey—Fifteen.

Senator ROBERT RAY—No higher bid? Did you make a cost estimate before you decided to go to Perth?

Ms Davis—Yes, we did but I do not think we will be able to provide you with those figures at the moment.

Senator ROBERT RAY—Why is that?

Ms Davis—We do not have them in front of us.

Mr Becker—We can take it on notice.

Senator ROBERT RAY—So you will take on notice the estimated costs of holding this meeting in Perth? How long do you think it will take to get that answer back?

Mr Becker—Not long at all.

Ms Davis—As soon as possible—tomorrow.

Senator ROBERT RAY—The Robert Dean case is currently before the courts, so I do not want to go into any details. This matter was taken up by the Victorian police. Was there any thought given to referring it to the Federal Police, seeing that there are potential federal offences involved, or is there an agreement between the two electoral commissions that there be one reference to one law enforcement body?

Mr Dacey—We did, and we sought advice from the DPP. That advice was basically to let the matter run as it is currently running with the Victorian police and the Director of Public Prosecutions in Victoria. Until there is an outcome from that we are basically holding and waiting.

Senator ROBERT RAY—I am trying to get to the reason. I think I agree with it, but is it to avoid duplication or are there other factors involved in that decision?

Mr Dacey—It was basically to avoid duplication.

Senator ROBERT RAY—I understand that that may have even been remanded for today, so I will not pursue that one.

Mr Dacey—I have not heard, Senator.

Senator FAULKNER—Just very quickly, Mr Becker, because we are running short of time: where are we up to in relation to consideration of the future of the national tally room?

Mr Becker—At this stage we are going to have a national tally room. That is the plan. In terms of the planning for it, Mr Hallett might have a broader view on that. But having seen the way in which New South Wales did their tally room this last time, which avoided the very expensive construction of the tally board, I think that is certainly something we ought to be looking at. Unfortunately, there are not very many of these huge rear-projection projectors in the country at the moment. So, depending on what is going to be available and depending on the time of the election, we would probably look at changing that, because it is an expensive exercise.

Senator FAULKNER—But there will be a national tally room?

Mr Becker—Yes.

Mr Dacey—Certainly for the next event.

Mr Becker—Yes, for the next event.

Senator FAULKNER—I might follow through at the supplementary estimates round with some more detailed questions on that. I will just flag that with you, because we are committed to finishing questions to the AEC by about now. Mr Chairman, there are one or two issues I would have raised that I think I can safely place on notice, so I will flag that and provide them to the commission at the earliest possible opportunity. I do not know if Senator Ray wants to go any further on the national tally room question.

Senator ROBERT RAY—I am a very strong supporter of it. I must say I am a cynic about it now. I do not think many people turn up to it or use it—no-one uses the board.

Mr Becker—Not too many polities turn up to it, that is for sure. But a lot of Canberrans turn up to it.

Senator ROBERT RAY—If you want to charge them to come in and pay for it you can, but—

Mr Becker—No. It is expensive.

Senator ROBERT RAY—you are not there for Canberrans' voyeurism.

Mr Dacey—There is obviously a sense of theatre there for the media—there is a very high media presence and a backdrop.

Senator Abetz—There's a good reason not to have it!

Senator FAULKNER—Anyway, it is an important issue—

Senator Abetz—They can pay us rates to broadcast it, like they do with AFL games.

Senator FAULKNER—I am interested in your assurance, Mr Becker, that we will have a national tally room at the next election, and we might follow through with some other questions at the next round. I will place one or two more questions on notice.

CHAIR—As there are no further questions for the Electoral Commission, that concludes the Finance and Administration portfolio. Thank you again, Dr Watt, for all your assistance over the last few days. Thank you, Minister. I remind you all that the committee has set 10 July 2003 as the date for the submission of written answers to questions that are taken on notice. Thank you all very much.

We will take a short break before we recommence with the Prime Minister and Cabinet portfolio and, in particular, the Australian National Audit Office.

Proceedings suspended from 5.04 p.m. to 5.18 p.m.

PRIME MINISTER AND CABINET PORTFOLIO

Consideration resumed from 27 May.

In Attendance

Senator Abetz, Special Minister of State

Australian National Audit Office

Mr Pat Barrett, Auditor-General

Mr Oliver Winder, Deputy Auditor-General

Mr Warren Cochrane, Executive Director, Performance Audit

Mr Trevor Burgess, Executive Director, Assurance Audit

Mr Michael Watson, Executive Director, Assurance Audit

Mr Russell Coleman, Executive Director, Corporate Management Branch

Mr John Meert, Group Executive Director, Performance Audit Services Group

Mr Darren Box, Executive Director, Research and Development Branch

Australian Public Service Commission

Mr Andrew Podger, Public Service Commissioner

Ms Lynne Tacy, Deputy Public Service Commissioner

Mr Jeff Lamond, Acting Merit Protection Commissioner

Mr Mike Jones, Group Manager, Corporate Strategy and Support

Office of National Assessments

Dr John Eyers, Acting Director-General

Mr Derryl Triffett, Head, Corporate Services

Mrs Margaret Bourke, Senior Executive Officer

Office of the Inspector-General of Intelligence and Security

Mr Bill Blick, Inspector-General

Australian National Audit Office

CHAIR—I welcome Mr Winder and officers. Senator Abetz, the minister, will be arriving a bit late. He has another issue to attend to, but he will be here as soon as possible. With your permission, Mr Winder, you might commence, and if things become too difficult or political perhaps you can signal that and we can stop if necessary.

Mr Winder—I will raise my hand, Senator.

CHAIR—Senator Brandis was part heard, so we might go back to Senator Brandis and then we will move on.

Mr Winder—In relation to Senator Brandis's questions to us yesterday, I have prepared a statement which I am quite happy to hand round or read into the *Hansard*, whichever you prefer, but I believe it is a comprehensive answer to all the issues that the senator was asking yesterday.

Senator BRANDIS—How long is it?

Mr Winder—About three pages.

Senator BRANDIS—Would you mind reading it, because I might have some questions.

Mr Winder—I am quite happy to read it.

Senator BRANDIS—Would you mind passing it around as well?

Mr Winder—Yes.

CHAIR—Thank you, Mr Winder.

Mr Winder—The statement reads as follows:

The following information is provided in relation to the lease of Centenary House which continues to be the subject of the Committee's interest.

The ANAO's dealings with the building owners of Centenary House have been on the basis of the commercial arrangements set out in the lease. Nevertheless, the ANAO has, for some time, brought parliamentary Member and Committee concerns about the rent levels of Centenary House to the attention of the representatives of the building owners, both orally and in writing. As well, there has been considerable publicity by press release and other public media comment on the issue over many years. There has been no interest expressed by the various representatives of the building owners in considering issues other than those covered by the lease documentation.

The Committee has previously been provided with copies of relevant correspondence including the various legal opinions obtained on the prospect of getting out of the lease or renegotiating its terms on a more favourable basis to the Commonwealth. The legal opinions are clear that the Commonwealth of Australia, as signatory to the lease, is bound by its provisions. For any lease to be renegotiated normally requires both parties to have an interest in doing so because there is some perceived gain to both, that is, a win-win situation. The representatives of the building owners have consistently advised they are not prepared to renegotiate the lease.

In this context, in the more recent letter dated 28 August 2002, John Curtin House Limited, the lessor, advised the ANAO that the company's mortgagee, Macquarie Bank Limited, was heavily involved in the original lease negotiations and the structure of the borrowings was based on the certainty of the future cash flow generated by the agreed fixed rental increases. The letter also states that the Directors could not responsibly assist, but indicated the matter would be considered by the Directors at their next meeting. In a letter dated 18 September 2002, the Company confirmed the Directors had considered the matter and indicated they could not reasonably assist at this time.

The Committee is also aware that the lease provides an opportunity to renew the lease for a further period. The ANAO took the opportunity, as indicated in the ANAO's letter of 3 April 2003, to advise the lessor that the only circumstances in which the ANAO would consider the option to extend the lease term would be if the Directors would be prepared to renegotiate the terms of the original lease. In the event, no concession has been offered and the ANAO consequently has not taken up the option to extend the lease term.

Copies of correspondence referred to above are attached.

At the Committee's hearing on Tuesday, 27 May 2003, Senator Brandis indicated, in the context of questions concerning Centenary House, that he proposed to ask about the details of a conversation held with representatives of John Curtin House Limited mentioned by Mr Coleman in evidence.

To assist the Committee the following is Mr Coleman's recollection, to the best of his knowledge, of the details of a meeting held on 1 April 2003. In doing this, Mr Coleman has had discussions with Mr Denzil Bourne of this Office, who was also present at the meetings and confirms these recollections.

A meeting, which was arranged to discuss a letter received from John Curtin House Limited dated 21 March 2003, took place in Centenary House at approximately 1:30pm on Tuesday, 1 April 2003. Those in attendance were Mr Russell Coleman and Mr Denzil Bourne from the ANAO; Mr Paul Wilkinson, Secretary, John Curtin House Limited and Mr Jim Gartrell, Assistant Secretary of the ALP.

The ANAO's letter of 3 April 2003, in response to the Company's letter of 21 March 2003, served as the record of the foregoing meeting. No separate record of the details of the meeting was made.

Copies of this correspondence are also attached.

The primary purpose of the meeting was to discuss the refurbishment plan which was submitted under cover of the letter dated 29 March 2003. The meeting involved a discussion of the following matters:

- the proposed refurbishment plan attached to the Company's letter of 21 March 2003 which would be implemented in the event the ANAO chose the option to extend the lease for a further 5 years. Advice was sought by the ANAO about the lessor's intentions to undertake all or part of the refurbishment plan in the event that the ANAO did not exercise the option to extend the lease. Representatives of John Curtin House Limited indicated in broad terms that some of the work would be undertaken in the normal course;
- ANAO representatives pointed out the unsatisfactory lease position, noting that this had been raised informally and formally with the company on a number of previous occasions. The ANAO representatives made it clear that any consideration of extending the lease would only be undertaken in the context of the lessor agreeing to more satisfactory lease arrangements between now and the end of the current lease term in September 2008. Representatives of John Curtin House Limited indicated that existing financing arrangements did not allow the company flexibility in this regard;
- there was a general discussion about the options available to both parties on the expiration of the existing lease, with the ANAO representatives indicating that it would be a matter for the Auditor-General at the time whether or not the ANAO wished to consider the possibility of remaining in Centenary House.
- the meeting also included a brief discussion about the staffing of the reception desk which had been recently completed in the foyer, including the arrangements which the ANAO had with the Department of Foreign Affairs and Trade. John Curtin House Ltd representatives indicated they had no difficulty with the proposed arrangements; and
- the meeting also briefly canvassed the satisfactory recarpeting of the building which had been undertaken between December 2002 and February 2003.

The meeting concluded at approximately 2.45 pm.

Senator BRANDIS—Mr Winder, thank you for that detailed statement. Mr Coleman, may I take it from what Mr Winder has said that you have no fuller recollection of what was said during the course of the meeting on 1 April—let us call it the April Fools' Day meeting—than has been set out in the statement?

Mr Coleman—That is correct.

Senator BRANDIS—Mr Coleman, may I take you to the first attachment to the statement, which is a letter from John Curtin House Ltd to you of 28 August 2002. You are familiar with that letter, of course.

Mr Coleman—Yes.

Senator BRANDIS—That replies to a letter which had been sent almost six months earlier, of which we do not have a copy, on 8 March 2002, in which apparently the ANAO asked for some relief from the onerous rentals being extracted by John Curtin House Ltd. Is that correct?

Mr Coleman—That is correct. We had previously provided that to the committee, but we can certainly give you a copy.

Senator BRANDIS—I am not suggesting that what you have provided is, in any material way, incomplete. But what does attract my attention is the fourth and fifth paragraphs of the John Curtin House Ltd letter. Let me read them into the record. This is a letter over the signature of Mr Paul Wilkinson, who is the company secretary. The paragraphs read:

As you would be aware, the company's mortgagee, Macquarie Bank Limited, was heavily involved in the original lease negotiations and the structure of the borrowing was based on the certainty of the future cash flow generated by the agreed fixed rental increases.

Any variations to the rentals would create difficulties for the company in meeting its obligations to the mortgagee.

Mr Coleman, when you read those paragraphs, did it strike you as very unusual that a mortgagor would have an arrangement with its mortgagee whereby the borrowing cost would be serviced by escalations in the rent—given the mortgage property was a commercial building—of nine per cent a year for 15 years into the future? Did that strike you as an unusual commercial arrangement that was asserted to exist between John Curtin House Ltd and Macquarie Bank?

Mr Coleman—I do not profess to be an expert in terms of the financing of lease arrangements—

Senator BRANDIS—Did you consult somebody who was an expert in the financing of lease arrangements?

Mr Coleman—No, I did not.

Senator BRANDIS—Mr Coleman, did you or anybody from the ANAO search the land title register of the ACT for a registered copy of the mortgage?

Mr Coleman—I have some recollection that that had been done some years ago, but in recent times I am not aware that that has been done.

Senator BRANDIS—Whenever it was done, do you think the ANAO does have in its possession a registered copy or an extract from the registered mortgage?

Mr Winder—We will take that on notice.

Senator BRANDIS—Presumably, it would be a registered mortgage—that is the way these things are customarily done—and if the mortgage had been registered, one of the particulars that would probably have appeared, as it customarily does, is the amount of the borrowing which the mortgage secured. Do you understand that?

Mr Coleman—Yes.

Senator BRANDIS—May I suggest to you, Mr Coleman, that it would be a remarkable thing that the borrowing cost of the debt service costs to be paid by John Curtin House Ltd to its mortgagee would escalate and certainly that it would escalate at this rate during the life of the mortgage. Do you understand that?

Mr Coleman—Yes. In the correspondence we have seen and also in the discussions we have had, that is certainly the very clear indication that we have had from the representatives of John Curtin House Ltd.

Senator BRANDIS—That may be so, but what I am suggesting to you, Mr Coleman, is that the statement in the letter from John Curtin House Ltd of 28 August 2002, which I have read to you, would strike anyone who read those sentences critically as being so strange and describing such a peculiar commercial relationship between mortgagor and mortgagee that a reasonably careful person would wonder whether the statement there made was in fact a truthful statement or whether it was merely being offered as a pretext or an excuse. If one were alerted to the peculiarity of that statement, all one would have to do would be to search the mortgage, find out what the aggregate of the borrowings of John Curtin House from the Macquarie Bank was to determine whether or not that statement in fact was honestly made. I do not know if that was done; apparently it was not.

Mr Coleman—I am not aware that was done.

Senator BRANDIS—Could that be done, please?

Mr Coleman—We will take that on notice.

Senator BRANDIS—In other words, I am asking the ANAO to search its records to see if it has a copy of the registered mortgage—and I am assuming the mortgage would have been registered—that it can derive from the copy or the extract of the registered mortgage what was the principal sum of the loan from the Macquarie Bank to John Curtin House Ltd and on the basis of that information arrive at some views, perhaps in consultation with property experts, as to whether or not the two paragraphs in the letter of John Curtin House Ltd of 28 August 2002 could possibly be right.

Mr Coleman—We will take that on notice.

Senator BRANDIS—Thank you. If, as I very much suspect, those sentences could not possibly be right because they are counterintuitive, then that might provide you with a platform or a basis for going back to John Curtin House Ltd or its parent body, the Australian Labor Party, and asking for the terms to be renegotiated. Would you consider doing that, please?

Mr Coleman—Yes.

Senator BRANDIS—Would you report back to us about how you fare?

Mr Coleman—Yes, we will.

Senator BRANDIS—Mr Coleman, you told us in your evidence on Tuesday evening that the current rental per square metre per annum, as of September this year—the 10th anniversary of the lease—will be \$871.07 per square metre.

Mr Coleman—That is correct.

Senator BRANDIS—There is an existing subtenancy for part of Centenary House, isn't there?

Mr Coleman—That is correct.

Senator BRANDIS—Who is the subtenant? Perhaps I can help you: is it an engineering firm called Brown and Root?

Mr Coleman—That is correct: Kellogg Brown and Root Pty Ltd are the tenants.

Senator BRANDIS—Other members of this committee would be well aware that was the international engineering firm which made its money being the financial backer of Congressman Lyndon Johnson in the 1940s. I am sure Senator Ray, who is a close student of President Johnson's career, would have been aware of that.

Senator ROBERT RAY—I know that because I recommended that particular book. But thank you for your acknowledgment.

Senator BRANDIS—That is fine. I am glad I accepted your recommendation, Senator Ray.

Senator FAULKNER—I think you should do it a bit more often actually—just don't make it a habit.

Senator ROBERT RAY—I am not responsible for anything else to do with Senator Brandis.

Senator BRANDIS—How much are Kellogg Brown and Root paying as the subtenant for their area?

Mr Coleman—They are paying an effective rent of \$314.65.

Senator BRANDIS—Are you satisfied that that represents the fair market value of the subtenancy?

Mr Coleman—At the time we entered into that subtenancy, yes, we were satisfied that it represented a suitable rental arrangement.

Senator BRANDIS—What is the gross floor area of the sublease?

Mr Coleman—It is 1,678 square metres.

Senator BRANDIS—So it is about a quarter of the aggregate tenancy?

Mr Coleman—It is about a quarter.

Senator BRANDIS—Is that the top floor?

Mr Coleman—That is the top floor.

Senator BRANDIS—Would that be the best floor in terms of the rental that it would yield?

Mr Coleman—Our understanding from our property advice is that that is correct. It is probably the most attractive floor to rent.

Senator BRANDIS—What was that figure again?

Mr Coleman—It is \$314.65.

Senator BRANDIS—So \$314.65 is the market value of the most attractive part of the building from a rental point of view. Then that would value the building in current values as

having an annual rental value of \$1,981,351—that is, that rental rate multiplied by the gross floor area of the whole building, which is 6,297 square metres. Do you agree with that?

Mr Coleman—That is correct.

Senator BRANDIS—From September of this year, the ANAO, as the principal tenant paying \$871.07 per square metre to the landlord, will in fact be paying \$5,485,127.70 for the building. Correct? That is what the arithmetic tells us; you can take it from me. So you are paying \$5½ million for a building when the rental value of the entire premises is less than \$2 million. Correct?

Mr Coleman—That is correct.

Senator BRANDIS—So the difference between what it is worth and what you are paying is \$3,503,776.70 per annum. Correct?

Mr Coleman—Based on those calculations, yes.

Senator BRANDIS—That is what it calculates to. So the John Curtin House Ltd, which is, as we know, a controlled entity of the Australian Labor Party, is or will be extracting in the year from September 2003 to September 2004 a profit above market rates of \$3,503,776.70. What do you say about that, Mr Coleman? What do you think about that?

Mr Coleman—As we have been on the record as saying for many years, the overall lease arrangements are, in that context—

Mr Winder—Unsatisfactory.

Mr Coleman—unsatisfactory.

Senator BRANDIS—They are certainly unsatisfactory. I understand that you are civil servants—and you politely do not want to get into rhetorical language—

Senator FAULKNER—We say public servants normally. It is not the High Court or anything.

Senator BRANDIS—Public servants—but it is a scandal, isn't it? Wouldn't you agree, Mr Coleman, that that is a scandal?

Mr Coleman—As I said, we regard the situation as being unsatisfactory.

Senator BRANDIS—Mr Winder, do you think it is a scandal?

Mr Winder—I cannot comment on that.

Senator BRANDIS—Yes, you can.

Mr Winder—No, I cannot. It is a commercial lease that was entered into.

Senator BRANDIS—But it is an uncommercial lease. That is the whole point, Mr Winder.

Mr Winder—It was a commercial lease.

Senator BRANDIS—It is an uncommercial lease because these are uncommercial terms. It is three times the commercial rate. On page 46 of the portfolio budget statements for the Prime Minister and Cabinet portfolio, we have the agency budget statement for the ANAO. May I take it that lease costs would be recorded as an expense item under the subheading 'suppliers'?

Mr Winder—I will ask Mr Coleman to answer that.

Mr Coleman—Yes, that is correct.

Senator BRANDIS—If one looks at the shaded column—that is, the 2003-04 estimate—the aggregate amount expected to be spent by the ANAO in 2003-04 for all suppliers is \$16,633,000?

Mr Coleman—That is correct.

Senator BRANDIS—About a third of that or slightly less than a third of that is represented by the lease costs of Centenary House alone. What would you say about a Commonwealth agency for which the lease costs of its principal office represented such a high proportion of the aggregate expenses on all suppliers? Would you give that agency a favourable audit report?

Mr Winder—I do not think we would be in a position, as auditors, to do anything but look at the terms of the lease costs and legal arrangements and see whether that was correct.

Senator BRANDIS—I know none of you gentlemen negotiated the lease. I am not having a go at any of you personally. Mr Coleman, if you go down to the total expenses of the ANAO for the upcoming financial year, the total budgeted expenses are \$53,310,000.

Mr Coleman—That is correct, Senator.

Senator BRANDIS—If you calculate the amount by which the market value of the tenancy is exceeded by the actual rental you are paying the Australian Labor Party's entity in the coming year—that is, as we discussed before, \$3,503,776.70—and express that as a percentage of the total outlays of the ANAO, on my calculations that represents 6.57 per cent of the total outlays of the ANAO in the coming financial year. That is not the rent; that is the difference between the commercial value of the tenancy and what you are actually paying. That is the super payment of \$3½ million to the ALP. That is more than 6½ per cent of your total outlays in the coming year. What do you say about that?

Mr Winder—As we have said, it is unsatisfactory—

Senator BRANDIS—It is disgraceful.

Mr Winder—and we are not happy about it.

Senator BRANDIS—No, it is disgraceful—isn't it?

Senator ROBERT RAY—Ask your questions. You are answering them at the same time.

Senator BRANDIS—It is disgraceful, isn't it?

Mr Winder—I would not comment on that.

Senator FAULKNER—That wouldn't be a leading question, would it?

CHAIR—A bit of latitude.

Senator ROBERT RAY—Yes, good old George.

CHAIR—It cuts both ways.

Senator ROBERT RAY—That is why we have not interrupted too often.

Senator BRANDIS—I might say that, if there were any credibility in the pretext that is put up in the letter of 28 August 2002 that the Labor Party cannot renegotiate these terms because of its obligations to its mortgagee, then one might be a little more benign about it. But, in fact, for reasons that I explained before, that statement does not bear scrutiny, hence my invitation to you earlier, which you have generously accepted, to retrieve from your files a copy of the mortgage and to get some advice from a commercial property expert to test the truthfulness or veracity of the assertion in the John Curtin House letter that the reason they are not prepared to renegotiate this lease is that they have obligations to their mortgagee.

Mr Winder—We have accepted that, Senator.

Senator BRANDIS—In fact, I think, if I may say so, that what you will find is that that statement is a preposterous lie, and that the reason the Labor Party are not prepared to renegotiate the terms of the lease is that they are making a windfall profit from the Australian taxpayer which represents, this year, more than 6½ per cent of your total running costs. But I do not ask you to comment on that.

Senator ROBERT RAY—I do not know if the Audit Office has done a rate per square metre for the royal suite at the St Regis hotel. Can you assist me in calculating that? At \$4 million a year for 25 metres, do you know what that would come to per metre? A bit hard, isn't it? We will leave it go.

Mr Coleman—Thank you, Senator.

CHAIR—Do you have any further questions?

Senator ROBERT RAY—I must say this time we were asked in advance to notify areas to the Audit Office, to assist. I think it was a really good process that they contacted our offices to see whether we had a particular audit to look at or not, because it meant they could come better prepared and we were able to give an indication of what we wanted to chase, Minister. We appreciate that.

Senator BRANDIS—There is one other question I want to ask: have you had the freehold of the building valued?

Mr Coleman—Not that I am aware of.

Senator BRANDIS—I do not profess to be an expert in commercial real estate, but I have looked at Centenary House from the outside—

Senator ROBERT RAY—We will take you on a tour.

Senator BRANDIS—Spoken like a landlord, Senator Ray.

Senator Abetz—That was a good riposte.

Senator ROBERT RAY—Oh, wasn't it?

Senator BRANDIS—I would be most surprised if that building is worth \$5½ million.

Senator ROBERT RAY—I can just imagine George's face up against the window pane.

Senator BRANDIS—Would you think that the freehold of that building was worth \$5½ million?

Mr Winder—We would not have a view on that.

Senator BRANDIS—Can I suggest that perhaps you have the freehold of the building valued? Because if the freehold is not worth \$5½ million—as I very much doubt it is not—it means that you are paying in one year’s rent more than the freehold of the whole building itself.

Senator ROBERT RAY—You are not getting it for \$5 million, George. It is worth a lot more than that.

CHAIR—Senator Brandis, I do not think it is Mr Winder’s duty to value the building.

Senator BRANDIS—I am asking him if he will, because I think I would be renegotiating the lease once he has exposed as false and fraudulent the pretext being used by John Curtin House Ltd for refusing to renegotiate the lease—that is, the claim that it has obligations to its mortgagee, which seem to me to be unsustainable.

Senator FAULKNER—If you do that, if you think that question is in order—it is a matter for you to make a decision on that, Mr Chairman; I will be interested in your ruling—I would like the Audit Office also then to annualise the costs of Mr Howard’s royal suite at the St Regis hotel. It would be about \$4 million a year.

Senator Abetz—Chair, this is an attempt to recover a lot of lost ground by Senator Faulkner. It is not within the province of the Audit Office.

Senator FAULKNER—Of course; none of these things are.

Senator BRANDIS—Yes, they are, Senator Faulkner.

Senator Abetz—Clearly, Centenary House, which they rent, is a matter within their province.

Senator FAULKNER—It is just as relevant as that last question you asked.

Senator BRANDIS—Of course it is relevant, Senator Faulkner.

CHAIR—Order! Senator Faulkner, the minister has the call, then I will go to you. Minister, have you finished?

Senator Abetz—Yes, I have. I am just suggesting that some of these officers undoubtedly might like a trip to check it out. I am not sure that any of this is relevant.

Senator FAULKNER—I bet they would like a Roman holiday more. On a point of order, Mr Chairman, I do agree that generally the issues raised by Senator Brandis are properly a matter for this committee. I do not think the last question—which I think has been placed on notice, although I am not sure if that is the case—is in order, is it? My tongue-in-cheek comment about the royal suite at the St Regis was not meant seriously.

Senator Abetz—Otherwise they might be asked to value where Paul Keating used to stay, and they would be embarrassed.

Senator ROBERT RAY—Senator Abetz, you had your chance to sit on this side of the table and ask those questions.

Senator Abetz—And I do not want it again, thanks.

Senator ROBERT RAY—The fact that you did not is a matter of shame for you. I understand that.

Senator Abetz—You can prattle on, but it makes no sense.

CHAIR—On the point of order, Senator Brandis's question does seem to relate to public expenditure, but I am not sure that it is appropriate for the Audit Office to make that sort of determination.

Senator ROBERT RAY—On the point of order, Senator Brandis is entitled to ask the officers at the table: have they valued the Centenary House? Have they had it valued? What is the result of the valuation? He cannot commission them to do that by a question on notice. I am sorry, it is not possible.

Senator FAULKNER—It is some sort of make-work question.

CHAIR—I agree with you.

Senator Abetz—He has not commissioned them. He has asked them.

Senator FAULKNER—You have been ruled out order. Give it away.

CHAIR—I have not ruled yet.

Senator FAULKNER—Oh, you haven't ruled yet?

CHAIR—Senator Brandis wants to speak to the point of order.

Senator FAULKNER—Last chance, George.

Senator BRANDIS—Mr Chairman, I actually do not think the last contribution I made finished with a question, so the point of order in fact is based on a false premise.

Senator ROBERT RAY—You don't have to be ruled out now, do you, George.

Senator FAULKNER—Everyone's a winner, if that is the case.

Senator BRANDIS—But let me ask the question now. Would you, Mr Winder, Mr Coleman, having regard to the propositions which I have put to you and in particular the observations I have made about the credibility of the basis set forth in the letter of 28 August 2002, take those considerations into account in making a decision as to whether or not to again approach the Labor Party?

Mr Winder—We have always taken whatever opportunity we can to approach the Labor Party.

Senator BRANDIS—It is just that I thought I would give you a new angle, you know, a new argument, because it seems that there is one.

Senator ROBERT RAY—If you want my advice, don't use him as a barrister. Do it yourself.

Mr Winder—I need to take advice on whether it is appropriate for us to value the freehold. I am not sure whether it is.

Senator BRANDIS—Of course you can. I could value the freehold. Anybody could commission a valuer to value a building.

CHAIR—Mr Winder, have you finished?

Mr Winder—I have, thank you.

Senator FAULKNER—Senator Brandis is a very effective politician, particular when he is attacking his colleagues in the Queensland Liberal Party.

Senator Abetz—Yes, and we can talk about the biffa at the Victorian state council, so let's move on.

Senator ROBERT RAY—I can't—I was at Docklands at the time.

Senator Abetz—Very wise.

Senator BRANDIS—Gentlemen, the question has been answered. I asked Mr Winder if he would take those matters into consideration and he has indicated that he would.

CHAIR—Mr Winder and officers, many thanks for your assistance this evening.

[5.54 p.m.]

Office of National Assessments

CHAIR—I had called the Office of the Inspector-General of Intelligence and Security but the committee will examine the Office of National Assessments. The committee welcomes Dr John Eyers, the Deputy Director-General, and Mr Triffett, the Head of Corporate Services.

Senator ROBERT RAY—We heard evidence about the creation of 3.2 in PM&C, which is going to concentrate a lot on security and related issues. Seeing that you are in the same portfolio, are you satisfied you will have a fully arms-length relationship with that new particular division, that you will not be regarded as more obligated to assist or otherwise relate with them because you are in the same portfolio?

Dr Eyers—The answer to that is yes, we are confident that we will not be expected to have an unduly or improperly close relationship with that unit.

Senator ROBERT RAY—I was never suggesting improper, by the way. It is just that sometimes, when you are in the same portfolio, they think they can ring you up and say, 'Can you do this and that?' rather than using the usual channels. But you are confident.

Dr Eyers—I am sure that it is made clear and is kept clear in the minds of ONA officers that we work for the Prime Minister so, while we keep as close as we can to what the Prime Minister and other ministers need to be informed about and briefed on, the Department of the Prime Minister and Cabinet is to one side from that. They are not a channel or conduit between us and the Prime Minister.

Senator ROBERT RAY—Very good. In Budget Paper No. 2, there is reference to an increase of funding—I think it was \$3.2 million—in this year and each of the out years.

Dr Eyers—It is \$3.2 million in the year about to begin and \$2.3 million ongoing.

Senator ROBERT RAY—If you can say what that is for, let me know what it is for.

Dr Eyers—It is for three things. The first is for full funding of liaison officers in Washington and London. That function has existed for a long time as one provided part time by DFAT for ONA, and it will now be fully funded through ONA. That will enable us to have full-time liaison officers there. The second is an augmentation beyond what was done in the budget for the current year of our analyst capacity on terrorism, especially in South-East Asia.

The third is to complete the funding of two IT upgrades which have cost \$3 million, and it is to provide the last \$800,000 for that.

Senator ROBERT RAY—Were you asked, in terms of this funding increase, to offer up any offsetting savings?

Dr Eyers—My recollection is that we were not asked to do more than the routine process of economising—

Senator ROBERT RAY—The efficiency dividend et cetera. But you were not asked to find specific savings to fund these measures?

Dr Eyers—No.

Senator ROBERT RAY—I suppose the last area that we should at least mention is that you got some publicity when a Mr Andrew Wilkie resigned—in a blaze of publicity. Did you do an assessment as to whether what Mr Wilkie did, in his publicised separation, bordered on anything that was illegal?

Dr Eyers—As to ‘illegal’, we are satisfied that that is not the case. The question arises and hangs around, whenever he or any former employee makes public comments, as to whether he is divulging classified information. But we are not at the moment making that assessment of what he has said.

Senator FAULKNER—What, if any, have been the internal consequences of Mr Wilkie’s resignation? Have there been any changes or any other impacts?

Dr Eyers—The Director-General, Kim Jones, said on 11 March, straight after Andrew Wilkie’s resignation, that he deeply regretted it because it was not the role of ONA officers to be making comments to the media about government policy. I believe that that is the view generally understood and held within ONA. I do not think I can identify any effect within ONA except, naturally, some concern on behalf of Mr Wilkie. What he was doing was not only controversial but brave, difficult and unpleasant.

Senator FAULKNER—What about morale, though? Would you say it impacts on morale at ONA?

Dr Eyers—The most important point about that is that Andrew Wilkie never suggested that it had become difficult for him to do the job of an analyst at ONA. He had indicated that he wanted to be out of ONA so he could be free to join the public debate. I do not believe, whatever their private opinions about government policy, that staff members of ONA have felt any moral or professional difficulty about doing the job that is asked of them, because the job that is asked of them is to use intelligence to inform the government.

Senator FAULKNER—There was a view—I do not want to misquote him but it may even have been expressed at least as a general sentiment by Mr Downer; that is my recollection, I think that is fair—that it is a proper course of action if an officer finds himself in a position of having such a strong difference of opinion. Resignation, in a sense, is the proper course of action.

Dr Eyers—It is not the role of ONA to advise the government on policy. We are not policy advisers. We believe intelligence assessment, while contributing to the making of policy by

being as relevant, salient and helpful to the making of policy as it can be, is quite a distinct job from advising on policy. There need not be a professional conflict occasioned by officers' private views.

Senator ROBERT RAY—With regard to the handling of the incident/departure/termination, I always think you have two choices here. You can be contestable and add fuel to the fire, or you can suck oxygen out of the story. It seemed to me there was a conscious decision in ONA just to suck oxygen out of the story and it was handled very well. Was that a conscious decision? Was it discussed as to how you would handle this publicly? Was there a strategy, in other words?

Dr Eyers—I do not believe there was more of a strategy than was represented by what Kim Jones chose to say at the time.

Senator ROBERT RAY—I just thought it was handled well. Often people give the wrong way here and suddenly it becomes a blazing story everywhere for weeks. That is all for ONA.

Senator Abetz—All right. Thank you very much.

Senator FAULKNER—No.

Senator ROBERT RAY—I thought it was.

Senator Abetz—Is there a second wind from Senator Faulkner?

Senator FAULKNER—That is all I had on that issue. I have one or two very quick issues. It will not take long. Could you indicate to the committee what agency currently funds the ONA liaison positions in London and Washington?

Senator ROBERT RAY—We have just been through that.

Senator FAULKNER—You did them, did you?

Senator ROBERT RAY—I did.

Senator Abetz—Weren't you listening?

Senator FAULKNER—I wasn't. I was talking to Senator Carr.

Senator ROBERT RAY—You were dealing with your emails.

Senator FAULKNER—I was too.

Senator Abetz—They are funded by DFAT as part of DFAT's vote—

Senator FAULKNER—If that has been sorted with Senator Ray—

Senator ROBERT RAY—Is there anything else I can tell you?

Senator FAULKNER—No.

Senator ROBERT RAY—So you can go.

Senator Abetz—Excellent.

Proceedings suspended from 6.04 p.m. to 6.12 p.m.

Australian Public Service Commission

CHAIR—The committee now calls the Australian Public Service Commission. You are the last on a long list over the last four days. Mr Podger, thank you for coming. Do you want to make a general statement?

Mr Podger—No.

Senator CARR—Mr Podger, I have recently been given a job with regard to Public Service matters, so I am pleased to meet you. I trust we will be able to move through this relatively quickly. The intention would be that we try to resolve these matters within about an hour, if that is convenient. How long we take tonight will depend entirely on how long the answers are.

Mr Podger, in the commission's 2001-02 annual report, you say upon taking up the role of Public Service Commissioner that the organisation that had been passed on to you was in good shape. You have now been in the job for 17 months. How would you describe the service? Would you still say it is in good shape?

Mr Podger—I think that comment in my annual report was about the commission itself—that the Public Service Commission that I took over from Helen Williams was in good shape. I particularly had in mind that its financial arrangements were in surplus from the previous year and that its staffing arrangements seemed to be reasonably strong. I have since taken some action in those areas to, I hope, improve further. But the comment was about the commission rather than the Public Service as a whole. My comments on the Public Service were, of course, in the separate *State of the service* report we had tabled in the parliament in October last year.

Senator CARR—So we have the *State of the service* report and the management advisory committee report on organisational renewal. Bearing in mind those two documents, would you say the Public Service is in good shape?

Mr Podger—I think in general terms it is. Overall it is performing well. In the *State of the service* report, I did draw attention to a few issues that need to be looked at closely. But my overall view is that the service is performing reasonably well.

Senator CARR—When I read the organisational renewal report, I was particularly concerned by the prospect that the APS is set to lose just under a quarter of its work force in sort of five years. There are serious challenges facing the service at the moment. Would you agree?

Mr Podger—I do. The management advisory committee is, of course, chaired by the head of the Prime Minister's department, but the commission is the executive officer of the committee. We provided a great deal of support in the preparation of that report, particularly the analysis from our staff data of trends in the service demography and so on. I had already reported in the *State of the service* report that I felt that work force planning was a bit of a challenge for the service. That was confirmed in the work that came out in the management advisory committee report.

Senator CARR—What other areas of challenge does the Public Service face at the moment?

Mr Podger—At the end of the *State of the service* report, I have a chapter on what I see as the key challenges. From my recollection, apart from work force planning, I particularly raised issues about how agencies imbed the values in their management approaches. Having moved to a values based Public Service Act, there is still some way to go to ensure that that is fully reflected in the way agencies manage their processes and so on. I also referred to aspects of the way agencies work with the government and the parliament. For example, I was a bit concerned about the numbers of senior people who are not well trained in appearing before committees and things of that sort. That was an area that had been raised before, but we still were not getting it right. I also talked a little about aspects of diversity. That was picked up a bit more in the workplace diversity report as well, where I expressed some unease about Indigenous employment, which has dropped a little from its peak. I think there are some quite substantial challenges, because of the restructuring in the service, to ensure that we maintain high representation of Indigenous employees.

Senator CARR—So if I can broadly describe them, the challenges are workplace planning, the inculcation of appropriate values, questions of the relationship between the Public Service and the parliament and questions of diversity?

Mr Podger—I mentioned one or two others, but those are the key ones. I did pick up the issue of record keeping, which was raised also by the Auditor-General. The work force planning covers a few other aspects. In particular, we are highlighting the importance of succession management and career development.

Senator CARR—Would you put ‘succession management’ in the category of training?

Mr Podger—Succession management is more about looking at how people have things in hand to ensure bench strength for when vacancies at high level positions occur—that they are confident that they are going to have a good panel of people competing for those jobs when they come up.

Senator CARR—What about the issue of in-service training?

Mr Podger—From the material around, there has been quite a lot of improvement in that area, but I think we have some way to go. One of the conclusions of the management advisory committee report was that, with higher mobility in the service, we need to have more structured learning and development arrangements.

Senator CARR—I am trying to get the list of the challenges as you see them. Are there any other areas you think we should add to this list?

Mr Podger—I think those would be the main ones that came out of my report last year.

Senator CARR—So that would summarise your view on that. I want to go through some of those matters. For instance, we are told that graduate retention rates—an issue that would fit within the question of work force planning—have dropped dramatically; that 70 per cent of the 1989 intake were still in the APS seven years later, but that only half of the 1994 intake were within the service seven years later. Would you confirm those figures? Do you think I understood that correctly?

Mr Podger—Lynne Tacy, my deputy, might be able to talk a bit about that, but I will make a couple of comments. We did a cohort analysis by looking at a series of cohorts of graduates in recent years—what their history was—and by comparing them. The data showed that the retention rate had dropped between the three cohorts. But it was not as clear cut as that because the movements were also affected by changes in the labour market more generally. Hence, while there was a downward trend, it was not what I would call a clear-cut, huge downward trend. But there was some downward trend which needs to be addressed.

Senator CARR—There is a significant downward trend, though.

Mr Podger—Ms Tacy would you like to talk about that?

Ms Tacy—Senator, I did not catch the exact figures that you mentioned.

Senator CARR—Some 70 per cent of the 1989 intake was still in the Public Service seven years later, compared with only 50 per cent of the 1994 intake.

Senator Abetz—I think those figures speak for themselves. How you want to describe them as significant or otherwise is a matter for you.

Senator CARR—I would have thought they were pretty straightforward, but the issue that arises here is whether or not appropriate measures have been taken within the Public Service to actually ensure retention. That is my point to you, Mr Podger. Do you believe there have been sufficient actions taken?

Ms Tacy—About the figures, I can add that, as Mr Podger said, there has been a decline in retention rates since the 1990s and that that came after a period of quite high retention rates. The 1989 cohort was the peak of retention, if you like. Retention rates have certainly declined in recent years. That is correct.

Senator CARR—Do you think the Public Service or agencies are taking sufficient action to actually improve the retention rates?

Mr Podger—I think the answer to that is mixed: some agencies are handling things quite well and others have got some way to go. One of the things that emerged from that analysis was the impact of the tax office. The tax office had had a sharper variation in its recruitment patterns. It had very large recruitment patterns in some years and very low in others. Its budget position was such that sometimes it was expanding. When it was contracting, it reduced its promotional opportunities, and that clearly impacted on their data. My feeling is that Tax could probably consider a more planned and steady way of handling their graduate arrangements than they have been doing. But it is fair to say from the analysis that we had that that does vary across the agencies.

Senator CARR—What are you doing about those agencies that are underperforming?

Mr Podger—Basically my role is to draw attention to issues such as this and to encourage them to look to improvements. It is not my job to beat them about the head with a stick. But the intention of the work we have done—and I hasten to say that the Taxation Commissioner was chair of the particular committee that did this work and was very conscious of these issues for the service and the tax office—and the purpose of the whole exercise was to encourage agencies to think far more carefully than they have been thinking about their work

force planning and their career development approach. An aspect of that is the retention of high quality people.

Senator CARR—The report says that there is some misalignment between the perceptions of graduates and agencies about recruitment and retention strategies. I presume that means that things could improve. Is that the code there?

Mr Podger—Lynne Tacy might want to add to my answer. There were two parts to that comment in the report. One was, as you have said, that there may be room for agencies to improve the way they manage it and get their management end in line with the reasonable expectations of the graduates but it is also fair to say—and this is not a new issue—that sometimes graduates have an unrealistic expectation about their promotional opportunities and so on.

Senator CARR—Although the agencies reported no structural impediments to bringing on selected graduates, they do report some cultural barriers to picking winners.

Mr Podger—That has been quite an important issue about the context of succession management and we have picked this up in a number of our papers from the commission in promoting succession management. Some people in the Public Service are concerned that succession management means breaking the merit principle. We have made it clear that we do not believe that it is inconsistent with the merit principle if properly managed. That is, it is about positioning people for a strong bench strength in the panel of people who would then have to compete for a vacancy. That is likely to improve our merit system rather than put it at risk. That is a cultural issue in that there is some misunderstanding of processes of more tailored development processes.

Senator CARR—But if I put this in the context of the ageing of the Public Service, for instance you clearly highlight these changes on page 35 of the report, there is an increase in the age profile which presumably will have serious impacts on the service shortly given the 54/11 rule. There is also a decline in the capacity to retain young, talented people. What action are you taking as a Public Service Commissioner to get those two points back into equilibrium?

Mr Podger—The report talks about the challenge of the ageing of the Public Service but it clarifies that it is not a crisis; it is a challenge to be managed. The report suggests that we are able to manage it but it will take some effort. At the older end, it identifies the 54/11 issue under the Commonwealth Superannuation Scheme as an important issue but by no means a dominant issue. If you look at the numbers of members now as a proportion of the total Public Service, including amongst the older ones, it is now declining as an overall percentage. There are a couple of graphs in the report which clarify the impact as being significant but not overwhelming on this 54/11 issue. The report talks about managers looking to more flexible employment options for older people which is in line with a lot of the older workers in our surveys who said that they would be interested in phased retirement and therefore the possibility of more flexible arrangements whereby they might reduce their hours of duty or their levels of responsibility in the years before retirement. That is something that is possible to manage and therefore there is the ability to retain important skills and corporate knowledge

and have a more orderly way of handling the corporate knowledge. So there are a number of suggestions in the report about how to better manage that approach.

Senator CARR—I see those, but you see the report talks about the difference in perceptions between the different age groups within the Public Service. It states:

... the mature-aged workers were more likely to identify perceived shortcomings in the workplace, including poor management and supervision ... too much work or underresourced work ... and poor working relationships. The feeling that their work was undervalued was among the commonly reported reasons for the current mature-aged employees and former mature-aged employees ... Once again this is reflected in their importance and satisfaction scores ...

What do you think you are doing? I come back to this point: the role of your office in improving the morale of the service. At page 57 of the report, you say:

Favourable employment conditions was the standout main factor in encouraging the graduates—

Presumably the same would apply to mature age workers—

to stay in the APS ...

What are you doing in that regard?

Ms Tacy—I will outline some of the specific activities we are undertaking following up the report. We have been running a series of seminars with agencies on the organisational renewal report and its implications, particularly for work force planning but also for leadership training, the development of more flexible working conditions and so on. We are also running quite intensive work force planning seminars with agencies to take them through trying to understand their own demographics and these issues. We are preparing a kit that will be available shortly on the management of mature age workers from a superannuation, flexible working conditions, occupational health and safety—

Senator CARR—So we have kits, a seminar—

Ms Tacy—Yes, and we are also offering departments assistance with their demographic analysis, comparing—

Senator CARR—Data analysis?

Ms Tacy—Yes, comparing their particular picture to the APS as a whole, and we are looking at how we integrate the messages coming out of this into our overall leadership and management program—training and leadership development.

Senator CARR—Training?

Ms Tacy—Yes.

Senator CARR—Have you done anything in that regard or are you looking at it?

Ms Tacy—A lot of our leadership programs already emphasise issues like the intergenerational differences, the need to manage flexibly, the need to promote diversity and diversity in working arrangements.

Senator CARR—So you have more seminars?

Ms Tacy—One-off seminars, but also in our ongoing leadership and management training.

Mr Podger—A major part of our activity is learning development programs, particularly focusing on senior managers—SES and just below SES—and a lot of that is about personnel management issues.

Senator CARR—Again I come back to this point about favourable employment conditions. At page 62 the report states that favourable employment conditions was the standout main factor in encouraging the graduates to stay in the APS but weighted much more strongly with women, which is another of the demographic changes occurring in the Public Service which appears to be a significant issue. What action are you taking as a commission in regard to favourable employment conditions?

Mr Podger—Again, Lynne Tacy can add to it, but we have certainly been encouraging agencies to look in things like their certified agreements to exploit possibilities for more flexible arrangements and family friendly arrangements. I hasten to say that I am not too sure that the commission can do a great deal directly on that. We can encourage and exhort but it is up to the agencies—they are the employers and they are the ones who negotiate the agreements, not us. But our role is to try to draw attention to good practice, which we do.

Ms Tacy—For example, we work with the heads of corporate services across different agencies, not just in relation to this report but more generally, to promote good practice around these areas, and we do try and work with the Department of Employment and Workplace Relations, which has primary responsibility for agreement making.

Senator CARR—I noticed in the *Australian Financial Review* of 21 May an article about the imposition of individual contracts within the federal Public Service. That article by Toni O’Loughlin indicates that there was an attempt to renew the ‘controversial plan to promote individual contracts in the federal Public Service’. Ministers and departments were actually required under that proposal to ensure that there was a greater take-up of AWAs. Have you had any consultation on this matter?

Mr Podger—Not at this stage. I am aware of press articles on the matter late last year and again recently, as you say, but that is a matter for government policy. The advisers on that to the government are the Department of Employment and Workplace Relations. At some point in their development of policy proposals they will as a matter of course be seeking comments from the commission, which we will provide. But that has not at this point occurred.

Senator CARR—According to the *Canberra Times* of 17 December 2002, a cabinet submission to the government was proposing that:

- Individual AWAs be compulsory for all new public servants.
- All jobs be advertised on the basis that the successful applicant be offered an AWA.
- All promotions and transfers resulting from advertised vacancies be contingent on AWAs.
- Agency heads must offer AWAs to all employees.
- All certified agreements must be negotiated directly with employees under the non-union Section 170LK of the Workplace Relations Act.
- Pay increases must be kept in line with wage movements in the wider community.
- The portfolio minister must approve certified agreements negotiated by statutory authorities.
- Agreements must be simple and flexible, supporting agency productivity and performance.

- The Public Service Commissioner, Andrew Podger, be asked to amend public service directions to make promotions and transfers contingent on AWAs.

Have you been approached about this matter?

Mr Podger—No, I have not. I read the article last year. I have not seen the purported cabinet submission or a draft of any sort. I have not been approached about the matter or provided any advice to the department or the minister.

Senator CARR—As a statutory officer, you could not be compelled to undertake such a policy, could you?

Mr Podger—That is correct. Under the legislation—I will seek some advice from my colleagues—I cannot be instructed to issue a particular direction. To consider a direction would be my statutory responsibility. A direction is also a disallowable instrument, so it would be a matter that then would have to be considered in the parliament.

Senator CARR—That is unless there are changes to the legislation covering your office?

Mr Podger—It is all presuming that the article has got any accuracy, but I do not know that. I have no idea on that.

Senator CARR—I am asking about how it would be done.

Mr Podger—That is on the premise that the proposal would require a direction from me. There may be some suggestion at some point about a proposal which would not require a direction from me, but if a direction were required from me I would have to consider that matter and take a position on it. Whatever position I took would then be a disallowable instrument for the purposes of the parliament.

Senator CARR—So I take it you have not been approached about any proposed changes to the legislation.

Mr Podger—I have not been approached for any comment on any proposals. I have been advised that the matter is under consideration but I have not seen any document on this matter.

Senator CARR—When you say ‘under consideration’, are you talking about changes to your legislation or the introduction of AWAs?

Mr Podger—There has been no suggestion to me about changes to my legislation. I am aware that there has been consideration and I think it is publicly known that the minister has been looking at the issue of AWAs.

Senator CARR—We will come back to that matter after I have talked to officers appearing before the other relevant committee. I turn now to the Public Service Commissioner’s report tabled last year. At page 77, in the section on a whistleblower’s misconduct allegations, the report says:

During 2001-02, twelve reports were lodged with the Public Service Commissioner. Issues raised included alleged interference in a tendering and contracting exercise, improper use of legislative powers, inappropriate use of Code of Conduct provisions, breaches of Privacy Principles, inappropriate conduct in a permanent residency matter and not making certain information available to the public.

You do not have very much power with respect to the question of employment conditions. Am I right in assuming that?

Mr Podger—Yes. Essentially, under the act, agencies are the employers and have all the powers of employers. I am not the employer.

Senator CARR—Although you might not have a great deal of power under the current act to deal with whole of service solutions on questions of employment, you do have considerable power with respect to misconduct. Is that the case?

Mr Podger—Yes, there are particular provisions for people to be able to refer things to the Merit Protection Commissioner or the Public Service Commissioner. But the basic philosophy of the legislation is that the primary responsibility would still be with the agency. The agencies are required to have systems of review of decisions. Any issues or questions of conduct would be expected, in the first instance, to be looked at in an agency. But an individual is able to come to the Merit Protection Commissioner or the Public Service Commissioner when they feel that the internal process is not adequate or when they have some particular concern—the matter they are raising may be about an agency head, or something like that; they may feel that it would be inappropriate for it to be handled there and they would seek the matter to be reviewed by either the Merit Protection Commissioner or the Public Service Commissioner.

Senator CARR—When it comes to the issues—or ‘breaches’, as you put it—of the official conduct of public servants, which of course is the subject of the report, the ‘alleged interference in a tendering and contracting process’ comes within the purview of the guidelines of official conduct, does it not?

Mr Podger—The issue is whether there has been a breach of the code of conduct written into the act. The guidelines on official conduct are just that—they are guidelines. We are currently well advanced in updating those. But they are guidelines; the actual law is the code of conduct and section 13 of the act.

Senator CARR—So there are legislative responsibilities here, not just guidelines? Is that correct?

Mr Podger—Indeed, section 13 of the act sets the code of conduct, and breaches of the code of conduct bring with them the possibility of sanctions.

Senator CARR—I want to come back to the specifics in your report. But before that, you mentioned that the guidelines are currently being rewritten. Have I understood you correctly?

Mr Podger—That is correct.

Senator CARR—When will that rewrite be concluded?

Mr Podger—I do not want to give an absolute guarantee. But I am looking to hopefully have them released in August. I hope to get them to the printer in the next few weeks. There have been a number of reasons for the delays in these coming forward. I am keen to issue them, together with a second ‘best practice’ guide on embedding the values in agencies. It is a project we have had under way with six agencies over the last nine months. That project is nearly completed. Out of that project I see this good practice guide as a guide for agency

heads and managers as to what is meant by embedding the values. It will complement the guidelines to APS employees, generally, about official conduct.

Senator CARR—Which are the six agencies that are undertaking the program on better values?

Mr Podger—Defence, Centrelink, Attorney-General's, Transport and Regional Services, Bureau of Statistics and the insolvency agency, ITSA.

Senator CARR—Why did you choose those agencies?

Mr Podger—It was a mixture of large and small, of ones which are Canberra based and ones which are distributed and of departments and non-department agencies. It was the feeling of a spread of types.

Senator CARR—So it is a representative sample?

Mr Podger—Yes.

Senator CARR—How does that group of agencies fit with the reports of breaches? Were any of those agencies particularly high on the list?

Mr Podger—It is a mixture. I am aware that Centrelink has had more action taken over breaches of code of conduct than other agencies, but others are more on the low end of the scale. That was not a factor in our choice.

Senator CARR—So that was not part of choosing a representative sample?

Mr Podger—No.

Senator CARR—That was not a factor?

Mr Podger—No. I was after a spread of agencies but I was also looking to those agencies where I knew the agency head would be very keen to work with us and to help us to develop a good practice guide. They were keen to get some learning out of the exercise themselves.

Senator CARR—So you saw that as a group of people that would be cooperative but that would reflect the Public Service at large?

Mr Podger—In broad terms, that is correct.

Senator CARR—I take it, then, that the relationships between the parliament and the Public Service are matters that loom large in your considerations.

Mr Podger—If you look at the 15 values in section 10 of the act, I find it quite useful—and this has been confirmed in the project with the six agencies—to group those values, although they are not grouped in the act. Values based management is about concentrating on relationships, behaviours and cultures of organisations as a way of improving overall performance rather than by way of detailed rules. If you think of them in terms of relationships and behaviours you can group them, for the Public Service, around the key relationships. The first is relationships with government and the parliament, the second is with the public, the third is relationships in the workplace and the fourth is around personal behaviours. We have found that is a useful way to look at the values. So, yes, you are right: that first category is very important for us, as an institution of government, in our relationship with the government and the parliament.

Senator CARR—You say it is a relationship between the department and the government. Do you think it needs to be spelled out more clearly that the relationship is also with the parliament?

Mr Podger—I am not saying that it has to be spelled out more clearly; I am saying that it is useful to look at the values in that way. You will see that in the values there are three which relate very much to the government and the parliament, and the parliament is mentioned in one of them. Of the three I am talking about, one says that we are apolitical, impartial and professional; the second one talks about accountability within the framework of ministerial responsibility to the government, the parliament and the public; and the third one is about our responsiveness to the elected government. They are the fundamentals of the Westminster system and are the key to our relationship, as public servants, with the government and the parliament.

Senator CARR—You have mentioned the challenge the service faces with regard to providing sufficient training for senior officers in their dealings with parliamentary committees. Do you think that that is an issue that will be improved by your new guidelines?

Mr Podger—I think the new guidelines might help a bit. In particular, for example, we will have a chapter in the new guidelines about relationships with the government and the parliament. It will talk about some guidance around that, updating the guidance that is in the existing guidelines. I guess, in a sense, this is an area where the Public Service Commission, the Department of the Senate, the Department of the Prime Minister and Cabinet and the Attorney-General's Department have been taking quite a lot of action for a number of years.

Senator CARR—Yes.

Mr Podger—I think my disappointment has been that not sufficient of the senior staff of the Public Service have been going to the courses that we run. Those who do go invariably talk about how valuable they are. But the concern has been that there are still a significant number of senior public servants who have not undertaken that training.

Senator CARR—You have mentioned also the issue of poor record keeping. Is that part of the same process of ensuring that there is adequate accountability to both government and parliament?

Mr Podger—The issue of record keeping has been raised on a number of occasions by the Auditor-General. We see our role as being to help him to get the message across. The guidelines will have some material on that, drawing in particular on material not only from the Auditor-General but also from the Archives, and clarifying to people what are the rules from Archives.

Senator CARR—In fact, the obligations under the Archives Act.

Mr Podger—That is right. Archives have some useful supporting material around that and, in relation to that, we will be drawing people's attention to what is good practice.

Senator CARR—What are the lessons in regard to the 'children overboard' affair?

Mr Podger—This is a difficult one for me to enter into. It has been a matter of some controversial report here. I think it is fair to say that there are some aspects that I have referred to elsewhere, and I touched on it in last year's *State of the service report* which came out just

before the Senate report came through. There is certainly an issue here about record keeping, about good management of IDCs and clarifying lines of responsibility to those and I think there are also some issues about clarifying the relationship between the public servants and the ministerial advisers. It is so important that that relationship is one of trust and cooperation and it needs to be worked through so that there is a clear understanding of respective roles and responsibilities.

Senator CARR—Indeed.

Senator FORSHAW—We will welcome your appearance before our committee inquiry when that issue comes up.

Senator CARR—I take it that it will also go to the issue of the role of the departmental liaison officers?

Mr Podger—The role of the DLOs will be covered in the guidelines but there is nothing particularly new around that I wouldn't have thought.

Senator CARR—So you are able to assure the committee that the question of the relationships between the Public Service and ministerial advisers will be dealt with specifically in your guidelines?

Mr Podger—It will be referred to. I hasten to say that the issue is one of encouraging a close cooperative arrangement. For some years now, governments of both persuasions have found it important to have resources with ministers to help them to do their duties. There has been a lot more pressure from communications and so on than in years gone by. I do not think any public servant sees that other than as being an important and useful development. The issue is how you make it work smoothly and well.

Senator CARR—Any political party that aspires to government is obviously not going to approach these things entirely with its eyes shut. The fact remains though that a serious problem has developed in recent times with the perception that ministerial advisers are interfering in line management responsibilities. Would you agree?

Mr Podger—I think the arguments about this have been around for a long time; they are not new. There have also been arguments on this in other jurisdictions. This is an issue that might best be handled when you have this other inquiry.

Senator FORSHAW—Feel free to discuss it today.

Senator CARR—Obviously this will be the subject of Senator Forshaw's close attention—

Senator FORSHAW—Our committee's close attention, Senator Carr.

Senator CARR—But I am sure you will take a leading role in that.

Senator FORSHAW—I am looking forward to you coming on to the committee.

Senator CARR—Thank you. However, the question will nonetheless come to the fore when these guidelines are released in August. Will they require ministerial approval?

Mr Podger—Not in a technical sense, but I have always taken the view that it is wise for the commission to consult widely. On something like conduct guidelines, I would hope that

what we issue is very broadly accepted, including by ministers and others. So I certainly have been talking, and will continue to talk, about this.

Senator CARR—It is not an unreasonable thing to be talking to the government about. Will you be talking to the opposition about it?

Mr Podger—I did not have that in mind. It had not been on my agenda. I have talked to a number of academics outside the Public Service about it.

Senator CARR—You did say you thought it was necessary to consult widely on such an important matter. I am wondering if that widely refers to the other half of the parliament.

Mr Podger—I am not aware that that has been done in the past—

Senator CARR—No, but you are setting new trends for us here.

Mr Podger—I have to say that it hadn't been on my mind and I had not seen that part. I guess at this stage I probably would not be doing so, but I don't want you to take offence at that. I have been widely—

Senator CARR—I am not easily offended, believe me. I just thought that this was going to be breaking new ground, and you thought it was necessary to get broad support for it across the government. I thought it might also be wise, given the importance of communicating with the parliament, as you have emphasised to us at some length here, that this might be a good place to start. They will not be disallowable instruments, will they?

Mr Podger—Certainly not. As I said, they are guidelines; they will not be rules. They are meant to assist people. I am conscious that one of the risks of such a document is that it will be read by some people as being absolute gospel—you must do this. It is really meant to be about drawing to attention various considerations that people ought to take into account in taking ethical positions.

Senator CARR—There are some requirements under the law, though, that you are obliged to follow through and that are in a different category from this good practice guide. You mention here that there were 12 whistleblower allegations lodged with the Public Service. I can see that only three of these allegations were investigated. Have I understood that correctly?

Mr Podger—I think that is true. I just want to check with Mr Lamond.

Mr Lamond—Certainly, the information provided in the annual report is accurate.

Senator CARR—I have read it correctly.

Mr Lamond—Yes.

Senator CARR—Three-quarters of the complaints are unworthy of investigation. Is that the proposition you are putting to me?

Mr Podger—Unworthy is not the right word. They will have been, for example, outside the boundaries of the legislation. For example, reports from people who are not public servants are not within the bounds of it.

Senator CARR—Three of the 12 were from members of the public. Given the importance of communicating with the public, I am wondering why it is that the public are not entitled to make representations to you under this category.

Mr Podger—I can only be bound by what the law says. This issue has been raised in Senate inquiries before and the view was expressed by the Ombudsman that such things are properly handled through his office. There is not a legislative basis for it to be handled through mine.

Mr Lamond—This topic was the subject of debate in the Senate when the legislation was being considered in 1999, and was the subject of proposed amendments by the Democrats to vastly extend the whistleblowing provisions. Both the major parties agreed that—

Senator CARR—Obviously for very good reasons.

Senator Abetz—Very wise.

Mr Lamond—Because this act relates to public sector employment, the focus was on employment related matters.

Senator CARR—With regard to the other complaints it says that nine disclosures did not meet the criteria for investigation and four disclosures were made by private citizens. There is another matter related to the alleged conduct of an agency head which was considered under the commissioner's powers under section 41. What is that about?

Mr Podger—Right now, Senator, I cannot recall. I suspect it was a taxation issue but I do not know for sure. I would have to check it.

Senator CARR—They are outside the provisions, as well?

Mr Podger—They are within it but I would have to check my records. I believe it was related to our assessment that the complaint was more about his interpretation of the law than about a genuine issue of misconduct.

Senator CARR—There are four other complaints where you said that the matters were best dealt with by the home departments. That is the import of that, on page 77?

Mr Podger—That is correct.

Senator CARR—What is your role in that? Are you able to just give the hospital pass back to the departments?

Mr Podger—As I said, the general philosophy of the legislation is that agency heads should take primary responsibility. The legislation was trying to remove the expectation that public servants should appeal all sorts of things to the centre for arbitration whether it be promotion decisions or other decisions that, for the most part, agency heads should take responsibility for, and for which they are required under the legislation to have a review process. They are required under the legislation to have a whistleblowing process. It is only in exceptional cases that one would expect them to come to the Merit Protection Commissioner or me.

Senator CARR—Only in exceptional cases? You are the court of last appeal, are you? How do you see yourself in that regard?

Mr Lamond—It is not necessarily that we are the last court of appeal, but it has been my experience that some of the applications for investigations under whistleblowing are actually misconceived. Somebody is aggrieved with a decision that affects their employment in an organisation and views it as an issue worthy of investigation by the commissioner or the Merit Protection Commissioner when there are quite properly procedures set out within organisations to deal with those matters. In large measure that would be the basis for the reference back to the organisations of a number of those whistleblowing complaints.

Senator CARR—Okay. There are two other matters. You make a judgment on those. It is difficult to assess the merit of the proposals since we do not have the particular cases. Who reviews your decisions?

Mr Lamond—Our decisions to proceed or otherwise?

Senator CARR—Yes—to reject an appeal.

Mr Lamond—There is no further—

Senator CARR—No further appeal.

Mr Lamond—Unless individuals want then to take the issue to the Federal Court under—

Mr Podger—It could always be taken to the Federal Court.

Senator CARR—So an employee has no other option if you reject it—other than to accept your advice—but to take it through private legal proceedings?

Mr Lamond—Yes.

Senator CARR—Have any done that?

Mr Podger—Not that I am aware of.

Senator CARR—There were two serious matters here, though—you would agree, surely: the allegations relating to tendering and contracting and breaches of privacy principles. What happened to those? They referred to on page 77. There is the question of ‘interference in a tendering and contracting exercise’. I would have thought under anyone’s criteria that is a serious allegation.

Mr Podger—I am sorry, Senator, I cannot recall the actual case.

Mr Lamond—Likewise, I am not familiar with the actual cases. But the process that this office follows and that I am aware the individuals assisting the commissioner follow is that they will talk to the individuals to try and gather enough information to determine whether there is substance to the claims or the allegations being made so that each of the statutory officers can form a view about whether it merits subsequent investigation. So claims are not dismissed lightly simply on the basis of—

Senator CARR—With regard to—

Mr Podger—Can I add that I am aware of a case relating to alleged interference in a tendering and contracting exercise. What I was uncertain of was whether that actually came up in 2001-02, because we did examine it and we only completed that examination during 2002-03. It may be one and the same. It was one we did investigate and we came to the conclusion it was a concern which was quite legitimate in that I could understand why the

person had raised the issue. It had, on the face of it, some reasonable basis for concern. However, on the basis of a substantial investigation we undertook, we were satisfied that the procedures undertaken by the department were right.

Senator CARR—There was no case to answer?

Mr Podger—There was no case, but we did suggest to the agency that they needed to clarify to those involved a little bit more of the reasoning and how they handled it. As I say, I could understand why the individual thought something had gone wrong, but they had not gone wrong.

Senator CARR—What department was that in?

Mr Podger—I think I can name the department. It was the department of employment. I am hesitant about saying too much because of the very nature of the whistleblowing arrangement.

Senator CARR—I appreciate that.

Mr Podger—I can certainly say the department.

Senator CARR—So, of those 12 cases, none were found to have any grounds—is that right?

Mr Lamond—That is the substance of the report, yes.

Mr Podger—I think that is correct, Senator.

Senator CARR—I could not see that anywhere in your report.

Mr Podger—I think it is because at that time a couple of them had not been resolved.

Senator CARR—So that will be reported in this year's report?

Mr Podger—We will have to report in the next one.

Senator CARR—How many cases have you had in the year to date, in the current reporting period?

Mr Podger—I do not have that with me at the moment. I do not know whether Mr Lamond had got any figures on that.

Mr Lamond—Only for the Office of the Merit Protection Commissioner but for the financial year to date I have received one.

Senator CARR—We will come back to that. Are you investigating that one?

Mr Lamond—That has been finalised. Again, I do not have all the details of that case but the officers assisting me in the investigation work through the issues with the individual. Again, there was no substance in the allegation that would cause us to do a more in-depth investigation. In many of these cases we can settle people or redirect them to more appropriate processes once we start talking through the detail.

Senator CARR—Have you ever had a case that you have upheld?

Mr Lamond—On the basis of my experience, which is one year acting as the Merit Protection Commissioner, my response to that is no.

Mr Podger—I have not had one either.

Mr Lamond—But that is based on a sample of three, so statistically it is not that valid.

Senator CARR—Over the last, say, five years, have there been many cases that you have upheld? Can you check—

Mr Podger—I would have to check, but my suspicion is not.

Mr Lamond—We will take that on notice.

Mr Podger—It is true to say—I think we gave this evidence to the committee looking at the proposed Democrat legislation—that there have been very few come through, and of those I cannot recall any that were upheld. Overall there are some questions about the knowledge of the scheme, but—we are pursuing this in the *State of the service report* for the coming year—we have not had data on the number of cases at agency level. We are asking agencies in our survey of agencies for this year's *State of the service report* for information on the number of cases they have had.

Senator CARR—Mr Lamond, like Mr Podger, your role is somewhat curtailed insofar as your powers are generally on the basis of recommendatory only. Is that correct?

Mr Lamond—Yes, that is true, with the exception of recommendations of promotion review committees, which deal with APS employment decisions relating to promotions for APS 2 to 6. In that circumstance the decision of the PRC—the promotion review committee—is binding. In all other circumstances my recommendations are just that—recommendatory.

Senator CARR—Yes. In fact, you are dealing with fewer promotional reviews in recent times, are you not?

Mr Lamond—There has been over the years a long-term trend decline. The data reported in the current annual report pointed to a significant decline in promotion review committees. On the basis of the statistics we have to this year, there has been a slight increase, but all that does is take it back to the long-term trend decline. Last year there was a major drop-off.

Senator CARR—We are talking 45 per cent and 48 per cent declines.

Mr Lamond—Yes.

Senator CARR—These are very substantial declines. Does it trouble you in any way that there is such a drop-off in the number of people approaching you?

Mr Lamond—No. I will explain that a little further. The drop-off can be explained in one sense by looking at the recruitment patterns of organisations. For example, you might have a year when Tax does not undertake a large recruitment exercise, so you get a substantial drop overall in the number of promotion exercises. Additionally, there is a facility under the legislation, which is supported under part 4 of the Public Service Regulations, for an organisation on a fee-for-service basis to contract the Merit Protection Commissioner to run promotion exercises independently. They are called independent selection advisory committees. They are a panel constituted by three people. Two of those are nominees of the Merit Protection Commissioner; one is a nominee of the agency. That committee makes decisions which, in a sense, are final. In that respect, individuals who participate in the

process then cannot go further and seek a review of that promotion. To the extent that organisations, where they might run very large promotion or recruitment exercises—for example, Customs might want to recruit 100 or 200 people; and Tax, as they have done this year—

Senator CARR—Are you saying that where there is outsourcing of the recruitment there is no access to merit protection?

Mr Lamond—But only an outsourcing of the recruitment to the Merit Protection Commissioner.

Senator CARR—I see. So if you do the shifty things, there is no-one to complain to. Is that what you are saying?

Mr Lamond—There would be no reason for complaint.

Senator Abetz—That is a lot better put.

Senator CARR—If the Public Service is growing, which it has been in the last couple of years, don't you find it a bit odd that, while we have an increase in the number of public servants, the business that you are doing is dropping by half?

Mr Lamond—There are three elements to a response to that. One is that, if you look at the nature of the classification structure within various agencies, you will see that organisations are moving to broadbanded structures. For example, the Australian Public Service Commission has a broadband structure where we have APS1 and APS2, and APS3 and APS4. That, by definition, because you can move people within broadbanded structures based on their capacity to do work and the availability of work at the level, does not constitute a promotion decision. So the number of movements of staff that are appellable promotions are declining. Organisations as well come to us to run ISACs, so that reduces the number of appellable movements, and, in a hopeful comment, I think agencies are probably working the system and getting it right to some extent.

Senator CARR—I see. It does sound a bit like a catch-22 situation to me—that there are actually fewer opportunities to appeal the decisions.

Mr Lamond—Certainly assignments at level are non-appellable employment decisions under the regulations.

Senator CARR—You are suggesting to me that the other explanation might be that people are behaving—

Mr Lamond—And we are doing it better more often.

Senator CARR—more appropriately, yet the number of merit protection complaints of breaches of the code of practice that you are reporting to us has been the largest in five years.

Mr Lamond—Yes.

Senator CARR—How do you reconcile those two propositions?

Mr Lamond—The issues which we deal with around breaches of the code of conduct are of an entirely different nature from requests, for example, for review of promotion decisions. The matters that come to us in terms of breaches of the code of conduct are where an

individual public servant has been found to have done something wrong within his or her organisation, something that breached the code of conduct at section 13 and merited a sanction under section 15. In those cases there is a primary investigation within the organisation that confirms that the individual has done something that merits a sanction of some description. Then an individual, if they are unsatisfied with that as an outcome, has a capacity to come to me to review that. The point I would make in terms of breaches of the code of conduct is that, where we undertake a secondary review, in a very small number of cases would I or my delegates make a recommendation to an organisation saying it should set aside a—

Senator CARR—Did you say a minority of cases?

Mr Lamond—A very, very small minority of cases.

Senator CARR—I have obviously misunderstood something here. If there were 43 complaints in 2000-01, how many of the complaints were actually investigated?

Mr Lamond—We investigate all complaints. For secondary reviews of employment activities, last year we received 82. Seventy-six were finalised in the course of the financial year in which we are reporting. We made a recommendation on 43 of those. That is to confirm the decision. In other cases we would have simply written back to the individual and said, 'The matter is finalised. You have, in fact, no real cause for action in this.' We may have made a recommendation, again in a very small number of circumstances, that the agency either look again at the sanction or look again at the decision that the person has breached the code of conduct.

Senator CARR—Of those 43 that you actually reviewed, 25 resulted in recommendations to agency heads. That is a fairly significant percentage.

Mr Lamond—Yes, in terms of the number we received, but in terms of—

Senator CARR—In terms of the total number of public servants, it is miniscule.

Mr Lamond—We only see those numbers of cases where individuals feel that they have a further case to argue, so we would see less than 10 per cent of those.

Senator CARR—Page 10 of your report refers to 207 applications being received—42 per cent more than 2001. That seems to me to be a significant increase.

Mr Lamond—That may be, for example, because agencies might choose to run exercises where they scan their IT systems to see whether people are making inappropriate use of resources. In one sense it is demand driven, to the extent that an organisation wants to focus on particular issues, and organisations do so from time to time. That will drive that up.

Senator CARR—But the number of applications concerning breaches of conduct was 43—a 26 per cent increase on 2000-01. How does that fit with what you were telling me before about an improved level of conduct?

Mr Lamond—Sorry?

Senator CARR—That is what it says here, isn't it? It says 43 applications received—26 per cent more than in 2000-01. This is concerning breaches of the code of conduct.

Mr Podger—The earlier comment was about the promotional arrangements.

Mr Lamond—That is why I made the remark that PRCs and breaches of the code of conduct are totally separate.

Senator CARR—So misconduct cases that are not involving employment promotions are increasing?

Mr Lamond—Promotion decisions are totally separate from any conduct issues.

Senator CARR—But what of breaches of the code of conduct other than matters relating to any employment promotional issues? You do not see those as breaches of conduct?

Mr Podger—Appeals about promotions have nothing to do with the code of conduct: they are simply saying that the person feels that it was an incorrect decision on the promotion. But a code of conduct review is about a breach of the code of conduct where somebody is claimed to have misbehaved, and sanctions may be applied.

Senator CARR—And this is to the Merit Protection Commissioner, so it is other than promotional issues?

Mr Lamond—Yes, other than breaches of the code of conduct. In fact with any other type of employment decision, short of a promotion that an individual feels aggrieved about, they can appeal to me by virtue of the regulations.

Senator CARR—Do you have the capacity to actually compel agencies to accept your recommendations?

Mr Lamond—No. I have a capacity to make recommendations—which are just that—to organisations, but we follow up each of those recommendations. If I am dissatisfied with an agency head's response to my recommendation, we engage in discussions and I have ultimately the capacity to report, either through a special report to the Minister Assisting the Prime Minister for the Public Service or—in the context of my annual report—to the parliament, about issues where I am dissatisfied with an agency head's response.

Senator CARR—How often have you taken a matter up with the minister?

Mr Lamond—I have not had to take matters up with the minister. There has been one occasion several years ago on which a matter was reported to the parliament.

Senator CARR—So it is a severe step?

Mr Lamond—It is a severe step but normally we can work things through. For example, in a recent case, which I will speak about in general terms, an organisation addressed further correspondence to us, at the conclusion of a review, indicating that there was some additional information of which we were unaware when the review was conducted and that, on the basis of that, they would not be complying with one of three recommendations which we made. But on the basis of that additional information, which related to the way in which they treated an individual, for me that was a satisfactory response because the matter was appropriately handled.

Senator CARR—Are there any particular departments that stand out in regard to complaints? Can you confirm, for instance, that the tax office, the defence department and Centrelink account for half of the complaints that you have received?

Mr Lamond—Indeed I can. If you look at the overall levels of APS employment, they also account for 52 per cent of APS employment, so statistically they are consistent.

Senator CARR—So it is consistent with the statistics. So you do not think there are any particular management issues that identify them as being separate from and outside of the statistical representation?

Mr Lamond—No. There is nothing that gives me cause for concern.

Senator CARR—Do you have any cause for concern about the Public Service at all?

Senator Abetz—That is a very wide question, Mr Chairman.

Senator CARR—It is, but I am probably going to be entitled to get an answer.

Senator Abetz—Possibly he could narrow it down.

Senator CARR—Do you have any concerns in terms of your work?

Mr Lamond—Certainly as a statutory officer, I have seen nothing but appropriate levels of behaviour and adherence to the employment framework. Certainly as an individual, I would still regard it as a fine place to work.

Senator CARR—In terms of merit protection, you have had no reason for concern?

Mr Lamond—No.

Mr Podger—If I may comment on this issue, one of the matters that Mr Lamond and I have been discussing is the benefits of complementing our, or his in particular, statutory responsibility for particular cases with more of a proactive quality assurance role—that is, what are the things we can do to encourage agencies to design systems and processes that might limit the likelihood of complaints coming forward? I mentioned to you the work we have been doing with those six agencies on embedding the values. One aspect of that is the merit principle. That is obviously one of the key values about relations in the workplace. We will be talking a bit about good practice in that area, but it is fair to say that out of that a couple of ideas have come forward about things that are worth while. For example, some agency heads feel as if there is not enough information on the handling of breaches of the code of conduct and what sorts of sanctions apply. Therefore, they would be assisted if there were better information exchange around that. That might lead to a more consistent approach to the management of misconduct. So there are those sorts of things, but none of that is a reflection on the quality of the service. Here are a few things that are being looked at to improve the way we do things.

Senator CARR—You have mentioned on many occasions tonight the issue of values in the Australian Public Service. You have emphasised that as a key area in which you are now working. Do you think that the measurement of individual adherence to the Australian Public Service values has been effective?

Mr Podger—These things are hard to measure. Let me wind back. The main reason that I have been emphasising values, both here and in the material from the commission, is that the legislation in 1999 was the culmination of a major shift of devolution and of changing the paradigm—if you like to use that terrible word—of controls in the Public Service away from detailed prescriptive rules to saying we are going to do it by way of principle. In a sense, that

has also been the financial legislation—of a more principled base to controls. What I have seen as a challenge is to help agencies to understand what that means—what is expected of values based management as against rules based management. We are trying to learn what is good practice in that. It is not to say that I think all of a sudden there is a great problem of abidance and compliance with values out there in the Public Service. Indeed, I think the Australian Public Service still has an extremely good culture around understanding the values of professionalism and the other values around accountability and apolitical professionalism.

Senator CARR—So you rely heavily on self-assessment in terms of compliance?

Mr Podger—We are trying to work out ways for our *State of the service* report to get a better measurement. This year, in addition to our annual survey of agencies—we have had quite a major survey of agencies of what systems and procedures they use and facts and figures about them they can provide—we are conducting a major survey of employees this year to provide us with a reality check of whether the employees have the same sorts of views of these things as the agencies do. A very substantial survey is being conducted right now.

Senator CARR—Are you able to give me any figures or statistics that tell me about the adherence to the values across the service?

Mr Podger—No, I cannot. What I hope will come out of the survey is some information on the confidence of the employees and what they think about the adherence to the various values within their workplace so that questions about their perceptions of the arrangements within their workplace will be available to us. It is a pretty substantial survey; I think there are six and a half thousand employees being surveyed at the moment.

Senator CARR—But at the moment you cannot tell me what the adherence is?

Mr Podger—No. The last couple of *State of the service* reports have relied almost entirely on the surveys of agencies. A couple of years ago, my predecessor did draw on surveys that agencies had run, but this time we are running a survey directly ourselves and therefore can be confident that it is being handled consistently across the service.

Senator CARR—Can you confirm that only 60 per cent of agencies provided staff training on APS values in 2001-02?

Mr Podger—I think I provided something on that in last year's *State of the service* report.

Senator CARR—Yes. That is the right figure, is it? Have I understood that correctly?

Senator Abetz—Are you quoting from a page that you can assist the commissioner with?

Senator CARR—I thought I saw it somewhere in this report. I just want to make sure I have got it right.

Senator Abetz—It is not a memory test. I am sure we can say, if you give a page.

Senator CARR—What I am also arguing is that, under that formula, 40 per cent of agencies appear to provide no training. Would it be fair to say that?

Mr Podger—Yes, that is correct. It is on page 22 of the report.

Senator CARR—Would you agree that 40 per cent do not provide any training in APS values?

Mr Podger—The report says:

... 40% of agencies provided their staff with no training in 2001-02, either mandatory or self-nominated, to ensure an understanding of the relevance of the Values and Code.

After that I provided a bit of a dissection of it. One of the purposes of this whole project is to try and clarify what we think agencies should be doing, and one dimension is in terms of learning and development programs.

Senator CARR—You obviously do not think that is satisfactory.

Mr Podger—No, I do not think it is. But I think agencies have not been assisted sufficiently by the fact that the values are just 15 in a list. I think that is a hard thing to digest. What we are trying to work out is a better way to handle that training; hence the issues such as I raised before, of grouping the values and then clarifying what are the things behind each of those groups that agencies ought to be doing, making it understandable to public servants what the principles are that the values represent. I think that will aid people in looking at training processes.

Senator CARR—I see in the report that only 39 per cent of agencies reflect the values and code explicitly in their Chief Executive's Instructions. Is that satisfactory?

Mr Podger—The issue of Chief Executive's Instructions is again one we are looking at. The Chief Executive's Instructions is a requirement under the financial legislation. A lot of agencies therefore simply have the various procedures and rules for their agency for handling moneys. One of the issues we have raised through this project—it is something I pursued in my previous role as head of the health department—is to say that I thought that the Chief Executive's Instructions was a useful instrument for pursuing the ethical dimension. As you might recall, the FMA Act actually has in it that resources are to be used properly, which means efficiently, effectively and ethically. Therefore, there was the opportunity to pick up some of the Public Service issues on values and ethics within those Chief Executive's Instructions. I am not surprised that the majority of agencies do not have that at this point, but it is an area that I think they could pay attention to.

Senator CARR—When I look at this, I see that the large agencies are providing more training than the smaller ones, but still 10 per cent of the large agencies provide no training whatsoever and half the smaller agencies do not train in this.

Mr Podger—I hasten to say that 94 per cent of the agencies did tell us that they provide information about the values and code of conduct in their induction training. So we can be reasonably certain that the new people coming in are getting the information about the values and conduct.

Senator CARR—Given what we have said tonight about the ageing of the Public Service and the duration of service, do you really think that is good enough?

Mr Podger—Clearly I am saying that I think there is further work to be done. I am not changing my tune on this at all. I said it in the report last year and everywhere else that there is a challenge for the service in order to embed the values in their management procedures and systems.

Senator CARR—Given the numbers we have in terms of the agencies not providing training, given the numbers in regard to the pretty poor record on chief executive officers and given your claim that the Australian Public Service values and codes of conduct essentially define the institution of the Public Service, they set the principles for a relationship with the government, parliament, the public and external stakeholders, what are you going to do other than take a survey on this matter?

Mr Podger—I think I have identified a number of things we are doing right now in terms of the guidelines and in terms of this project of good practice which we will get out and which we will disseminate which advises agencies of a more holistic approach they could take to embedding the values in their agencies. We already do a substantial amount of training ourselves, in particular for the SES, and I hasten to say that under the legislation the Senior Executive Service is responsible for promoting as well as upholding the values. The approach we are taking is trying to get to that group to clarify to them their responsibilities and to encourage them to take forward approaches to promote the values in their organisations. So in all our training arrangements for SES officers we have orientation programs and executive level development programs and they all have a substantial component around the values.

Senator CARR—Given the new act has been there for a little while now and given the number of issues we have come across tonight in respect of which it is apparent your capacity to directly influence events is somewhat limited, do you think you have sufficient powers to deal with the responsibilities you have?

Mr Podger—There is a bit of a conundrum here. If I were given more powers I suspect that we would actually go backwards. On values based management, the intent is not to have a too prescriptive process or a directive process from the centre, but to try to encourage a more devolved arrangement. The issue is: how can you have confidence in the integrity of decisions made within that devolved arrangement? That is about culture and values; it is not about giving me more powers of direction.

Senator CARR—But in terms of the responsibilities that you have, do you think you are able to fulfil those functions given the present devolution that is now embedded within the service?

Mr Podger—In our corporate plan last year we quite consciously said that the commission needs to move to a new stage. In the first couple of years after the legislation, the commission's main responsibility was to get the legislation in place, to clarify the directions and make sure everyone understood what it meant and so on. It was making sure the mechanics of the legislation were out there and operating. The commission's role now is to start to take advantage of the new framework to see if we can help agencies to take full advantage of it. As part of that, we put quite a lot of investment into improving our evaluation capacity. The survey is one part of that. Each year, I hope that the *State of the service report* will prove to be a more substantial and quality document of evaluation. In addition, we included in our plan the intention to do one or two specific evaluations each year in some area of concern or in an area where we think there could be an improvement in practice. In this particular financial year, that was the project on embedding the values in agencies. We have not yet determined what projects of evaluation we might undertake in the coming year. Clearly the commission is taking the view that our evaluation role ought now to be taken a bit

further. In taking that role further, I have also taken an understanding of the general spirit of the evaluation, but I do not intend that evaluation to be with a big stick but rather to work with agencies in a cooperative and collaborative way to determine how we can have a better service and, together, achieve that. I have always got the capacity to do an audit or something a little bit tougher but at this stage I feel it is better for me to primarily do it in a collaborative process.

Senator CARR—Thank you. I put a number of questions on notice which will go to the machinery matters in terms of the budget you are operating within. I have no further questions.

Senator Abetz—Thank you.

ACTING CHAIR (Senator Brandis)—Thank you, Senator Carr. That concludes the public hearings of the budget estimates of the Department of the Prime Minister and Cabinet. I remind you that the committee has set 10 July 2003 as the date for the submission of written answers to questions taken on notice. I thank the minister and departmental officers, *Hansard* and the committee secretariat for their assistance and cooperation.

Committee adjourned at 7.36 p.m.