



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION
COMMITTEE

ESTIMATES

(Additional Estimates)

TUESDAY, 17 FEBRUARY 2004

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SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE

Tuesday, 17 February 2004

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

Senators in attendance: Senators Allison, Brandis, Jacinta Collins, Conroy, Faulkner, Ferguson, Forshaw, Hogg, Mackay, Mason, McLucas, Murray, Nettle, Robert Ray and Sherry

Committee met at 9.09 a.m.

FINANCE AND ADMINISTRATION PORTFOLIO

In Attendance

Senator Abetz, Special Minister of State

Senator Minchin, Minister for 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

Mr Rod Whithear, Branch Manager, Strategic Partnerships

Ms Tracy Muddle, Manager, Human Resources

Ms Sarah Byrne, Branch Manager, Legal Services

Mr Sean Giddings, Senate Estimates Coordinator

Mr Glenn Black, Senate Estimates Coordinator

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

Ms Kym Partington, Branch Manager, Management Accounting

Ms Joanne Hamilton, FeSG Point Person

Outcome 1

Mr Phil Bowen, General Manager, Budget Group

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

Ms Kathryn Campbell, Division Head, Social Welfare Division

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

Mr Sam Beever, Budget Group Point Person

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 Brett Kauffmann, Branch Manager, Accounting Policy Branch

Ms Sandra Wilson, Branch Manager, Superannuation Branch

Mr Geoff Painton, Manager, Superannuation

Mr Michael Culhane, Branch Manager, Finance and Banking

Mr Marc Mowbray-d'Arbela, Branch Manager, Legislative Review Branch

Mr Bruce Taloni, FMG Point Person

Outcome 2

Mr Simon Lewis, General Manager, Asset Management Group
Mr David Yarra, Division Manager, Shareholder and Asset Sales Division
Mr Rick Scott-Murphy, Division Manager, Business Services Division
Mr Mark Heazlett, Branch Manager, Government Businesses Advice Unit
Ms Marianne King, Branch Manager, Government Businesses Advice Unit
Dr Guy Verney, Branch Manager, Special Claims and Land Policy Branch
Ms Stacie Smith-Macnee, Branch Manager, Insurance and Risk Management Branch
Mr Peter Diddams, Branch Manager, Commercial and Projects Branch
Mr Michael Pahlow, Branch Manager, Property Management Branch
Mr Tim Wise, Branch Manager, Major Projects Branch
Mr Ned Rokvic, AMG Point Person

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, Branch Manager, Legal and Review
Mr Greg Smith, Ministerial and Parliamentary Services Point Person
Mr Rohan Verco, 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
Ms Maria Webster, AEC Point Person
Mr Brien Hallett, Assistant Commissioner, Information, Education and Research

ComSuper

Mr Leo Bator, Chief Executive Officer
Mr Kevin Dent, Chief Finance Officer

PSS/CSS Boards

Ms Barbara Wilson, Finance Manager
Mr Steve Gibbs, Chief Executive Officer

Commonwealth Grants Commission

Mr Malcolm Nicholas, Acting Secretary
Mr Owen Rodda, Director, Administrative Support Services

CHAIR—Good morning, I declare open this public hearing of the Senate Finance and Public Administration Legislation Committee. On 11 February 2004, the Senate referred to the committee for examination the following documents: particulars of proposed additional expenditure for the year ending on 30 June 2004, Appropriation Bill (No. 3) 2003-2004; particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2004, Appropriation Bill (No. 4) 2003-2004; particulars of proposed additional expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2004, Appropriation (Parliamentary Departments) Bill (No. 2) 2003-2004; statement of savings

expected in annual appropriations made by act No. 55 of 2003, Appropriation Act (No. 1) 2003-2004, and act No. 56 of 2003, Appropriation Act (No. 2) 2003-2004, together with a final budget outcome for 2002-03 and issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2003.

The committee is required to consider these documents in so far as they refer to the portfolios allocated to the committee by the Senate on 13 February 2002, and to report to the Senate on or before 24 March 2004. The committee may also examine the annual reports of departments and agencies at this time, even if no additional appropriations have been sought. Agencies which are not listed on the program may have written questions on notice directed to them. The committee has set Wednesday, 31 March 2004 as the date for the submission of written answers to questions that are taken on notice. The hearing today will commence with the Australian Electoral Commission, followed by the Department of Finance and Administration and other agencies within the Department of Finance and Administration's portfolio. At 9:30 p.m., the committee will examine the Office of the Official Secretary to the Governor-General. I propose to proceed by opening with general questions and then calling on the outcomes and outputs in the order listed on the agenda.

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 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 the 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 the minister. Evidence given to the committee is protected by parliamentary privilege. I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate. This morning I welcome Senator Abetz, the Special Minister of State, Mr Becker and officers of the AEC, Dr Watt and other officers. Senator Abetz, do you wish to make an opening statement?

Senator Abetz—No, I would not seek to better your speech.

CHAIR—Thank you, Minister.

[9.14 a.m.]

Australian Electoral Commission

CHAIR—We will now go to general questions for the Australian Electoral Commission.

Senator FAULKNER—I was not planning to do anything other than ask a range of questions and perhaps treat them all as general, if that would suit. I know that other senators also have questions, but often we deal with the Electoral Commission in this way. Are you happy with that, Mr Becker?

Mr Becker—Certainly.

Senator FAULKNER—I think it probably saves a little time, to be honest. You would recall, Mr Becker, that in November I asked Ms Mitchell about ongoing AEC inquiries, and I refer you to the estimates *Hansard* of the time. Ms Mitchell, you categorised in November last year that there were six major inquiries. You also said to the committee that that was an

unprecedented number. I wonder if you might give us a brief status report on those inquiries and indicate to us if there are any other inquiries that have moved from the backburner to the front burner, or new inquiries that you are also giving priority to?

Mr Dacey—Senator, you would recall that back in November, I think in response to questions from both you and Senator Brandis, we said we would do everything we could to try to have some of these major issues resolved before this Senate estimates hearing.

Senator FAULKNER—Yes, I do recall that.

Mr Dacey—I did foreshadow at the time that several issues are often raised during dealing with an issue. The six issues that were discussed in more detail at that time have yet to be finalised, so it is difficult for us to give particular details of where they are at the moment. As matters are finalised, we have taken the decision to post the outcomes to our web site so that there is public notification of them.

Senator BRANDIS—When you say ‘outcomes’ do you merely mean an announcement that an inquiry has been completed and these are its findings, or do you mean the report?

Mr Dacey—No. When the matters are finalised, and we also plan to have the reasons for the decisions posted as well. But, because those matters are still under active consideration, we have taken the position that we really cannot provide any more detail at this stage on those particular issues.

Senator FAULKNER—Have the outcomes of any inquiries at all been posted on the web site to date?

Ms Mitchell—No, we are still working on getting the webpage up and running. I meant to bring today—and I can provide it to the committee later—the proposed layout of that webpage, which shows the sort of information we are planning to have on the page. The concept is that one would go to the AEC home page and go to the section on political disclosures. A link would be there to go to the particular issues, and there would be a page per issue which sets out the issue, when it came to our attention, the general thrust of what we have done with it and our conclusions on the matter.

Senator FAULKNER—In this new approach are we speaking just in relation to funding and disclosure inquiries? Will there be inquiries of any other nature?

Ms Mitchell—At this stage we are working on this in relation to funding and disclosure inquiries. I think we would want to assess whether that provided the client service people are asking for before we expanded it to other areas.

Senator FAULKNER—Have any funding and disclosure inquiries been concluded since 1 January 2003?

Ms Mitchell—Do you mean the special, extra ones?

Senator FAULKNER—Yes. Let me be clear: my question was not intended to include routine inquiries.

Ms Mitchell—No. The routine work has been concluded, but none of the extra activities have been concluded yet.

Senator FAULKNER—For the benefit of the committee, can you list the ongoing inquiries please. I think there was, if you like, an informal categorisation at the last estimates round. First of all, would you list what the AEC considers to be major inquiries in this area.

Ms Mitchell—There are the two in relation to whether organisations are associated entities under the provisions of the act, and those two organisations are the Fair Go Alliance and the Australians for Honest Politics. There are the issues in relation to whether disclosure obligations were fully met on some of the media reports that we are aware of in relation to donations given to the Liberal Party through Mr Ruddock and on the raffle that was held in South Australia through Senator Bolkus. Then there are the two issues related to the Liberal Party FEC matters in Queensland, in the electorates of Ryan and Bowman.

Senator FAULKNER—In terms of this categorisation of major inquiries, those six, I think, are identical in both number and name to the ones that you mentioned last time.

Ms Mitchell—Yes. In addition to that, one of the other major issues that have come to media attention has been whether or not a range of donors to the National Party might be considered to be associated entities.

Senator FAULKNER—What is the standing of investigations into that one?

Ms Mitchell—That it is still under way at this stage in time. We are basically in an information-gathering phase.

Senator FAULKNER—Does ‘information-gathering phase’ mean that it has not reached the status of a formal inquiry by the AEC? Is that the distinction you are drawing?

Ms Mitchell—I guess the distinction that I am drawing is that we have not formally exercised powers under section 316.

Senator FAULKNER—Are you able to indicate whether there are any other inquiries? They are, if you like, the major inquiries. Are there other inquiries, other than the routine ones, that you can mention to us?

Ms Mitchell—Recently the issue of the Cormack Foundation came up in the media when the annual returns were made public. That is an issue that we have looked at before. No additional information came to light in that matter, and so I would not intend to look at it again unless something came up that we had never seen before.

Senator FAULKNER—It is an associated entity of the Liberal Party, isn't it?

Ms Mitchell—It is an associated entity. The AEC has looked at it in detail before. There is no additional information. As far as the AEC is concerned, their returns seem to be complete and correct.

Senator FAULKNER—It is true, isn't it, that Mr Hugh Matheson Morgan is a director of the Cormack Foundation? Can you confirm that for me?

Ms Mitchell—I do not actually have that information with me at the moment. I do have returns so I can tell you who has been—

Senator FAULKNER—My understanding is that Hugh Matheson Morgan of Toorak has been a director since 1988.

Ms Mitchell—I do not have with me the list of directors. What is required on the return is the financial controller's details, and in the various returns they have lodged since then he is not mentioned at all as being the financial controller. The current financial controller is listed as being Julie Annette Toop, who states her capacity as secretary.

Senator FAULKNER—But Mr Hugh Morgan is a director of the Cormack Foundation, isn't he?

Ms Mitchell—I cannot remember who the directors are. I have not actually done the compliance reviews myself, so it is not information that I have looked at directly.

Senator FAULKNER—Can someone else confirm that for me? It is not a major point, but I would have thought someone would know that.

Senator Abetz—It is not a memory test. We will take it on notice.

Senator FAULKNER—It is not a memory test, but it is something that I am surprised officials do not know. It is public knowledge. The only reason I mention the Cormack Foundation is that I read in one of today's newspapers the heading 'Business takes first swipe at Latham'—and read for 'business' Hugh Morgan, who is a director of an associated entity of the Liberal Party. That made page 2 of the *Australian* newspaper. It must be a slow old news day is all I can say. In relation to the National Party inquiry, you say that at this point its status is 'information gathering'?

Ms Mitchell—Yes.

Senator FAULKNER—You have previously indicated in evidence to us that the AEC keep a close watch on what occurs in the media. Was this inquiry as a result of your media trawl or of it being formally placed before you?

Ms Mitchell—It has been formally placed before us, but it was actually an issue that we had been looking at before that anyway.

Senator FAULKNER—So it has been formally placed—

Ms Mitchell—It has been formally placed before us, yes.

Senator FAULKNER—Are you able to say by whom?

Ms Mitchell—The Greens have raised the issue with us.

Senator FAULKNER—That is the Australian Greens, the political party. I think that was mentioned in a newspaper article.

Ms Mitchell—Yes.

Senator FAULKNER—Anyway, what you are saying is, prior to that occurring, this had come to the attention of the AEC.

Ms Mitchell—These were issues that had arisen as part of our normal compliance review activities anyway.

Senator FAULKNER—Had you intended to ask questions about this, Senator Nettle? This seems like a perfectly appropriate time for you to do so.

Senator NETTLE—You may well have asked the questions, because I wanted to ask specifically about those inquiries into the six organisations that were giving donations to the New South Wales division of the National Party and were located on the same floor, using the same postbox. I understand that, since the inquiries were made—and our office made inquiries 18 months ago—one of those, the Green and Gold Foundation, has been listed as an associated entity. Is that correct?

Ms Mitchell—Yes.

Senator NETTLE—Of the subsequent five, I know you have answered some questions to date in terms of where that investigation or inquiry is at. These inquiries were made in August 2002, and it is noted in your annual report:

The number of compliance investigations conducted during 2002–03 was fewer than anticipated, due to a lack of appropriate staffing resources ...

In asking about where those inquiries are at, is a lack of staffing resources impacting on the capacity to get answers in relation to these organisations, be they associated entities or not, that were inquired about from my office over 18 months ago?

Senator Abetz—What was the Greens's reasons in Tasmania for not filing a report at all—very silly grounds?

Senator ROBERT RAY—Did you lodge a complaint?

Senator Abetz—Did I personally lodge a complaint? No. I think it got to the media before that was necessary.

Senator ROBERT RAY—So you did not do your public duty, in other words.

Ms Mitchell—Senator, the availability of staff to do the work is part of the issue, but it is not the sum total of the issue. There are complexities in the legislation and the way in which organisations are set up that sometimes can take a while to work through to gather the necessary information, but that is part of the issue.

Senator NETTLE—Can you elaborate further on complexities in relation to locating the money trail or the donors or whether they were associated entities or not?

Ms Mitchell—It is not so much a problem in locating the money trails because, if we need to, we can access financial records of an organisation. It is the way in which organisations are set up that does not necessarily make it clear. When you look at the definition of an associated entity in the legislation, whilst it is easy to do the first part of that definition and work out whether or not they were established by a registered political party, the second half of the definition and working out whether they operate to the benefit of a party to a significant extent can require quite a detailed examination, especially when you are looking at a range of potential organisations.

Senator NETTLE—I imagine that part of the difficulty you have in defining whether or not these organisations are associated entities is that the suggestions and recommendations that the AEC has made in the past in relation to tightening that definition have not been acted on. Is that correct?

Ms Mitchell—Certainly the AEC believes that, if the recommendations that we have made had been adopted, it would make administration easier. But you are always in a bit of a catch-up situation with legislation. A new way of doing things will arise that does not necessarily get captured by the legislation, so it is hard to suggest how to make the legislation perfect.

Senator NETTLE—In the AEC's view, what is the purpose of an associated entity?

Ms Mitchell—You mean in the legislation?

Senator NETTLE—No. Given the framework that exists in the legislation, can you provide a view on behalf of the AEC as to the rationale you see for political parties or others setting up an associated entity?

Ms Mitchell—I guess it is something that is probably more in the minds of those who are setting up the organisations, but I can only assume—because I do not know what is in their minds—that it is to take over a particular activity that is quite onerous and involves a lot of work that is basically providing funds.

Senator NETTLE—Specifically in relation to disclosure—and I know that attempts have been made to improve the disclosure for associated entities—even with those changes, is it possible that political parties could use associated entities as a way to attempt, whether successfully or not, to mask a money trail or not disclose the identity of a particular donor?

Ms Mitchell—As I said earlier, it is often hard to get the legislation perfect. Once you have specificity in the legislation, it acts against capturing the generalities. In order for people to be clear about what they need to be complying with, you do have to have some degree of clarity in the legislation and specifics in there. There is the potential for there always to be a situation where we are playing catch-up with the legislation in trying to capture every possible permutation of an organisation in the way that money might flow through those organisations and ultimately to a political party.

Senator NETTLE—What about the provisions in the legislation relating to anonymous donations to associated entities? Is it correct that companies and individuals can give money to associated entities without that associated entity naming the donor?

Ms Mitchell—Effectively, because section 306 does not apply to associated entities, that is possible. When you look at the requirements set out in a return, you will see that it requires name and address details to be included in the return for people who have to be declared. But the sanction that exists in section 306 for parties, candidates and Senate groups does not apply to associated entities. In effect, it would be problematic for the AEC to pursue the full disclosure without that sanction there.

Senator NETTLE—There are no penalties for not disclosing the identity of donors to associated entities?

Ms Mitchell—It is kind of a double penalty regime for parties. There is a penalty in section 306 for anonymous donations and there is also a penalty in section 315 for an incomplete return. The section 315 penalty for an associated entity would still apply but the section 306 provision, where we can recover the equivalent amount of money, does not apply.

Senator NETTLE—So, in the view of the AEC, does that failure to have a penalty in section 306 of the act represent a failure in transparency for anonymous donations to political parties in instances of donations through an associated entity?

Ms Mitchell—That is why we have made a recommendation that section 306 should apply to associated entities, yes.

Senator NETTLE—I want to ask about the categories of ‘donations’ and ‘other receipts’, as they are listed. Looking at the last lot of annual returns, they seem to be the two main categories listed. I have as examples today donations to the national secretariat of the Labor Party, but I could use many. The second receipt, which is from the ACT Revenue Office and is for an odd amount, is listed as an ‘other receipt’ and is clearly some form of service being provided. But the first one, which is from AAPT, could be a phone bill. It is unclear from what is there in ‘other receipts’. It is listed as \$2,500. Then, looking through the list, you see that there is \$2,500 each from the Coal Association, BHP, the Business Council, Tenex and National Australia Bank, which clearly appears to have been a fundraiser of sorts with a ticket price of \$2,500. Can you elaborate on what you believe to be the effectiveness of the two distinctions of ‘donation’ and ‘other receipt’ in terms of transparency for, as it appears in this instance, a fundraising dinner?

Ms Mitchell—The classification of receipts is actually a non-compulsory regime that we ask parties to cooperate with to try to enhance the disclosure process. They are not required in their return to provide that information, which is why you will often see on the web site ‘unspecified’ as well, because some parties do not provide the information. So it is a voluntary process. Whilst we have in the glossary on the web site some definition of what we mean by ‘donations’ and ‘other receipts’, it is really up to the parties to classify that information. Because it is a totally voluntary regime, they are not required to provide us with explanation about that. The main reason we ask them to do it is to enhance disclosure for when it becomes publicly available. It also assists the AEC to some degree in our initial follow-up of who should be lodging donor returns. Ultimately, when we do compliance reviews, though, we will double-check that classification and we will determine who we need to obtain donor returns from. But, because it is a voluntary scheme, it is not necessarily something that we can require parties to clarify in their return if we find during compliance reviews that we believe that they have classified incorrectly.

One of the issues I think you need to understand in relation to how people classify is the definition of ‘gift’ that is in section 287 of the act. The definition talks about, effectively, whether or not you have got something equal in return for the money you have paid—so it is about whether you have got your money’s worth. Fundraisers are a problematic issue for the AEC to assess because, whilst it is relatively easy to look at the tangibles that one might get from attending a fundraiser—you get your meal, you get the chair you sit on, you get your souvenir program or whatever it is that you get, and those things can be costed at a per head rate—you cannot assess the intangibles that one might get out of attending a fundraiser. It may well be that Joe Bloggs PR firm went along and got a \$100,000 contract from the local TV station to do their PR, so they got more than their money’s worth out of the \$2,500 they paid to attend the fundraiser. How one values the networking that is available at those sorts of fundraising functions can be very much in the mind of the beholder, which is again why we

have recommended that payments at fundraising functions be automatically deemed to be something that has to be declared in a return. Maybe you would not call it a donor return—maybe you would call it something else—but at least those declarations are being made by the people who are paying the money rather than just by the party who is receiving the money.

Senator NETTLE—Is it the view of the AEC that those categories of donations or other receipts such as fundraising dinners should be compulsory, given their current level of relief?

Ms Mitchell—It is certainly one of the recommendations we have made, yes.

Senator NETTLE—Currently, only where they are voluntary, as you say, and only following a compliance inquiry does detail come out. Can I now go to the issue of compliance inquiries. We have already today talked about a couple of those. With what regularity do compliance inquiries occur?

Ms Mitchell—We have a program every year. The program is undertaken on a risk management basis. Assessments are made as to who is subject to compliance review in any given year. Basically, the process is that returns will come in in the October and November and a lot of work goes into getting them ready for public availability in the February. After public availability we go into our compliance review program for the year, and what we are reviewing is usually the last return lodged, but if it has been some time then we review all the returns that have been lodged since we last visited that particular party or associated entity. And in conducting our compliance reviews we use industry best practice principles based on Australian accounting standards.

Senator NETTLE—Just for my own edification, is the compliance review an audit process?

Ms Mitchell—It is an audit process, yes. We call it a compliance review rather than an audit because it has a particular function and that is about having a degree of confidence in relation to the accuracy and completeness of the return rather than looking at things like solvency and financial management that a normal audit might look at.

Senator NETTLE—Would major parties be audited every year? Is that the time frame?

Ms Mitchell—Pretty much, yes.

Senator NETTLE—I had a couple of questions around donors who may fail to submit the required forms. Can you give us an idea of how many donors you believe to be failing to submit the required forms?

Ms Mitchell—That is a bit like asking, ‘How long is a piece of string?’ I think that would just be speculative. I do not think it is appropriate for me to speculate.

Senator NETTLE—If we narrow the time frame to over a year, can we get a ballpark figure? Perhaps I can ask of how many you are aware. Perhaps we can separate the donors that you are not aware of who have not submitted forms from the donors that you are aware of who have submitted forms. Can you answer it that way?

Ms Mitchell—Ultimately, because you have this classification in returns that parties have determined and because you have a definition of gift that is very much in the mind of the giver, it is not really possible to be finite about people who should be lodging donor returns

and people who should not be lodging donor returns. We get over a thousand donor returns and there are a lot more people listed on party returns. To be able to do that, you would actually have to go to all the people who were paying money to parties, and that would be thousands and thousands of people. You would have a whole department on its own undertaking the work.

Senator NETTLE—In those instances that you are aware of, can you explain the process that you follow when a donor form has not been submitted?

Ms Mitchell—What happens is that the parties lodge their returns in October.

Senator Abetz—Most of them do.

Ms Mitchell—Parties are due to lodge returns in October. We data-enter the information on the returns and produce a mail merge obligation letter that goes out to everybody who has been listed as a donor on the return. Because there are only four weeks in between when party returns are due and donor returns are due we attempt to get that out prior to the due date for donor returns. Unfortunately, last year it was only a week before they were due. When all of those people have been sent letters we record who we received them from. We send a follow-up letter—and this year we are now up to early December—and when we do our compliance review program any donors that are still outstanding, once we have checked with party records, will be further pursued with follow-up letters, phone calls and, if necessary, referral for prosecution if they have not lodged.

Senator NETTLE—Do you know when the prosecution of a donor for not submitting a form last occurred?

Ms Mitchell—Not in my recollection. I have only been in the section for three years. Prior to that I would not know.

Senator NETTLE—You think that in the last three years there have been no prosecutions of donors failing to enter forms?

Ms Mitchell—There have been no prosecutions in my time in the section.

Senator NETTLE—Do you believe that is based on there not having been instances of donors not submitting forms, or do you think it is based on something else?

Ms Mitchell—Because the purpose of the legislation is disclosure we invest as many resources as we can to try and get the return. I think a lot of it is the result of the investment of that time in trying to physically get the return from people. Potentially, some of the lack of donor returns is due to the issue of definition of gift in the legislation and some argument about whether or not there was a donation.

Senator NETTLE—Regarding overseas donations, can you clarify the view of the AEC in terms of individuals who are not taxpayers or participants in the Australian political system being able to donate, either anonymously or not, through political parties?

Ms Mitchell—I guess that is more of a moral judgment and it is something that the AEC does not get into. What we have said is that, if the parliament wishes to prevent this, it needs to legislate for it. We have also pointed out the problems in trying to pursue overseas donations if there is a problem with the declaration of the information in the return. For

instance, if a donor is overseas and they have not lodged a donor return, there is no way in the world that we can pursue them offshore in terms of prosecution. We can certainly attempt to write to them and achieve compliance, but that is the most we are ever going to be able to do.

Senator NETTLE—Is it correct that currently someone from overseas could be donating anonymously, if they donated through an associated entity?

Ms Mitchell—That is quite possible and there is probably very little we could do about it.

Senator NETTLE—Whereas models in other countries ban such overseas donations.

Ms Mitchell—They do, yes.

Senator NETTLE—The United States being one of those examples. If the Liberal Party of Australia were to donate to the Bush administration that would not be allowed, but if the Bush administration were donating anonymously through an associated entity to the Liberal Party of Australia we would not be aware of that.

Ms Mitchell—It is a possibility.

Senator NETTLE—What is the AEC's view on the effect on transparency and impact if the reporting threshold is raised from \$1,000 to \$3,000, as proposed in the Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002?

Mr Becker—That is a matter for the parliament. I think that any threshold you put on that could be argued in all sorts of ways. That is not a role that we have undertaken in the AEC. If it is raised, it is raised.

Senator NETTLE—Have you made recommendations in the past about increasing the threshold level?

Mr Becker—Not that I am aware of.

Ms Mitchell—No, we have not suggested an increase. In fact, we have suggested that it not be increased.

Senator FAULKNER—You have actually made a substantive recommendation on it. That was my understanding.

Ms Mitchell—Basically, Senator, what we have said is that it really is up to the parliament to decide what the threshold is but, obviously, the higher the threshold, the less disclosure you are going to achieve.

Senator FAULKNER—Undoubtedly true, Ms Mitchell. That is unarguable, but I am really taking issue with Mr Becker's statement that the AEC is a matter for the parliament. Of course, of itself, that is true. All these things are subject—are they not, Mr Becker?—to a legislative provision, so that of itself is true. But it is also fair to say that the AEC has consistently expressed views to the parliament through its Joint Standing Committee on Electoral Matters and through submissions to that committee about what it recommends the parliament ought to do.

Mr Becker—That is true in certain circumstances, and I must admit that I have forgotten that we had, so I was unaware of that. But, in my view, those are issues for the parliament. Levels—whatever they are, however they are set—are matters for the parliament.

Senator FAULKNER—Fair enough. If you have forgotten, that is all right, because there is a logical inconsistency in what is being said, given past experience. It is not a major point because, fundamentally, all these things which have a legislative base are matters for the parliament but, nevertheless, I certainly—and I would hope other parliamentarians—take account of the views that the AEC expresses to the parliament by the mechanisms that are available to it. I am sure that is true of other senators and members.

Senator NETTLE—I wanted to ask the AEC's view on a comment from the Joint Select Committee on Electoral Reform that occurred in 1983, when public funding came in. I will read you the comment from that inquiry:

The majority of the Committee believes that it is in the interests of a democratic system to use public funding to remove the necessity or temptation to seek funds that may come with conditions imposed or implied.

Clearly that is the time at which public funding was introduced and where political parties were receiving, I think, 35 per cent of funding from other sources. Now, in a situation where political parties are receiving 80 per cent of their funds from private and primarily corporate sources, given the premise for the introduction of public funding, based on this comment from the committee at the time about trying to reduce the necessity or temptation to accept funding with conditions imposed, my question is: where have we gone wrong to have moved from the 35 per cent we were at 20 years ago to the 80 per cent that we are at now? Does the AEC have a view as to whether this would be an appropriate issue to inquire into, in terms of what the effect has been of increasing private and corporate donations to political parties in Australia?

Senator Abetz—I am a bit confused by those figures. Did you say in 1983 parties got 35 per cent—

Senator NETTLE—of their funding from private sources.

Senator Abetz—and where did the other 65 per cent come from when we did not have public funding?

Senator NETTLE—They are the figures that I recall. It may have been from corporate sources at that time. That would make more sense, wouldn't it?

Senator Abetz—We had better be careful as to what we are actually talking about by definition. It was just the figure of 35 per cent before public funding. I do not know if the other 65 per cent fell out of the sky. But I think it is important, just so we know what we are talking about.

Senator NETTLE—That is understandable. From you having pointed that out, it makes more sense for it to have been 35 per cent of corporate funding provided to political parties 20 years ago whereas now 80 per cent of corporate funding is provided to political parties. Thank you, Senator Abetz.

Senator Abetz—But are you sure about that? I think you are reconstructing, which may well be right. But I am not sure that that is necessarily the case. It is important that we get the facts established and, I dare say, over the past 20 years a lot of partnerships and other business groups may well have become companies et cetera. I just think we need some clarification.

Senator FAULKNER—With all due respect to Senator Abetz, he may be making a valid point. I am not in a position to make a judgment about that. My point would be that I do not know that it is particularly relevant to the work of this estimates committee what happened 20 years ago. I think we are now arguing or canvassing the proportion of corporate donations to political parties 20 years ago. That is an interesting issue. As you know, I have had a longstanding interest in it and have debated it more than most—I suspect on as many occasions in the Senate as any other senator. But we ought to try to focus our attention here on the matters at hand. I think the issues that Senator Abetz and Senator Nettle are now canvassing are matters better dealt with by the JSCEM. That is my own view, for what it is worth. This is just a gentle reminder about that. Once we start talking about the pattern of electoral funding or corporate contributions to political parties 20 years ago, we are not quite on the main game.

Senator MURRAY—Just on that point of order, AEC are on the record as having supported, with submissions, the inquiry by the JSCEM into funding disclosure, which did lapse after the 2001 federal election. So I think, on the face of it, the AEC's record is one of being very supportive of all inquiries into those matters by the JSCEM. I think the real issue, Senator Nettle, is that the Senate must decide whether it is going to resuscitate that form of inquiry. I would agree with both the minister and Senator Faulkner that we would be best to get back to—

Senator FAULKNER—The government canned that inquiry, Senator Murray.

Senator MURRAY—Yes.

CHAIR—I think it lapsed.

Senator FAULKNER—No, not lapsed.

Senator Abetz—We know your love for pejorative language, Senator Faulkner.

Senator MURRAY—With the support of the Labor Party—

Senator FAULKNER—You would be wrong about that. If you checked the record, Senator Murray, you would quickly come back to apologise.

Senator Abetz—Mr Chairman, this is highly irrelevant to Senate estimates. But I do not mind when the left wing parties argue amongst themselves.

Senator FAULKNER—We are all extreme left wing political parties, do not forget, Senator Abetz, in your view. You are an extreme left winger too, Mr Chairman.

CHAIR—I do not know about that, Senator Faulkner. Senator Nettle.

Senator NETTLE—I might just clarify for the record that after the 1984 election 60 per cent of funding for political parties was publicly funded; now we have 20 per cent of funding for political parties being publicly funded. That is the clarification that you were seeking, Senator Abetz. I want to ask a question in relation to changes that have been made recently around electoral reform in Canada in attempting to put a ban on corporate donations. I realise these have only been made in the last year. Is the AEC aware of those changes? Has the AEC looked at those changes and looked at any impact as a result of those changes?

Ms Mitchell—We are aware of the changes, but we have had no time to study the changes or look at the impact yet. In terms of limiting donations, capping donations and all of that sort of thing, the AEC is largely on the record as saying that it is really up to parliament to decide. Our first recommendation in our August 2001 submission to the funding and disclosure inquiry that lapsed was that the JSCEM specify the breadth of coverage of disclosure believed necessary under the Electoral Act from which the existing legislation can be reviewed and, as necessary, redrafted. So, to a large degree, the AEC is really leaving it to the JSCEM and then parliament to determine what they want the legislation to cover and then we will administer it.

Senator NETTLE—To date you do not have comments on the capacity to implement any legislation of the style introduced in Canada last year?

Ms Mitchell—No, because we have not had a chance to assess it.

Senator NETTLE—Do you have any intention of assessing the impact of the legislation that has been introduced in Canada?

Ms Mitchell—It is a resource issue, but we do try as much as possible to keep across what is happening in Commonwealth countries that have similar systems to Australia. We try to keep in touch with New Zealand and Canada, especially given that Canada is often held up as a model for this sort of legislation.

Senator NETTLE—My next question does not relate to what we have been talking about, but it relates to whether the AEC currently operates polling booths in prison facilities around the country. I do not know to whom that question should be directed.

Mr Dacey—We run mobile polling in prisons where there is a need for that. It is really up to the prison authorities in each particular prison. We write to them all and offer them the facility, and it is up to the prison authority whether they accept that facility. Of course, being a prisoner is one of the grounds for an application for a postal vote.

Senator NETTLE—In terms of the measures that the AEC make for prisoners to have the capacity to vote, you write to prison administrators and ask whether they want the mobile facility. Are there any other measures that the AEC take to facilitate the capacity for prisoners to vote?

Mr Becker—If we did, and they applied for a postal vote, we would dispatch it like we would for any other applicant.

Mr Dacey—The main mechanism is through the facility of mobile polling, which we would run.

Senator NETTLE—Does the AEC provide any information to prisons for prisoners about their ability to enrol and to apply for postal votes?

Mr Dacey—Yes, we do. That is done through the corrective services departments in the states.

Senator NETTLE—Can I ask about provisions in relation to prisoners being able to access information around election time? You are providing information about enrolment and the capacity to vote through the mobiles. What provisions do the AEC make for how-to-vote cards being made available to prisoners? Can you let me know the status of that?

Mr Dacey—In relation to the procedures on how to vote, the AEC provides that information for on-forwarding to prisons—that is, AEC information—at election time. How-to-vote material is solely a matter for the parties. The AEC is not involved in that at all.

Senator McLUCAS—I have some questions around voter education and registration for Indigenous peoples. There used to be a program, the name of which I cannot remember.

Mr Becker—The Aboriginal and Torres Strait Islander Electoral Information Service was the program.

Senator McLUCAS—It currently does not exist?

Mr Becker—It has not been in operation for seven or eight years now.

Senator McLUCAS—Was it in 1997 that it was abolished?

Mr Becker—Yes, the funding was cut.

Senator McLUCAS—What does the AEC do now to replace that program?

Mr Becker—As part of our normal enrolment program, as best we can, we carry out quite extensive reviews of people, particularly in the communities but also within the metropolitan area. We work in conjunction with our states and we set up programs to work those through. Again, it is a funding issue. We do not have the same resources that we used to be able to apply to it.

Senator FAULKNER—What does ‘as best we can’ mean?

Mr Becker—The funding situation, as you know, has been fairly difficult over the last few years. The other issue too is the fact that, whilst we have a significant amount of quarantined funding specifically for enrolment purposes—and quite obviously that is not specified as to whether those resources should be pushed in the direction of Indigenous enrolment—

Senator FAULKNER—Anyone listening to this evidence would come to the conclusion that this is not a high priority for you at all.

Mr Becker—It is a very high priority for us.

Senator FAULKNER—With all these qualifications and vague language—‘as best we can’ and ‘funding ... has been fairly difficult’—it does not sound like it is much of a priority at all.

Mr Becker—It is a priority, notwithstanding the fact that—

Senator FAULKNER—It is a priority?

Mr Becker—It is a priority, yes. The major divisions that we are really concerned with are Kalgoorlie, Grey, Leichhardt, Maranoa and Northern Territory. We are trying to make sure those programs work well within those divisions, but it is limited by the amount of money we can throw at it.

Senator FAULKNER—How are you doing that?

Mr Becker—At this stage we are working with the states, trying to make sure that we have a program running between now and the election to get information out to those communities. We are also trying to get the coordination between the states, let us say around the Musgrave

area of Western Australia, Northern Territory and South Australia, so that we can all cooperate together to try to get people on the roll. Again, it is a resource issue.

Senator FAULKNER—You say, ‘Again, it is a resource issue.’ I say: but again you have qualified it.

Ms Davis—It might be useful to also explain that in the last 18 months we have been examining our education and our information programs. That has resulted in the decision to create a new focus under the general heading of ‘public awareness’, which has enabled us to look at some more innovative ways of sharing the funding between those two areas. We have identified particular target groups that we see, as the commissioner has said, as priority areas. Those target groups include youth, non-English-speaking background, elderly people and Indigenous people. We are embarking on a program at both a national level and a state level, where each of our AEOs are working with their divisional office staff and with state governments to see what programs they might be able to develop together.

In particular, with that group that you were talking about in Western Australia, our Western Australian AEO is working quite closely with the state electoral commission and with the education authorities over there to see how they might use that facility. The divisions in the remote areas that the commissioner was talking about before have an ongoing program of school and community visits. We are also trying to expand that program where we work together with other agencies that might have an outreach into those areas, so that we can explore the possibilities, for instance, of a one-stop shop approach.

Mr Becker—One example of what Ms Davis was just mentioning was the homeless workshop we ran in conjunction with the Victorian Electoral Commission a fortnight ago in Melbourne.

Senator FAULKNER—Were you there?

Mr Becker—Yes, I was.

Senator FAULKNER—You mentioned priorities. Where is Aboriginal and Torres Strait Islander electoral enrolment in terms of your priorities as our Electoral Commissioner?

Mr Becker—In my personal priorities, I would put that as No. 1 amongst the—

Senator FAULKNER—No, I never ask you in a personal capacity. I am talking about the commission’s priority.

Mr Becker—You just happened to kill the science of the commissions, I think.

Senator FAULKNER—You are the advocate for the commission at committees like this. Where is it in terms of the commission’s priority?

Mr Becker—I would put it up as amongst the highest we have, if not the highest. It is a major issue. It is probably the largest group that we have to concern ourselves with and, in many respects, the accessibility of people to the voters is difficult for a lot of them.

Senator FAULKNER—So there is no higher priority as far as the commission is concerned?

Mr Becker—No, but we have to address each priority. You would have say homeless people have to be a priority and non-English-speaking background has to be a priority. If you are going to list them in priority order—

Senator FAULKNER—But you said there is no higher priority than this, so I assume it is top of the tree.

Mr Becker—If it is the top of the tree, it depends what the margin is between that and the next one. This is a rhetorical argument.

Senator FAULKNER—But it is top of the tree. That is what I am trying to establish.

Mr Becker—Of course it is. It is a very serious one for us.

Senator FAULKNER—But you said that the funding has made the situation very difficult for you in being able to improve this position about Aboriginal enrolment.

Mr Becker—We had funding for that, as you know, with ATSIIEIS program.

Senator FAULKNER—I know you did.

Mr Becker—The ATSIIEIS program was a \$2 million program dedicated to one particular area.

Senator FAULKNER—It was abolished by a decision of the Howard government in its first budget.

Mr Becker—We just did not find \$2 million to replace it.

Senator ROBERT RAY—That is probably the truth. You could have found \$2 million but you were told at the time that another \$2 million would be taken off you if you found that \$2 million. That is the truth.

Mr Becker—I was not aware of that. You are obviously better informed than I am.

Senator ROBERT RAY—That is evidence in the estimates committee. I am just correcting the historical record, not you.

Senator FAULKNER—What sort of funds are you ensuring, as Electoral Commissioner, are going into this key issue—your highest priority, as you have indicated here today—of Aboriginal and Torres Strait Islander enrolment?

Mr Becker—I have not got a figure.

Senator FAULKNER—What resources?

Mr Becker—We are talking about human resources we have to put on the ground. It is just a matter of being able to fund them.

Ms Davis—At this stage it is a little too early to identify specific funding for that particular target group, although we would be expecting to have a definite plan for 2004-05 in the context of the business planning for that year. All the funding for that particular program will be spread across two outcomes in particular, perhaps even three: our enrolment programs, as the commissioner has mentioned, our election program and our outcome 3. For instance, we do things with the ATSIIE election. When we conduct our elections for ATSIIE, we have quite an extensive program for Indigenous people. That is under our outcome 2, and we could give

you specific figures for that. We will not have a clear idea of where we see that program going until the end of this financial year, because they are in revision at the moment

Senator FAULKNER—It seems to me, Commissioner, that you have not been successful in convincing government of the importance of this funding priority—your highest—or for that matter a range of others. You are always crying poor mouth to members and senators. I am not saying it is not justified, but a lot of members and senators have raised their concerns with me because of correspondence that you have sent to members and senators. Things do not seem to be going very well.

Mr Becker—There are areas where we need to do a whole lot more. Let us go back to this resourcing business again. Where we needed to say that we have done as much as we can working on central office and state head offices in terms of freeing up funds, that left us with more than 50 per cent of the infrastructure of the organisation to look at. As soon as we start looking at the divisional structure, then all of a sudden the roof falls in.

Senator FAULKNER—What do you mean by the ‘roof falls in’?

Mr Becker—There is the self-interest of members, the self-interest of our staff and the fact that we have tremendous variations in terms of enrolment activity within divisions but we still insist that we should have three members per division. We have monstrous variations in the size of electorates. You have Kalgoorlie, which is 10,000 times the size of Wentworth.

Senator FAULKNER—Ten thousand times the size of Wentworth! You mean there are 10,000 more people enrolled?

Mr Becker—We are talking about geographic size. Where are they? That is the problem with Kalgoorlie. Tim Maher, the divisional returning officer, needs six people; he does not need three people. Perhaps Tony Anderson up in Leichhardt needs five or six people so he can get up to the Torres Strait more often than he is able to now. These are the issues that as soon as we try and say, ‘We think there is a better way of looking at things,’ we suddenly find there is a rearguard action fought from the divisional structure. You may recall—I cannot remember if you were the minister at the time, Senator—that in 1988 we had a report entitled *Is this where I pay the electricity bill?*, which talked about regionalising and making better use of resources. The government’s response to that was: no action to be taken at this stage.

Senator ROBERT RAY—No, it was not, actually; Franklin and Denison were the pilot scheme, were they not?

Mr Becker—Franklin and Denison?

Senator ROBERT RAY—You said nothing happened. In 1988 the first pilot scheme tested was Franklin and Denison.

Mr Becker—Franklin and Denison have been co-located for as long as I can remember, and certainly since 1979. So it was nothing to do with Denison and Franklin.

Senator ROBERT RAY—I thought it was 1988 that they became co-located.

Mr Becker—No. They were co-located probably over 30 years ago.

Senator ROBERT RAY—Are you sure about that?

Mr Becker—The first time I went down there was in 1979, and they were co-located then.

Senator ROBERT RAY—So you are saying that all these problems really derive from the fact that you are hamstrung in reforming the divisional structure?

Mr Becker—Not all these problems—I am just saying that we could address these problems more appropriately if we positioned the resources where the difficulties are. The difficulties in places like Kalgoorlie are in the fact that we have all these people scattered over an enormous terrain and they are very difficult to get to. We have mobile polling teams that go out who are unaware when law business may be happening and so on. If we had better intelligence we would have the opportunity of following these people around. We turned up at Mulga Queen last year, and there were only two women who were actually on the roll and able to vote at that community. All the men were off on law business, and all the other women were dragging a truck out of a creek. I know that sort of thing is always going to happen, but we should know those things. The only way we are going to know is by having the intelligence.

Senator ROBERT RAY—Death by anecdotes. You went very quickly through a number of reasons why you cannot reform the divisional structure, but let us dissect them: you said the self-interest of members of parliament. How does that affect you? I am self-interested in electoral boundaries but I cannot influence your behaviour.

Mr Becker—When you spoke to the report, when you tabled the report—

Senator ROBERT RAY—Do not refer back to me all the time; you are the witness.

Mr Becker—I am not putting it back to you all the time. I have not put it back to you at all.

Senator ROBERT RAY—That is twice in about five minutes. You are the witness and I have asked you a question. I want an answer.

Mr Becker—The self-interest of members is one of the major issues recognised by various JSCs over the period time and reported within the proximity—

Senator ROBERT RAY—I am not challenging that. I am asking you to explain how they influence you. I am not challenging that assertion you have made; I am asking how can the self-interest of House of Representatives members—can we dismiss senators for the sake of this argument?

Mr Becker—Yes.

Senator ROBERT RAY—Generally, our self-interest is not at stake, or there is no perceived self-interest. Even if members of parliament see they have a self-interest in keeping the divisional structure, how does that affect your behaviour? That is what I am asking. You are an independent commission.

Mr Becker—As you know, the committee of which you are a member made a recommendation that we stop amalgamations and co-locations of divisional offices. With all due respect, when the parliament has the opportunity to legislate to prevent that—and that is a possibility—it would be imprudent for us to continue with that particular approach. Consequently, as of two or three months ago, we stopped co-locating divisional offices.

Senator ROBERT RAY—On the sole basis of the view of a joint parliamentary committee?

Mr Becker—And, of course, the wish of the government at the time.

Senator ROBERT RAY—I see. Which was expressed to you first: the committee report and view on this or the view of the government?

Mr Becker—Probably the view of government was expressed first, yes.

Senator ROBERT RAY—Yes.

Mr Becker—Over 12 months ago.

Senator ROBERT RAY—And in that intervening period between the view properly expressed by the government—I think the government probably has a right to put views to you, because they fund you; you do not have to accept them—did you make an actual decision to cease divisional restructure after hearing from the government but before the committee report?

Mr Becker—No.

Senator ROBERT RAY—What are the relevant dates?

Mr Becker—The relevant date is the date of the submission of the committee.

Senator ROBERT RAY—I am asking you to tell me the relevant dates so that I can test that. I am asking when the government wrote to you, when the committee reported on this matter and when you made a formal decision?

Mr Becker—We will have to take that on notice.

Senator ROBERT RAY—Not anecdotal enough?

Mr Becker—The committee reported. The day that it was tabled you spoke to the report.

Senator ROBERT RAY—Yes, I know that.

Mr Becker—I do not know the date either, so all I am saying is that—

Senator ROBERT RAY—I am trying to test when you made the decision and the commitment not to proceed with the divisional restructure. I am trying to test that because you have now given us three reasons. One was the self-interest of members of parliament—which I would argue, and I would not accept; maybe it was reflected in the joint select committee's report—and there was the view of government. I am not so sure you have not responded and given government an indication that you were not going to proceed with the divisional restructure before the parliamentary report was tabled. That is what I want to know. Is that true? Did you give government an indication you would not proceed—

Mr Becker—No, that is not true. I am trying to—

Senator ROBERT RAY—If it is not true, it is not true.

Mr Becker—That is not true; we did not. The ministerial briefing was on 16 October. The full commission made a decision on 13 October and I cannot remember the date of the tabling of the report of the JSC.

Mr Dacey—It was prior to that date, as far as I am aware.

Senator ROBERT RAY—Just go back to 13 October.

Mr Dacey—A three-person commission made a decision on the 13th—

Senator ROBERT RAY—No. You are going on decisions. My question was: when did you indicate to government that you would not proceed?

Mr Becker—On 16 October, according to the minister.

Senator ROBERT RAY—Not before then?

Mr Becker—No.

Senator Abetz—I was just the messenger.

Senator ROBERT RAY—I understand that.

Senator Abetz—Very wise.

Senator FAULKNER—On this occasion, very wise.

Ms Davis—Just to clarify: on 16 October my records indicate that there was a briefing to the Special Minister of State advising of the commission's discussion about the matter after the JSC recommendation had been published and advising of their decision in relation to future intentions on co-locations.

Senator ROBERT RAY—What I am asking is this: the government conveys its view to the commission via correspondence. I think there may even have been two lots, but I cannot quite recall now. I am not sure whether the correspondence was ever tabled.

Mr Becker—I do not know. We certainly had a heap of correspondence, and before the committee came down with its report.

Senator ROBERT RAY—Can you repeat that?

Mr Becker—We had correspondence from the government before the committee came down with the report.

Senator ROBERT RAY—Clearly. We are going through the three reasons why you have not proceeded with divisional restructuring. There was the self-interest of local members of parliament—but they cannot influence you, so we can put that aside. So you are basically saying that it is because government indicated to you that you should not proceed and that was a view also reflected in the joint select committee. Were you ever threatened with legislation if you did not comply?

Mr Becker—Certainly not. It has been raised that legislation could happen.

Senator ROBERT RAY—When was that raised? This was in discussions rather than correspondence, was it?

Mr Becker—It could have been at any stage. I do not know whether any file notes were made of those discussions. Whether that was going to be an issue or not was something that would come to bear at some future date, particularly as the committee was—

Senator ROBERT RAY—Of course it could come to bear. I was asking you whether it was ever brought to bear in your decision making. Before you made the decision on 16 October, were you aware that the government may have intended to legislate on this matter?

Mr Becker—To the point that I understood at least the minister's view on this issue—that he was under a lot of pressure from members of parliament. I had had discussions with a couple of members of parliament whose divisions were to be co-located.

Senator ROBERT RAY—Who were they?

Mr Becker—Minister Ruddock and Minister Abbott. The Australian Electoral Office in various states, of course, had numerous other discussions with local members, and had pretty strong reactions.

Senator ROBERT RAY—Who initiated those discussions? Did these two ministers apply to come and see you?

Mr Becker—No. I think I approached Mr Ruddock for some time and the AEO in New South Wales and I approached Mr Abbott for some time.

Senator ROBERT RAY—So Mr Ruddock gets approached about these matters and Mr Abbott gets approached. How many other members have you initiated an approach to?

Mr Becker—I have not.

Senator ROBERT RAY—Just the ministers.

Mr Becker—No—

Mr Dacey—In terms of writing to members affected where we were proposing to co-locate—

Senator ROBERT RAY—No, not writing. Of course you wrote to them.

Mr Dacey—All were written to and asked if they wished to discuss it any further.

Senator ROBERT RAY—I am talking about access here. I am asking when you took the initiative. Of course you would have written to people.

Mr Becker—The AEO took the initiative in quite a number of areas. There were 41 co-locations—

Senator ROBERT RAY—I am just seeking who gets access to you. We know two ministers did. I am wondering about the other self-interested members of parliament and whether you had meetings with those before the proposed co-location.

Mr Becker—I did not, no.

Senator FAULKNER—So you can say in relation to proposed co-locations or amalgamations that the only two members of the House of Representatives you have had discussions with directly are Mr Abbott and Mr Ruddock.

Mr Becker—That is right.

Senator FAULKNER—Thank you.

Senator ROBERT RAY—We are actually diverting from where Senator Faulkner was taking us. What do you quantify as the potential savings if you were given, firstly, a free hand to co-locate or, secondly, to amalgamate or fully integrate divisional returning officers? Have you got those costings?

Mr Becker—I do not think we have reasonable costings on that, because another pertinent issue here is what sorts of efficiencies the intelligent character recognition trial that we are running at the moment can deliver and the resources that that would free up—which would be, say, having regional enrolment centres around the country rather than having them specifically in each division—to enable the sorts of things that we would like to see happen in divisions occur.

Senator ROBERT RAY—I would have thought you had done some calculations.

Mr Becker—For a start, there is the \$20,000 cost of running a pipe to carry your IT lines into each office. If you halved the number of divisions, that would be \$1.5 million a year.

Senator ROBERT RAY—I am sure there would be savings in newspapers and a whole range of things. I am asking: have you done the calculation?

Mr Becker—No, we have not.

Senator ROBERT RAY—Why not?

Mr Becker—As I just said—

Senator ROBERT RAY—If I were the minister sitting next to you and you came up with a proposal to alienate half my colleagues for some reason to co-locate—

Senator Abetz—Is that all.

Senator FAULKNER—You do not mind alienating members of the Liberal Party.

Senator ROBERT RAY—You only have to stop alienating one.

Senator Abetz—I try not to.

Senator FAULKNER—That may be a good answer.

Senator ROBERT RAY—I do not mean to personalise this to Senator Abetz, but I am sure that he as minister would like to know what the savings are when you come up with a proposal to restructure the divisional structure. Are you seriously telling me that you did not do some global calculations on potential savings? These are not necessarily deliverables and they may have a variety of assumptions and different end points, but surely you did that.

Ms Davis—We have over time done fairly generic or, as you said, global calculations.

Senator ROBERT RAY—Can I interrupt you there? Could you send Mr Becker a copy of that at some stage?

Ms Davis—We have done those calculations in the context of looking at alternative ways of finding savings within the commission. Over the years in the commission, under various chief executives, the identification has been that significant savings would be reached by addressing our geographically dispersed organisation. So there are calculations around. We do not have them here with us at the moment, but the potential savings are to be found in the main from property and IT. For instance, every reduction in office would generate at least \$20,000 in IT savings. Potentially there would be economies of scale through other resources—for instance, sharing our casual staffing work force and equipment—but we do not have those figures here with us at the moment.

Senator ROBERT RAY—Fine. I did not actually ask for all of that, but that is helpful for the committee. When was the last lot of calculations done?

Ms Davis—I think we would have done some very broad calculations of our most recent examination of the way the AEC are using their resources in the context of the resourcing review. That resourcing review has been going on for some time, so the last calculations may have been done early 2003.

Senator FAULKNER—Were they provided to the minister?

Ms Davis—I am not aware if the minister has—

Senator FAULKNER—Were they just provided to the commissioner? What did you do with them—

Ms Davis—These calculations have been done in consultation with the review, which we have done with the Department of Finance and Administration.

Senator ROBERT RAY—Dr Watt, you are doing a review with the AEC. I know you do not have any responsibility in a direct sense for the AEC, but in that sense you do. Have you looked at their potential savings figures in the context of the review you are doing with the AEC?

Dr Watt—Have I looked at them? No.

Senator ROBERT RAY—I am regarding you as DOFA—the royal ‘you’.

Dr Watt—Have I looked at them? No. Was there some discussion of possible savings? Yes, I believe that did take place in the context of the review. How significant those savings were, I do not know.

Senator ROBERT RAY—I am wondering whether DOFA would have said that they actually require a little more certainty than the rather vague, ‘We might save on IT; we might save there’—some sort of figure to say what might be saved so you can look at the overall context of what extra finance the AEC may need to get it through the next few years.

Dr Watt—If that particular savings option was to be developed, of course we would want some very hard estimates of any savings that might be around but, as the issue is not being pursued, we would not be pursuing that sort of quality of estimate.

Senator ROBERT RAY—Mr Becker, what I would have like to have seen here was you say you would like some more resources—wouldn’t we all, but I accept that—to do these tasks. What I was trying to do was match those desires to your potential savings. We cannot do that, because you cannot actually quantify your potential savings. You introduced the divisional returning officer restructure as one of the reasons that you are hamstrung in terms of generating the savings. I am trying to establish what the level of savings is, what your aspirations for expenditure are and what the differential would be at the end of the day if the government and the parliament were to accede to a divisional restructure.

Mr Becker—I am on record as saying that I was not going to be chasing a divisional restructure three years ago. That was before we got into the situation where we had nowhere else to look to find the funds. The fact of the matter is that there was not going to be any wholesale restructuring of the AEC. That was very definitely not on, and it certainly was not

going to be on without further examination. We were also faced with a need to look at the resources that the AEC had, initially in response to a government request. Subsequently we worked with the Department of Finance and Administration to try to ascertain exactly what the resourcing needs of the agency were. During the course of that combined investigation various options were costed, but they were not in the final report that actually went to government because at that stage we were saying we were not going to proceed any further with the restructuring of the divisional office. These are not just issues of economics; these are issues of what is appropriate for the AEC. It goes back to probably the Scott report in 1974 as to how this place should have been run. We are the only country in the world that has a divisional structure.

Senator ROBERT RAY—You can proselytise on that elsewhere. I am looking to try to quantify the savings. All that is interesting, and you may not get a lot of disagreements from me.

Mr Becker—We had a couple of options and we had a few million dollars savings.

Senator ROBERT RAY—How many million? I am trying to establish how many million you think you would save if you had your dream restructuring—you got everything you wanted, and we will even wash out the initial restructure costs. What are the ongoing savings in the out years?

Mr Becker—We cannot tell you that exactly because we do not have the outcome of the—

Senator ROBERT RAY—No, you can't even tell me roughly. That is the problem.

Ms Davis—Perhaps it would be helpful if we talk about our initial strategic property plan that was devised about 18 months ago. That was looking at potential savings of \$5 million over four years. Our regional strategic property plan included some co-locations.

Ms Nelson—Ballpark figures from the calculations that we were talking about before, including changes to both the divisional office structure and head office structures and the introduction of OCR type technology, were around \$12 million. But that was over a number of years.

Senator ROBERT RAY—We are about to have a caffeine break, but I take it that if you were willing to sit down and resolve these issues with two ministers, other backbenchers should feel free to have that discussion? If the proposal on division restructure gets reraised, you would be happy to see them?

Mr Becker—I am happy to talk to anybody. In fact, it was originally planned that I would talk to all members, where possible. Unfortunately, that just fell in a hole because it was not organised, but that would have been an appropriate way of doing it. Mind you, I still think there were deaf ears amongst the members during the discussions that happened within the states with the AEOs. That is one of the issues that we have. People, naturally, do not want to change the things that got them elected. If they are happy with that arrangement, they do not want to change it and it is understandable.

Senator FAULKNER—It strikes me—and I am sure you would agree—and I believe every member of the committee would agree—that one of the cornerstones of any democracy is the need for us to have a fiercely independent electoral commission. It is absolutely

fundamental. But listening to this sort of evidence, one comes to the conclusion that there is quite a serious breakdown between the AEC and government or perhaps the AEC and the responsible minister. Would you care to make any comment about that?

Mr Becker—I do not think there is a breakdown at all. I am just saying that we have a different view about how the place should operate. The concern of the government is that if you remove people from the ground you will not get the same coverage that you would otherwise get. We have pretty well said that that would be saying that the Denison-Franklin-Bass-Lyons co-locations have not been effective in maintaining the rolls when in fact they have. Even the H.S. Chapman Society has always argued in favour of doorknocks as opposed to—

Senator FAULKNER—But that has nothing to do with my question, which I think is very important.

Mr Becker—It has. Two major reports have said that we have a roll with all the co-locations that we have had for many years, which is a roll that we can rely upon. The ONA has said that. The JSC made some recommendations and we are still working on some of those, too. But we are reliable on that. But people have feelings—for example, members are saying, ‘I don’t care if you co-locate but co-locate in my division.’ This is where the issue is. It is like the reverse of a nimby system. So therein lies part of our dilemma. People are not disagreeing with co-location; they are saying, ‘Just don’t take it out of my electorate.’

Senator FAULKNER—How would you describe AEC relations with government as of 17 February 2004?

Mr Becker—Fine. We have stopped co-locating because—

Senator FAULKNER—Oh, God!

Mr Becker—I have no argument with government at the present time or the full commission. It was the full commission that made that decision. It is a commission power, not a commissioner power.

Senator FAULKNER—It is hard work.

Senator ROBERT RAY—You mentioned the 1988 proposal for amalgamation and you said that I was minister at the time—not for the whole year, I was not. Will you take the question on notice as to when the report was forwarded to a minister?

Mr Becker—When the report—

Senator ROBERT RAY—What was the date on which it was forwarded to the minister? I think you implied that I took no action on it. I left the portfolio before—

Mr Becker—I did not imply that you took no action on it. I was saying that the government response was, ‘No further consideration.’

Senator ROBERT RAY—You are not saying that I said that?

Mr Becker—That was in October 1988.

Senator ROBERT RAY—Just for the record, in case there is an implication there, I became immigration minister on 3 October 1988.

Mr Becker—It could have been you; it could have been Stewart West. I do not know what date you became minister.

Senator Abetz—You are very sensitive about your reputation.

Senator ROBERT RAY—I thought it was a cheap shot, so I thought I would correct the record.

Proceedings suspended from 10.39 a.m. to 10.58 a.m.

CHAIR—Senator McLucas, you had the call before the break but, before that, Mr Dacey has to clarify several issues.

Mr Dacey—In relation to an answer I gave to Senator Nettle regarding the provision of how-to-vote material for prisoners, I did forget that there has been an amendment to the Electoral Act. In fact, an electoral visitor—who is one of our staff conducting the mobile polling—who visits a prison may, at the request of the elector confined in the prison, give the elector literature, including how-to-vote cards, if those how-to-vote cards have been made available by the parties to our electoral visitor. I just wanted to clarify that. The second thing was that Senator Faulkner asked if Mr Hugh Morgan was listed as a director of the Cormack Foundation. The answer is yes.

Senator McLUCAS—Can I ask, on notice, for a list of the prisons where mobile polling occurs, please?

Mr Dacey—Certainly. Is that for the last election?

Senator McLUCAS—Yes. I now want to go back to the questions about Indigenous voter registration and education programs. I am a little bit concerned about the vagueness of the response: ‘We’re working towards it. It’s too early to say. We’re working with the states’. The most practical thing I think you said was that there were school and community visits. What I need to know is what is actually happening in those divisions that have high Indigenous populations. What is the program that is being operated to ensure people are enrolled and ensure voter education programs are being conducted? Mr Becker, you identified that Aboriginal people, by and large, are in remote places and they are hard to access and all those sorts of difficulties. I need to know what you are doing in order to ensure people are on the roll and are being informed about their democratic rights.

Mr Dacey—Perhaps we should take that on notice so that we can give you the actual specific programs that have been developed for each of those divisions.

Senator McLUCAS—Do those divisions get extra funding in order to complete that work?

Mr Dacey—It is seen as a total. We do not isolate it and say that it is Indigenous work; we might call it remoteness or whatever. Because of the actual makeup and conditions in their division, they would get additional funding compared to a straightforward metropolitan division. They may get more casual assistance; they may get more travel funds because they have to go out, or whatever. The enrolments of each of those divisions would have a program developed for their strategy for the next 12 months, and they will be currently developing strategies as well for the election. At election time we specifically employ people in the community to assist us with that electoral education.

Senator McLUCAS—At election time?

Mr Dacey—In the lead-up to election time. As best as we can guess the election date, we usually start about three months before when we think that the election might be. So we will be gearing up for that as well shortly.

Senator McLUCAS—Can you explain how you employ people?

Mr Dacey—It is through community assistance.

Senator McLUCAS—How does that happen?

Mr Hallett—As Mr Dacey was explaining, before the recent ATSIIC poll and before the last federal election—and also before the next federal election—we ran a community information program which endeavoured to use local people as far as possible—people who are known by their communities and people who, where appropriate, speak the relevant language. We train those people and they will have two functions: (1) to seek enrolments and (2) to provide information about the enrolment and voting process. We will produce materials to help them with that function.

Senator McLUCAS—How many of those community liaison people would be employed in each of the areas with high Indigenous populations?

Mr Hallett—I would have to take that on notice. It does depend on the nature of the division. As Mr Becker has already mentioned, a division such as Kalgoorlie, or the current Northern Territory, is quite different to some other divisions. But I can provide the figures that we used at, for example, the last ATSIIC election on notice.

Senator McLUCAS—They are employed in the lead-up to the election. Can I also get an indication of their travel budget?

Mr Hallett—I will take that on notice, certainly. I can provide a breakdown of the figures that we used at the last ATSIIC poll as a guideline.

Senator McLUCAS—I am interested in why you keep talking about the ATSIIC poll. That is an electoral event.

Mr Hallett—That was the most recent event. Probably by way of clarification, we use the funds from the particular event to fund this activity. For example, prior to the 2001 election we used election funds to fund the program then. Prior to the ATSIIC election, we used funds from that event to fund this program, and we will do so for the forthcoming election as well.

Senator McLUCAS—What I need to be very clear about, what I am looking for, is that I do not want the costs of doing the mobile polling—

Mr Hallett—No, that is quite separate.

Senator McLUCAS—because that is a completely separate item.

Mr Hallett—This is a program specifically designed to get enrolment cards and to provide information and public awareness to local communities. As you would be well aware, often these communities are away from other mainstream means that we can use. I think Mr Becker mentioned earlier that there are a number of divisions such as Grey, Kalgoorlie, Leichhardt, Northern Territory and so on, where the divisional returning officer, in addition to this

program we have just spoken about, also is responsible for conducting a school and community visits program. Every divisional returning officer right across Australia has that responsibility, and we are funded under output 3 to do that. But of course in those particular divisions with high Indigenous populations, as well as visiting local schools, for example, the divisional returning officer will also endeavour to visit communities and other relevant organisations to provide public awareness.

Senator McLUCAS—I am interested that you talk about school visits, because there are very few secondary schools in these places. Most of the children actually do not go to secondary school in their division.

Mr Hallett—The output is school and community visits, and that is the name of the program. It does have the word ‘school’ in it but it is also community and, where appropriate, we visit community organisations. Ms Davis mentioned earlier that we are in the process of refocusing our electoral education program. As she mentioned, we have identified Indigenous electors as a key target group. Currently, every Australian electoral officer is developing a state plan to sit underneath a national strategy that has been finalised to implement that. That will have details for the relevant state or territory as to how their divisional returning officers will carry out this program.

Senator McLUCAS—Mr Dacey, you said you would be able to provide this information on notice. Will that go to the detail of how many school and community visits have been undertaken in each of these particular electorates? What sort of detail will I get?

Mr Dacey—We keep detailed statistics available.

Mr Hallett—Yes, we do keep detailed statistics, and they can be provided in the answer on notice.

Senator McLUCAS—Will you be able to identify the funds that are allocated to each of these electorates—over and above what is being provided in a standard form to most, I imagine?

Mr Hallett—That may be a little bit more difficult because we have a budget for the program and then each Australian electoral officer bids for funds to run the program in his or her state or territory. But to the best of our ability we will attempt to provide you with a meaningful breakdown.

Senator McLUCAS—I will look forward to it.

Mr Dacey—Would you be comfortable with that information on the divisions that Mr Becker mentioned before? They were Kalgoorlie, Grey and Northern Territory.

Senator McLUCAS—With the inclusion of Kennedy, I think, from what Mr Becker said, and Maranoa. In Queensland I would need Leichhardt, Kennedy and Maranoa. In other states I think Mr Becker had it correct.

Mr Hallett—I should also add that in the breakdown some of the costs are for materials that are centrally produced, so we will not try to attribute those to each division. They are things like posters and other materials.

Senator McLUCAS—It is expensive to get people out there, and I want to know how much money you are spending in getting people out there.

Mr Becker—Once we have got people out there we have to confirm that people are there, not just to get enrolment cards. So we might pick up five enrolment cards but find that there are 200 people that we have actually got on the roll correctly enrolled. So it is an audit as well as an enrolment exercise.

Senator McLUCAS—Have you done any analysis of the state of the roll for Indigenous voters?

Mr Dacey—That is difficult. There is anecdotal information that you hear and read, but it is very difficult because the individuals are not identified on the roll as Indigenous voters, so you do not know how many are not on the roll. That is the difficulty.

Senator McLUCAS—But we know where most Indigenous people—especially remote Indigenous people—live. Has there been any work in comparing, let us say, the quality of the roll of Cape York Peninsula and that of the city of Cairns?

Mr Becker—We know where their home bases are, but we are not too sure that they are always there. In fact, they are quite often not there, because they are very mobile around the communities. If you look at the north-west of South Australia you have probably got seven or eight communities in a relatively small area. There is a lot of movement of people within those communities, but they are all on the same roll. So whether they are actually in Indulkana, Mimili, Amata, Ernabella or Pitjantjatjara does not matter so much as long as they are on that roll.

Senator McLUCAS—That is what I am asking: do we know that Indigenous people are on the roll?

Mr Becker—That is one of the things we are trying to do. The exercise I always use as an example was conducted in Kalgoorlie late last year, where we found that about 200 people were correctly enrolled and we got about five enrolment forms. If you look at it on the cost of putting people in the field to get five enrolment forms, it is frightfully expensive. If you look at it on the fact that we confirmed that 200 people are there then it is a far more reasonable proposition.

Senator McLUCAS—Finally, the AEC used to use a system of writing to the voter at whatever address to confirm people were on the roll. I do remember that it was undertaken at some stage to write to people in Indigenous communities, and of course that is not a very effective method of confirming enrolment. Do you still undertake that sort of activity?

Mr Becker—The best method is still working through the community.

Mr Dacey—We still do write to electors. In Indigenous communities the main method we use is to send people out with an actual listing of all the people in the community that we have prepared from our files, and check with the community whether these people are still there or whether they have moved on and check for people who are not enrolled. We are certainly aware that there is not a lot of value in writing to Indigenous communities, particularly in remote areas.

Senator McLUCAS—Thank you. I look forward to that information on notice.

Mr Dacey—I would like to clarify one more thing. When we were speaking earlier, Senator Ray and Mr Becker were talking in relation to when the commission's decision not to proceed with co-locations and amalgamations any further at this stage was made. A brief was sent to the minister on 16 October advising the minister of that decision, and on the same day a letter was sent to Senator Faulkner advising him of that decision. The joint standing committee report was tabled on 26 June.

CHAIR—Thank you very much.

Senator MURRAY—Mr Becker, the funding and disclosure reports that the AEC has produced—I think there have been two of them. Is there a plan to produce another report?

Mr Becker—We have no plan at this stage to produce a report, other than as a consequence of—

Ms Mitchell—Under section 17 of the Electoral Act we are required to report on the operation of part 20 of the act after each federal election. That report is still in preparation. I am hoping that it will not be too much further away.

Senator MURRAY—I ask you deliberately because this year is likely to be a legislative year in your field—it always is, the year of an election—and we would be well informed by such a report in the consideration of any legislation. Do you have a more definite time than a hope and a wish?

Ms Mitchell—By the end of the financial year is my target.

Senator MURRAY—That is too late for the legislative process.

Ms Mitchell—Yes, it is. However, what I can say is that whilst there may be new variations, they are in the same theme. A lot of the material that is planned to go in this report will be reiterating recommendations that we have made before and that are along the same sort of basic themes that we have covered before. If anybody was minded to think about the legislative program for this first half of the year, the recommendations of the AEC that are currently on the record will cover a lot of the issues that are planned for discussion in this report anyway.

Senator MURRAY—As you well know, the issues of funding disclosure are not just a hot political item in Australia but in all democracies. Do you plan to do any international comparisons of where the legislative movement has been in key comparative democracies? Canada springs to mind, and the United States, Great Britain and perhaps New Zealand.

Ms Mitchell—It is certainly something that I would like to do, Senator, but at the moment that is very much a wish list thing because there are other things that I need to get done first.

Senator MURRAY—You said earlier that you were aware of those events. Is the commission aware of them from a basis of just general reading and being interested professionally in the area, or is there a formal basis on which you are informed of legislative trends and movements overseas in that area?

Ms Mitchell—We do get the Cogill reports that come out occasionally, but it is more actually just a matter of trying to keep ourselves informed rather than formal notification coming from other jurisdictions.

Mr Dacey—We are on the mailing list with a lot of other electoral management bodies internationally and, when newsletters, reports or advice concerning new procedures are automatically distributed through that system, we get advice in that way as well.

Ms Davis—We have recently built up our research capability, which is not in the same area as the funding and disclosure, but we do seek to dedicate them to some priority tasks. Obviously, in this particular year studies like that will go on their list in order to assist the funding and disclosure area.

Senator MURRAY—If a proposal is made in the parliament to draw on international experience, I assume you have the ability to test any legislative proposal of that sort with your international counterparts.

Mr Becker—Certainly with the Commonwealth countries. The US, of course, are very different. They have ethics commissioners which are totally removed from the electoral side of things, and they monitor the disclosure and donations to political parties.

Senator MURRAY—Let me give a practical example. If, for example, there were to be a proposal before the parliament to ban outright any donations which are foreign sourced unless they are from an individual who is on the Australian electoral roll, you would be able to test whether similar provisions in other countries have worked.

Mr Dacey—Our networks are such that we could certainly get that information.

Senator Abetz—That would knock the Greens around a bit.

Senator MURRAY—It might, yes.

Senator BRANDIS—Would that have prevented the receipt of a donation from the Iraqi Ba'athist Party by the Australian Labor Party in 1975 if Senator Murray's suggestion were adopted?

Senator MURRAY—Or a famous Swedish foundation, which I recall making donations.

Senator ROBERT RAY—It was not a donation; it was a loan akin to Greenfields, so it is shame on both of us.

Senator Abetz—That is relativism at its worst.

Senator ROBERT RAY—I am on the public record as admitting shame over the 1975 things, pleading guilty and being totally distraught about it, so it is consistent.

Senator Abetz—It is just a pity Gough cannot.

CHAIR—Senator Murray has the call.

Senator MURRAY—To return to the question, if a request were put to you to contact your counterparts with respect to a specific proposal such as that, is such an exercise a difficult thing for you to fulfil? Does it take up a lot of resources?

Mr Becker—No, it would not be, Senator. It would be quite straightforward. In fact, I am sure most of their web sites would probably give us a fair indication of what the situation is.

Senator MURRAY—Is it a service you would be willing to fulfil for parliament or its committees if it did not come through the government?

Mr Becker—Certainly.

Senator MURRAY—Moving back to your six investigations, once again I am reminded that the outcome of those inform a view as to what reforms might be necessary, because, as Ms Mitchell clearly indicated, as fast as you fill one hole, the clever accountants and lawyers find another hole that they can exploit somewhere else. With specific respect to one of those inquiries into Australians for Honest Politics, in the November estimates the evidence you gave us was that you hoped to complete your inquiries by February and that you would report back to us by then. Your evidence today is that you are not able to do so because those inquiries are still underway. However, if we are to be able to deal with these matters in the context of electoral reform when electoral bills are before us, can you give us any indication—without holding you to it, because I clearly understand the operational difficulties—of how much longer the different inquiries are likely to take? If we can start with Australians for Honest Politics.

Ms Mitchell—It is problematic because when you open a door you can potentially find several more doors to be opened after that. I guess that is the best analogy that I can give. When you receive a piece of information it might mean that there are several more strands of the inquiry to follow. So it is problematic to actually try to give an end date. In general terms, potentially some of the six are further along the road to completion than some of the others are. I can only really say in general terms that my next target is obviously May estimates. Potentially a couple of the issues might be finalised by the end of the month, but when you are actually waiting for information to come back it is hard to actually say that is going to be the end of the matter when you get that information because it may well raise other issues. I would really only be guessing if I were to say—

Senator MURRAY—Let me sort of prise the question open if I can. There are a number of discrete issues in any of these investigations and some of them do not necessarily result in wrongdoing. Again using Australians for Honest Politics as an example, my first interest is in knowing who disclosed to that fund. There may be no wrongdoing whatsoever in them doing so, but the fact is that the donors are not known—only two have been publicly outed or have outed themselves. Is it not possible for you in the progression of these matters to release such information as concludes a particular element? For instance, if disclosure should have been made and was not but there is no wrongdoing attached to it—it was just either an oversight or a misunderstanding of the law—would you be able to indicate who the donors were in a particular investigation?

Ms Mitchell—The first issue with Australians for Honest Politics as an example is whether or not it is an associated entity. It may well be that, once we have come to a conclusion on that aspect of this issue, we could say it is or it is not an associated entity. But that is our first issue. It is not appropriate for us to disclose any other information until we have actually determined whether the organisation is an associated entity. We are not at the stage where we have got sufficient data to be able to come to that conclusion, so that is basically where that particular issue is at.

Senator MURRAY—Let me take you through those three component parts. It seems to me that you might come to this conclusion, and it is hypothetical. The Australians for Honest Politics is an associated entity—conclusion No. 1. Therefore, the donors should have been

disclosed, and they are now disclosed—conclusion No. 2. The third item might be: was there any improper behaviour or any action that was contrary to the law? And the conclusion might be no. What we have achieved through that is transparent disclosure but without a legal penalty. Is it not possible to do those three steps?

Ms Mitchell—There is certainly a possibility of issuing advice when we have come to a conclusion about whether the organisation is an associated entity. In relation to the other two issues, it is problematic. Donors are required to put in a donor return when they have given money to a political party—not to an associated entity necessarily unless the intention of that donation to an associated entity was to benefit a political party. So you may not necessarily see donor returns from people who have given money to an associated entity. You will see in the associated entity return who they list as having received individual amounts from of \$1,500 or more, but the level of disclosure that you are actually going to get in terms of the legislation can only be in accordance with the legislation. As to whether there was any wrongdoing, again we could only talk about that in terms of whether there was a potential offence under the Electoral Act. We would have to be careful about making pronouncements on those sorts of things, because there is an appropriateness that we have to think about.

Senator MURRAY—I understand that. You heard in the earlier questioning an interest in the way in which you will communicate your findings on the web site. Let us assume you found they were not an associated entity but you felt that in arriving at the conclusion you were constrained by the law, by the way in which the legislation is framed, and that it was a lineball decision and that more clarity in the legislation would give you greater ability to make a determination. These are the sorts of questions that come before the parliament in many fields. The associated entity definition is problematic, so it may well need to be addressed in this current round, particularly given that in an election year the level of the nation's source is much greater than any other year. In any findings in any of these six investigations about associated entities will you be able to draw some conclusions and give some guidance to the government, the parliament, the JCSEM and the public through your web site as to any deficiencies you might see in the way in which the associated entity definition is constructed?

Ms Mitchell—I was thinking that, as I was describing before, in advising our decisions we would try and give some background as to why we had come to those conclusions. I would think that would be the sort of issue that we would cover off in giving the background to the conclusion that we had come to. In giving a reason why we had decided that XYZ company was not an associated entity, to give the necessary information that people are expecting from the AEC that would have to be not just a simple statement of, 'We have determined that XYZ company is not an associated entity,' but a little bit of information as to why we had determined that it was not an associated entity. It might well include things such as the definition of associated entity does not cover those sorts of circumstances and these are the reasons why.

Senator MURRAY—You are very clearly getting the point. We are informed in our process in all sorts of areas by judicial review, tribunal review, Administrative Appeals Tribunal discussion or coroner's reports. In the case of most AEC investigations, it stops with you. That is the end of it. Unless we are informed as to what the deficiencies are or the

structural problems you experience, we as legislators are unable to advance it as well as we might.

Ms Mitchell—I realise that, although I think that we do try and cover it off in submissions to the joint standing committee and also in our post-election reports. Yes, I understand the point that it is unfortunate that the current report is not available. For instance, we have also discussed the Greenfields Foundation issue and the issues with legislation in relation to that in one of our post-election reports.

Senator MURRAY—The next issue I want to deal with is the disclosure of donors. Mr Becker, in February 2002 you and I had an exchange about returns from the 500 Club. I indicated then that there was a marked contrast between the 500 Club in Victoria, which was disclosing fully, and the 500 Club in Western Australia, which was not. It received \$1.3 million plus and they disclosed three receipts above \$1,500. The request was for the commission to examine that to see whether donors who should have disclosed had failed to do so. There was a clear contrast between similar organisations—one doing what I thought was the right thing and the other not. I do not have it before me, but I have skimmed the web site and I notice that, yet again, the 500 Club in WA has contributed many hundreds of thousands of dollars to a couple of political parties and once again the disclosure of individual donors to that club is very sparse and lean. What kind of formal advice, because it was specifically raised at an estimates committee, was given to the 500 Club in WA and why would it continue with a practice which, on the face of it, indicates a concealment of donors?

Ms Mitchell—As an associated entity, they are subject to compliance review. If during the course of the compliance review we found they were not meeting their disclosure requirements we would advise them to lodge an amended return, requiring them to put in the information missing from the return. As I recollect, we looked at this issue at the time and no amendment to the return was required.

Senator MURRAY—That was the advice you gave us. But, when people like me who take a professional interest, the media and the world at large see a donation return with many hundreds of thousands of dollars in it as a lump sum and the organisation says, 'By the way, we've got two or three who are above \$1,500,' you just do not believe it; it defies belief.

Ms Mitchell—All I can tell you is that there are some organisations for whom that is in fact correct disclosure—that there are lots of little amounts under \$1,500.

Senator MURRAY—The question then would be whether, if the 500 Club in Victoria is doing the right thing and disclosing in full and it does not have that circumstance, you have examined the possibility that the donations are being contrived in such a way as to be broken down into small amounts when the donor has in fact given a very large amount.

Ms Mitchell—That is one of the aspects we look at during compliance reviews. That is why there is a recommendation among our recommendations about contrivances that may be arrived at quite legitimately in the provisions of the legislation to avoid the disclosure of those receipts. All I can say is that, where we can require the disclosure under the provisions of the legislation, we do, but where it is quite a legitimate contrivance we cannot force people to do something that is not required by the legislation.

Senator MURRAY—Let me phrase your response in this way to see if I have understood it accurately: you are telling me that you are proactive, that you do do compliance and that you have the means of enforcement but the law does not enable you to require the explicitness that I would expect should occur.

Ms Mitchell—That is what I am telling you.

Senator MURRAY—Thank you.

Senator ROBERT RAY—Commissioner, are you satisfied that in the way the act is currently written all these disclosure areas are easy to administer, or do you think it needs an overhaul and a review to make it more simple and explainable?

Mr Becker—It probably needs an overhaul. We have made 90-odd recommendations, I think 10 of which have been implemented.

Mr Dacey—As Ms Mitchell read out before, recommendation 1 of our submission to the JSCEM on 3 August 2001 said:

That the JSCEM specifies the breadth of coverage of disclosure believed necessary under the Electoral Act, from which the existing legislation can be reviewed and, as necessary, redrafted.

There are some obviously more specific technical recommendations flowing throughout this document, but that is the main thrust of our argument.

Ms Mitchell—I think the main reason for that is that it has become apparent to the AEC that what people expect the legislation should achieve is not what it is achieving and what people expect the AEC can do with the legislation we are not able to do with the legislation. If there is an expectation of the legislation that is something other than the reality, perhaps the joint standing committee might like to consider what it believes the legislation should achieve, which would then guide any reconsideration of the legislation and redrafting of it.

Senator FAULKNER—Just on that point, I do not know whether you are aware, Mr Becker, but Senator Murray currently has on the *Notice Paper* a proposal for a JSCEM reference on funding and disclosure. Senator Nettle has had a proposal for similar matters to be dealt with by the Senate Finance and Public Administration References Committee. Obviously these things are normally done in JSCEM, but does the Electoral Commission have a view about the appropriateness or otherwise of the joint standing committee examining that issue of funding and disclosure in a broader reference?

Mr Becker—We supported the last committee, as you know. We would be more than happy to make a submission to another one if a reference were made. We have a lot of recommendations that we would probably want to put again.

Senator FAULKNER—So the view of the commission is that it would be valuable if such an inquiry were to proceed?

Mr Becker—I think it could be. As you might recall, we had a few difficulties with the last one. The last inquiry tended to get a bit aggravated at various times but, apart from that, it should be a valuable exercise.

Senator FAULKNER—That last inquiry did not happen.

Mr Dacey—In our view, it would be the appropriate forum for the issues to be discussed.

Senator ROBERT RAY—Do you think there should be some revisiting of the issue of linking public funding of political parties to their campaign expenditure? You will remember that that was in the original legislation from 1983 to 1991—don't hold me to the dates—but it has not been for the last few years, which has never been a problem for the major parties, which have always spent more than they have in public funding. But it can be a massive problem for an unexpected polling of a One Nation type party if they suddenly get all this money in and they have not necessarily expended it. Would you revisit that in this sort of inquiry?

Mr Becker—We could, and we could also point out that it is also a fairly easy thing to get around in many respects in the way in which you manipulate—I use the word loosely—your accounts.

Senator ROBERT RAY—Like the Democrats paying back pay a few years ago to all their volunteers.

Mr Becker—That was one issue.

Senator MURRAY—Thanks for that gratuitous remark.

Senator ROBERT RAY—You did. We get a lot of lectures from the Democrats on electoral efficacy, but when you examine the way they put their parliamentary officers to use—campaigning very effectively sometimes—I just like to put a shot back occasionally, just to keep you honest.

Senator MURRAY—As you know, I am more than happy for the law to be changed to tighten it up, regardless of whether it hurts my party or not. I have been on the record about that again and again as, I might say, Senator Faulkner has with respect to his own party. What I would say to you, through the Chair, is that the issue of public funding should very much be part of that inquiry. I agree with you absolutely.

Senator BRANDIS—I wanted to raise with you an issue that is of concern to a number of schoolteachers in Queensland at the moment. It is a concern that many have of irregularities involved with the election late last year conducted by the AEC for the Australian Education Union, Queensland branch. The irregularity, I am told, relates to an election of 14 officers of federal conference delegates representing the general division with the Queensland division of the Queensland branch of the Australian Education Union. Are you aware of these concerns which are about among interested people in Queensland?

Mr Becker—Yes, we are.

Senator BRANDIS—Are you taking any action in relation to the matter? If so, can you tell me what point your inquiries have reached?

Mr Becker—Yes, we are aware of it. This is the argument between the Queensland Teachers Union and the Australian Education Union, who has got the same office bearers, and we are following that through at the moment. I am not too sure just how far we have gone—

Senator BRANDIS—When you say 'following it through', has the AEC made a decision to have an investigation which is now in process?

Mr Becker—The short answer is yes.

Senator BRANDIS—Are you able to give us any indication as to the likely reporting date of that investigation?

Mr Becker—At this stage we have got reference to the Australian Government Solicitor, we have received various affidavits and where we are beyond that I do not know at this stage.

Senator BRANDIS—Can other officers assist?

Mr Dacey—It is not that long since the commissioner took the decision to refer the matter onwards.

Mr Becker—It was only a couple of weeks ago.

Mr Dacey—It is the first time we have done that under the new provision in the act.

Senator FAULKNER—Referred onwards from whom?

Mr Dacey—That is what we are getting the information on, Senator. I am sorry, I am not fully across this one.

Senator FAULKNER—You said ‘referred onwards’. I was just wondering from whom.

Mr Becker—The Australian Government Solicitor has got it at this stage. It has got affidavits from all the people involved, including me. I have seen the affidavits.

Mr Dacey—What we are attempting to find out is where it actually goes, whether it is the Industrial Relations Commission or the court or what. I am not quite sure. I have got a phone call happening.

Senator BRANDIS—But presumably you are going to be guided by the advice of the AGS?

Mr Becker—That is correct.

Senator BRANDIS—I suppose that, in view of the contingent nature of what may happen, you are not in a position even to estimate when there will be a final resolution, one way or the other, of this investigation?

Mr Becker—No, the only thing I can say is that there is some immediacy in it, and one would hope that it would be resolved sooner rather than later.

Senator BRANDIS—Are you aware of allegations made against the Queensland Greens on the political web site crikey.com which stated that—

Senator ROBERT RAY—You get a free T-shirt.

Senator BRANDIS—Oh, I have already got—

Senator ROBERT RAY—You have got 50 already!

Senator BRANDIS—I am entitled to more than one free T-shirt, but they are yet to arrive, Senator Ray.

Senator ROBERT RAY—I will take it up.

Senator BRANDIS—If crikey is listening.

Senator Abetz—I do not mind waiting, but I think I am disqualified.

Senator ROBERT RAY—I share the same noodle shop with crikey; that is all I share.

Senator FAULKNER—I hope that when your T-shirt does arrive, Senator Brandis, you will declare it.

Senator BRANDIS—Of course I would, Senator Faulkner, as I would declare anything.

Senator FAULKNER—Even though it would be below the disclosure limit.

Senator MURRAY—For accuracy's sake, Senator Brandis, you will recall they are very particular about having the .au at the end.

Senator BRANDIS—Are they?

Senator FAULKNER—And there is a T-shirt also for Senator Murray.

Senator MURRAY—I have already received mine.

Senator FAULKNER—We thought your wardrobe was getting a bit drab.

Senator MURRAY—I made my donation to Amnesty.

CHAIR—Senators, enough banter.

Senator BRANDIS—Let me start again. Are you aware of allegations made against the Queensland Greens on the political web site crikey.com.au—

Senator ROBERT RAY—Free T-shirt!

Senator BRANDIS—which stated:

In late 2002, the Queensland Greens agreed to mask eco developer donations by having them funnelled through a Lismore based green group, the Rainforest Information Centre.

Ms Mitchell—Yes, we are aware of those allegations.

Senator Abetz—Where is Lismore—New South Wales?

Senator FAULKNER—Yes, it is, as a matter of fact. I would not expect you to know that, but it is a very important and very beautiful regional town in New South Wales, and I am sorry that you displayed your ignorance on it.

Senator ABETZ—I am simply confirming that I know.

Senator Robert Ray interjecting—

Senator FAULKNER—I am not actually, but I have been there quite recently on a very successful bus trip with Mr Latham.

Senator BRANDIS—Mr Chairman, I am feeling very put upon and misused by all this badinage that is deflecting attention from my questions.

CHAIR—Quite right.

Senator BRANDIS—Are you aware that the Queensland Greens annual return for 2002-03 makes no mention of any donations by any property developers or by the Rainforest Information Centre?

Ms Mitchell—We have not got around to closely examining the returns that were lodged for 2002-03. That is part of our compliance review activity program for this year.

Senator BRANDIS—But you will be doing that?

Ms Mitchell—Yes.

Senator BRANDIS—Has an investigation into that matter been embarked upon or will a decision to embark upon an investigation await the completion of the compliance review?

Ms Mitchell—It will be a matter that will be looked at during the course of the compliance review.

Senator BRANDIS—Thank you. In fact, the Queensland Greens return only lists four donations, two of which come from other branches of the Australian Greens. The Queensland Greens want us to believe that, out of \$114,728 in total receipts, they only received two private donations of over \$1,500: one of \$9,047 and another of \$2,500. The Crikey web site alleges that minutes of a meeting of the management committee of the Queensland Greens showed that they were prepared to mask donations from property developers. Were you aware of those matters?

Ms Mitchell—As I understand it, that is part of the issue that was raised in the item on the web site.

Senator BRANDIS—And you will try to get to the bottom of that in your compliance audit and, if it comes to that, your investigation?

Ms Mitchell—Yes.

Senator BRANDIS—During the Queensland state election recently all electors were sent a letter from the Electoral Commission of Queensland advising the date of the election, the electoral district in which they were enrolled and the locations of their local polling booths. The letter also asked in bold print for the elector to ‘bring this letter with you wherever you vote’. Would you like to comment, Mr Becker or others, on the desirability or the utility of the Electoral Commission instructing or seeming to instruct electors that they were required to bring a letter with them as proof of identity to the polling place?

Mr Dacey—I am actually aware of the letter and—

Senator ROBERT RAY—Do you have a copy of the letter?

Senator BRANDIS—I do not have a copy of it here, but I will get it faxed from Brisbane later this afternoon.

Senator ROBERT RAY—It is just that you said to ‘bring it as proof of identity’. I did not hear you quote that from the letter.

Senator BRANDIS—No, I was not quoting from the letter.

Mr Becker—No, it was not as proof of identity.

Mr Dacey—I have spoken to the Queensland Electoral Commission on this issue, and it had been done in New South Wales at the last state election. I am not sure about other states. Certainly, I do not think the intention was to suggest that it is compulsory to bring the letter with you.

Senator BRANDIS—No, but you would understand, Mr Dacey, that—

Mr Dacey—Some people could feel that way.

Senator BRANDIS—When I received mine I skim read it and I was left with the impression, until I read it carefully, that perhaps it was being required that the letter be brought. That was not in fact the case on a close reading, but electors are easily misled about these procedural matters.

Mr Dacey—In speaking to Mr Longland in Queensland, the main reason that he produced that letter was to speed up and to facilitate the marking off of the roll process such that if people do bring along the letter—in fact, I understand the letter was meant to have an enrolment number on it, but somehow that fell off in the printing—it is much easier for an issuing officer to find someone on a roll if they are actually reading a piece of paper rather than listening to someone speak. That was one of the main reasons for it. We certainly had asked on polling day whether he had received any complaints about the letter, and the answer at that stage I think was no, but he was also undertaking some surveys in some polling places in Brisbane to see how many people did bring the letter along to polling. Early indications were that about half the electors seemed to be bringing the letters with them, but I do not have any further details.

Senator BRANDIS—It occurs to me, Mr Dacey, and I invite you to comment on this, that it is probably an undesirable practice to create a perception in the community that if you do not have the letter with you there might be some problems in you voting. If people have mislaid the letter, then they may feel that they cannot exercise their right to vote.

Mr Becker—Certainly, if that is the impression that is created, yes.

Mr Dacey—I was in Queensland on polling day, and I did not see anything in any polling places that I visited that indicated that anyone had a feeling that they had to bring the letter along.

Senator BRANDIS—I know from anecdotal evidence of a couple of people I spoke to who had mislaid their letter. They were not politically sophisticated people and they had the concern, ‘I’ve lost my letter; I won’t be able to vote.’ Does the AEC have a view about the desirability of issuing letters like that?

Mr Dacey—I think we would need to follow up, particularly from the experiences in the states, what the reactions were, on the understanding that at least Queensland is doing an evaluation of the process. But certainly for the next election it is not our intention to even consider that.

Mr Becker—There are a lot of things to consider in that particular issue, I think. You take the letter along, you vote and then you take the letter away. Do you give it to somebody else to vote at some other point or do you capture the thing, which was not done in Queensland?

Mr Dacey—They could if they wished.

Mr Becker—They could hand it in if they wished to. So there are a lot of things we would have to consider.

Senator BRANDIS—I would have thought, particularly considering the cost that no doubt was involved in sending such a letter to every elector, that unless there were a clear and demonstrated enhancement of the exercise of the franchise as a result of this practice it should not be adopted, because we have done pretty well for the last century in this country without

the need for such letters. Unless, as I say, they can demonstrate that they improve things, why would the Electoral Commission do it?

Mr Becker—I suppose we are always trying to improve the situation. That is the thing: you quite often have to test things before you can ascertain whether they are worth while or not.

Mr Dacey—We certainly look forward with interest to the evaluation of the process that comes out of Queensland.

Senator BRANDIS—We might return to that in future.

Senator ROBERT RAY—I heard anecdotally that it affected the result in Ipswich West. What do you say to that?

Senator BRANDIS—I do not know, Senator Ray. I did not hear that anecdotally.

Senator ROBERT RAY—Didn't you?

Senator BRANDIS—Your anecdote is obviously better than mine.

Senator FAULKNER—I do not think anyone was saying that the Queensland Liberal Party would have actually won the election. Not even you could suggest that, Senator Brandis.

Senator BRANDIS—While we are on the Queensland election, you may be aware from press reports, Mr Becker and officers, that in the electorate of Indooroopilly the Wilderness Society distributed a leaflet in the form of a how-to-vote card directed to supporters of the Greens party and indicating that people who wished to vote for the Greens should mark their how-to-vote card according to a particular order of preference. The Greens party itself did not do so, and there was a concern among some that the Wilderness Society, not a political party, by addressing itself to those people interested in voting for the Greens party was in fact engaged in misleading conduct by suggesting a preference when the Greens party itself was not suggesting a particular form of allocation of preference. If that particular situation recurred under the Commonwealth Electoral Act, would you consider that to be a breach of any provisions of your act?

Senator FAULKNER—Chair, with due respect, I do not know anything about the issue, but talk about a hypothetical question!

Senator ROBERT RAY—You could rephrase it.

Senator FAULKNER—I think you are struggling a bit, Senator Brandis.

CHAIR—I will allow it, Senator Faulkner.

Mr Becker—We have taken advice on those things before, but I think, since we do not have any specific truth in political advertising requirements in the act, then, yes, we would have to get some advice as to whether or not there was material—

Senator BRANDIS—Do you think, though, that that is a gap in the law both under the Commonwealth act and perhaps under the state acts as well if a pressure group can represent, in effect or by implication, on behalf of a political party—

Senator MURRAY—It is like passing off.

Senator BRANDIS—It is like passing off. That is right, Senator Murray. Is it a gap in the legislation if such a group can represent that a vote for that party should be recorded in a particular fashion when the party itself has not advertised that that is the way in which they are recommending that the vote for them be cast?

Mr Becker—I think it could be. I saw the how-to-vote card.

Senator Abetz—The donations to the Wilderness Society were undoubtedly tax deductible—

Senator BRANDIS—That is a different issue we might take up with the commissioner and the economics committee.

Mr Becker—I think it is something that probably does need to be looked at. I saw that how-to-vote card, and I frankly thought it was a Greens card. On the face of it, it was like a Greens how-to-vote card.

Senator FAULKNER—You thought it was a Greens how-to-vote card. It is the first I have heard of the issue.

Mr Becker—It was quite an interesting arrangement—one piece of paper and various types of how-to-vote cards.

Senator BRANDIS—Mr Becker, with all due respect, if a person as sophisticated about Australian electoral law as the Australian Electoral Commissioner was misled, you would have to say that the average punter was likely to be at risk of being misled too.

Mr Becker—Mind you, he or she did have it their hand. We tend not to grab how-to-vote cards; but I did see them.

Senator BRANDIS—You would agree with me that it is not a proper practice if it is liable to mislead electors.

Mr Becker—It is certainly not a proper practice to mislead electors.

Senator ROBERT RAY—I thought he was going to say ‘state’ but he said ‘states’. Senator Brandis, you would be able to provide him with information of the changes to the Victorian electoral act that would stop this practice in its tracks—that is, you must register your how-to-vote card and you are not allowed to hand out any alternate how-to-vote cards within several hundred metres of the booth. The problem is solved there.

Senator NETTLE—I have some follow-up questions in relation to voting rights for prisoners. One question that you might need to take on notice is about the number of prisoners who are on the electoral roll.

Mr Dacey—We are not able to provide that information. We do not identify people by their status as prisoner or nonprisoner. Most people in prison who remain on the roll or who choose to enrol from prison, if they are entitled, would be enrolling for their home address, not necessarily for the prison address; so it is impossible to provide.

Senator NETTLE—So you would not have any sense of the proportion of prisoners who would be on the electoral roll?

Mr Dacey—No.

Mr Becker—We would not know. Correctional services organisations would know who would be qualified, if that question were asked of them, but that varies between the states and the Commonwealth as well. For example, in South Australia I do not think there are any restrictions on a person, whether they have been jailed for life or not, to be on the state electoral roll.

Senator NETTLE—On that issue of prisoner enrolment and the records that the department of corrective services in each relevant state would have, do you have any interaction with those departments in providing enrolment material to prisoners? I know we talked about that before, but I want to ask specifically about a prisoner's reception at a prison. A prisoner is arrested and then goes through a range of processes at reception. Do you believe that would be an appropriate point at which a prisoner could be asked about enrolment and could be given information provided by the AEC?

Mr Dacey—I do not know if it is quite appropriate to be done at that stage.

Mr Becker—A lot of people on their way in would be on the roll already.

Senator Abetz—This is a gratuitous intervention from me. From my experience—not on the inside but representing people—there is such a high turnover that, realistically, with people going in and out within an electoral cycle of three years, there would be a lot of work for corrective services staff to do it on each occasion. The chances are that most people would be in and out during the electoral cycle and so a lot of work would be done for no real benefit. That is just my assumption, but I imagine that it would be right.

Senator NETTLE—To explain why I asked that question: in order to comply with laws encouraging people to be on the electoral roll, I wondered whether the Australian Electoral Commission was aware of that question being asked of prisoners by corrective services. I am not suggesting it should be asked by—

Mr Dacey—I doubt whether it would be asked. We have asked correctional services to consider asking it. It would be a matter for them if they did, but I am not aware that they do.

Senator NETTLE—Do you have any intention of asking them?

Mr Dacey—We could talk to correctional services in the states. Each state might have a different view. We do liaise with them and it could be one of the issues that we raise. Certainly we provide information on enrolment and voting, particularly as we get closer to an election. But to my knowledge—and this might vary within states—we do not specifically suggest that they ask those questions at processing time.

Senator NETTLE—But in your view they may be appropriate questions for them to ask.

Mr Dacey—Yes.

Senator NETTLE—Earlier today we talked about information being provided to prison authorities and whether they would like mobile polling booths available. There exist in New South Wales prisons what I would call inmate development committees, which are elected representatives from each of the cell blocks of the prisoners. Has the AEC had any contact with inmate development committees in New South Wales, or similar committees in other states, in relation to providing information on enrolments or capacity to have polling booths present on polling day?

Mr Dacey—I do not know. That is something we would have to take on notice. I know we write to the departments, but I am not sure how far that goes.

Senator NETTLE—I would appreciate your taking that on notice. Are you aware of any instances where prisoners have made requests either for enrolment information or for access to a mobile polling booth and that request has not been passed on to you by prisoner authorities or you have not been able to comply with it due to resourcing issues for the Electoral Commission?

Mr Becker—Only anecdotally, a long while ago.

Mr Dacey—I am not aware of any, unless the prisoner or a relative or associate of the prisoner complained. I have not seen a complaint.

Mr Becker—In a former life I had a call from a prisoner. He had been confined during the time the mobile team was there. But that was a state election many years ago.

Senator NETTLE—We talked earlier about late returns or amended returns. Do they subsequently appear on the Electoral Commission web site in the following year?

Ms Mitchell—Yes. There is a subscriber update service that is available on the web site which gives you automatic notification when there are extra returns. So if you wanted to subscribe to that you would get a notification whenever an update went up.

Senator FAULKNER—Regarding co-location and amalgamation, as I understand it, at this point effectively no further co-locations are going ahead. That is correct, isn't it, Mr Becker?

Mr Becker—Yes.

Senator FAULKNER—We have a situation where some co-locations or amalgamations currently in progress will be concluded or effected.

Mr Becker—They have all been finished off, I think, or terminated.

Mr Dacey—There were a couple of suggested ones where it did not work out. Certainly we could not get suitable premises, so it has been decided not to co-locate those offices.

Senator FAULKNER—I have heard the suggestion that the AEC is progressing a trial amalgamation pilot in each state. Is that true?

Mr Becker—That is true. There are two sites in Queensland and one in each of the other states.

Senator FAULKNER—Two sites in Queensland?

Mr Becker—Yes. There is the Ipswich office, which is a co-location, and the Gold Coast office, which is a co-location. We are looking at perhaps a different structure within those offices in the way the functions of the office are performed.

Senator FAULKNER—What about amalgamation?

Mr Dacey—That is what the amalgamation is. It is confusing.

Senator FAULKNER—There are two terms.

Mr Dacey—There are two terms: co-location is when we put two or more divisional offices together and keep them as two or more separate offices with the same structure that we have in a single office; and amalgamation is where we have the site's divisional offices co-located with two or more together and look at reorganising the work within that site so that the whole office is working for the whole of the area that the co-location is looking after, which in most cases is two divisions.

Senator FAULKNER—What is the current policy in relation to amalgamations, not co-locations?

Mr Dacey—That we will proceed with those two identified in Queensland and one in each of the other states and do no more until there has been a full evaluation of their success or otherwise.

Senator FAULKNER—This gives the impression that the foot is on the accelerator and the brake at the same time in this, Minister. I appreciate that you have been communicating with members of the House of Representatives about this and I think have been sympathetic of concerns that have been raised, but there are still concerns with those members where this is progressing in a broader policy environment where amalgamations and co-locations have been halted. Isn't this really a problem of having your foot on the accelerator and brake at the same time?

Senator Abetz—I am not sure that I would necessarily describe it as such. We can use whatever terms we like, suffice it to say that I have made the government's view clear to the AEC as to what we believe should be happening or, possibly more correctly, should not be happening. The AEC is a body that can determine for itself the way ahead. We have a resource review which will be considered in this budget, so fairly shortly. That may have some impact on future developments. But, in relation to the amalgamations that are going ahead at the moment, that is noted by me. That is all that I can reasonably say.

Senator FAULKNER—It is not entirely clear to me what the government's view is in relation to the amalgamations that are going ahead. I know what the government's broader position is. That has been made clear; it is clear here today and it has been made clear to me by reading correspondence and previous evidence before committees. I understand that; there is no need for us to debate it. That is the broader policy position. At this stage these matters will be assessed post-election. That is the basic time frame, isn't it? It is to be put on hold until after the next election?

Senator Abetz—That may turn out to be the case.

Senator FAULKNER—I thought they were the words that you had used. I might be wrong about that.

Senator Abetz—That may turn out to be the case, but we are looking at things in the resource review as well.

Mr Dacey—Senator Faulkner, perhaps I could make it clear. I must say that in no office at this stage have we actually amalgamated. The commissioner has two proposals in front of him at the moment. They do not involve a reduction in the number of staff. There will still be six people in each of the two offices that we are looking at at the moment. It is just a redesign of

the work so that the office is functioning as one unit rather than two separate units. I think there is some confusion by some people that we are going to significantly reduce resources. Both of these current proposals do not reduce the number of staff in those offices at all. I must say both of these current proposals that the commissioner is looking at have been heartily embraced by the staff in the office as looking at doing work in a different way in those offices. In fact, one proposal in particular was staff initiated.

Senator FAULKNER—I will come back to this issue of the election and its significance, for the minister's benefit. Mr Becker, let me quote your letter to Sharryn Jackson MP, the member for Hasluck. Of course, there is an issue here about amalgamation of the Hasluck and Pearce divisional offices. The letter reads:

The commission also reaffirmed that no further amalgamation of collocated divisional offices (where common functions are integrated) be considered until the current seven trials have been assessed and in any event not before the next election.

Mr Becker—They are my words. That is correct.

Senator FAULKNER—Yes, I know they are your words.

Mr Becker—The minister was saying that they were not his words. That is right. They are my words.

Senator FAULKNER—I am aware that they are your words. I was trying to reflect that in the question that I asked. Hence, I used the terminology 'before the next election'.

Mr Becker—Sorry, Senator, your question was directed to the minister. He did not make that statement; I made that statement.

Senator FAULKNER—Yes, I know you did. I have it in front of me. We still have a situation where government is concerned about these co-locations or amalgamations progressing. I think we understand that. I assume that Pearce and Hasluck are currently co-located offices, aren't they?

Mr Becker—Yes, they are.

Senator FAULKNER—I cannot quite understand, in these circumstances, why the amalgamation is progressing.

Mr Becker—There are a lot of reasons behind it. It is not just money, I have to say. A lot of it has to do with staff development. It has to do with service delivery. It has to do with better practice, and that is what we are asking the staff to do. Originally, it was going to be with our consultative forum to set up a model that was going to be one size fits all. We have had 100 years of one size fits all, and one size does not fit all. So what we are saying about the amalgamation and integration of functions approach is to say, 'What might work in Ipswich may not work in the case of the Pearce and Hasluck amalgamation. What works in Marion may not work in Chadstone.'

Senator FAULKNER—Have you had any positive feedback on amalgamation and co-locations?

Mr Becker—We certainly have, and that is the point.

Senator FAULKNER—Where from?

Mr Becker—From the people who are involved in it. It is up to me now to finalise it, but I only have one proposal, which is really a very nicely worked out project, and that is to do with Blair and Oxley—

Mr Dacey—That was developed by staff.

Mr Becker—As I always wanted it to be, that was developed by staff. I did not want to impose this arrangement on anybody. How do I know whether Ringwood is going to work in the same way as Marion in South Australia? We have had the situation where a lot of functions have been integrated but we have not considered them in terms of the classification for a particular role and whether we have a decent structure within the Ringwood quad. The same thing has happened in Marion. They do cover each other's enrolments. In fact, one of the great things that the staff over there mentioned to me was the fact that, when they go on sick leave, rec leave or what have you, their work is done when they get back. Quite often in a stand-alone office the work can build up because it is usually the ASO2 who has to do all the general basic enrolment. When you have more than one person doing the job that job gets done. When you have more than one person in an office you do not have to close the office. That is apart from the fact that it gives us the opportunity to give them career progression, which in my view they do not have a very good chance of achieving at the present time, with an ASO2, an ASO3 and an ASO6.

Senator FAULKNER—But has the feedback from the consultative forum not been overwhelmingly negative?

Mr Becker—The feedback from the consultative forum has not been overwhelmingly negative, I have to say, for amalgamation. It has been overwhelmingly negative, I suppose, in terms of co-locations because you have these little fiefdoms that are under threat, if you like.

Senator FAULKNER—So it is overwhelmingly negative in terms of co-location. Obviously, amalgamation then only affects offices that are already co-located.

Mr Becker—Yes, that is right.

Senator FAULKNER—You are saying in relation to those offices that the feedback on amalgamation is not overwhelmingly negative. I am surprised to hear that.

Mr Becker—Exactly. It is certainly not overwhelmingly negative. On the other side, I would also qualify the overwhelmingly negative connection with co-location.

Senator FAULKNER—They are your words, not mine.

Mr Becker—No, you used the words first. I agreed with you they were overwhelmingly negative, so okay I will pick those up. But I will say that, where co-locations have been in operation for quite some time, the people who work within those co-locations are not negative. Most of the negative views that are being articulated are coming from stand-alone offices. There are some people who live in the country and do feel as though they are under threat, but the country was never considered an area where we would co-locate.

Senator FAULKNER—One is left with the impression that it has been very badly handled, Mr Becker.

Mr Becker—Put it this way: it has been tried for 30 years now and it has not succeeded. I do not know how you are supposed to handle it—whether I have handled it badly, whether my predecessors have handled it badly—but it has never succeeded. I did not intimate that you were the minister at the time, Senator; I was just saying you were a minister around that time. Stewart West was around at the same time, or near enough to that time. The Michael Lee report recommended regionalisation 15 or 16 years ago. That has not been picked up. Much was made of the fact that the election report was a unanimous report of the JSC. That 1988 report was a unanimous report of the JSC.

Senator ROBERT RAY—I am glad to hear Michael Lee has been consistent on amalgamation.

Senator Abetz—I was thinking that myself.

Senator FAULKNER—I am not commenting.

Mr Becker—All I am saying is that, if this has been handled badly today, it has been handled badly for 30 years.

Senator FAULKNER—Anyway, to cut to the chase: you are pleased with the fact that Pearce and Hasluck are being amalgamated. Are you pleased about that?

Mr Becker—I am not pleased about it. I just want to try it out. I do not know about Pearce and Hasluck specifically; I think we might have some reaction from within that group. But I cannot see why—

Senator FAULKNER—You do not think it is a disappointing outcome?

Mr Becker—I do not know yet.

Senator FAULKNER—You do not think it is unfortunate?

Mr Becker—Certainly not.

Senator FAULKNER—You do, of course, Minister, don't you?

Senator Abetz—The government's view has been made clear. We do not support it. I am not going to go to words such as 'unfortunate', 'disappointing' or whatever. What I will say is the government's view is that amalgamations and co-locations should not be proceeding. That is the government's view.

Senator FAULKNER—You are being a bit sensitive, I think. Have the courage of your convictions. You wrote to Ms Jackson and you said:

Unfortunately, the AEC has identified the Hasluck and Pearce divisional offices as a continuing amalgamation, given it would be impractical to discontinue the amalgamation plans at this advanced stage. Whilst locally this is a disappointing outcome, overall I believe the decision will be well-received.

Senator Abetz—That is a specific one. You asked me the general question. In relation to the specific one, where I had dialogue with Sharryn Jackson, yes, I can understand it from the local point of view as well.

Senator FAULKNER—I do too. I understand the position that you have taken and the position of the government. I know there is a different view in the AEC. What has happened is

that a few members, a few electorates and a few divisional offices are caught betwixt this stand-off. I think it is a fair representation—and you have taken issue with it—to say that, really, you have your foot on the accelerator and the brake at the same time. The overall program has been stopped but a couple of trials are going ahead. In some of those cases the people involved are very disappointed and concerned.

Senator Abetz—If you want to use that analogy, I suppose it would be fair to say that the government through me is trying to apply the brake and my friends in the Electoral Commission are trying to apply the accelerator.

Senator ROBERT RAY—And you supplied the fuel. That is the point.

Senator Abetz—I think that we have now come to a situation where the AEC have agreed that the foot will be taken off the accelerator—or indeed has been taken off the accelerator—and we are just coasting through those that were already planned and that no future ones will be undertaken. I think that is a fair representation using your motor car analogy.

Senator FAULKNER—I do not know about the member for Pearce—I think it is Ms Moylan, isn't it?

Senator Abetz—It is—a very good member.

Senator ROBERT RAY—A local member now.

Senator FAULKNER—I do not know what Ms Moylan's view on this is, but I can assure you that Ms Jackson, the member for Hasluck, who is a renowned local member, has addressed these issues with you and a range of people and accurately reflects, I think, her constituents and the community's concerns. I draw them again to your attention in the light of the fact that there was a broader government policy here and a very different view being adopted by the AEC. As I have said to you, Mr Becker, I am very concerned—I do not know if others are—at what appears to be a breakdown in relations between the AEC and government. One gets the impression that it is a bit of a rocky road.

Senator Abetz—No, we are very happy. I can assure you of that. We just have differences of opinion on a few issues, but that does not mean there is any breakdown in relationships.

Mr Becker—I want to make it pretty clear what amalgamation is about. I think this is where the confusion comes from.

Senator FAULKNER—I did not ask that question—

Mr Becker—No, I know you did not, Senator, but I think it is time that we made it clear—

Senator FAULKNER—I know what amalgamation is about, and I really do not want to hear about it.

Mr Becker—Mr Chairman, can I say something?

CHAIR—Mr Becker, you have the call.

Mr Becker—Let us just take Pearce and Hasluck as an example. When they were first co-located it was agreed amongst themselves that all the phone calls that would be received within the Pearce-Hasluck co-location would be answered by one group. All the counter inquiries and what have you would be organised by one group. What is unsensible, if you like,

about that particular approach? What is different when you say, 'Okay, instead of all the cards coming in being separated into two, why not keep them all in one and we will do both.' You are on the one computer, so you can deal with both divisions. If you look at Marion, which was self-initiated when it looked at its own enrolment approach, it decided that it would do all the enrolments within one cell—not that this ASO2 clerk was employed by Boothby and this clerk over here was Kingston, but they would both do Boothby and Kingston. What is so unsensible or nonsensical about that? It is not; it is commonsense, and that is all the amalgamation is attempting to achieve. By doing so it enables us to provide a structure within that little group of people that will enable proper development and career progression within that area, which is just not available to them at the moment.

Frankly, this is an issue which, had it not been for the fact that we decided to drive it centrally, would have occurred anyway. The people involved in those particular areas were actually cooperating and working together—as they do and have done for quite some time in Ringwood, which you went down to visit, I remember, Senator. That has been going on for a long time and has been working extremely well. The only thing that is different about it is that we have not got the structure organised properly within the Ringwood environment.

Senator FAULKNER—Your advocacy has been very poor on this.

Mr Becker—These are issues that are properly within the province of the CEO of the state, the chief electoral officers and so on. They are properly within that province. Because we are looking at this whole approach, we have said that, 'Yes, we started these amalgamations off with one in each state.' But then Queensland came up and said, 'There are a couple of others who want to do it as well.' So, fine, it is voluntary; they are in it. I do not know how you are supposed to say, 'We're going to trial it just in Ringwood or we're not going to trial it at all; we are just going to let it find its own level.'

I do not think it is appropriate that it finds its own level. I think we have to try to ascertain the best approach and whether it is possible that you can have one size fits all. I think it is highly unlikely. In order to make sure that what is happening in Perth is similar to what is happening in Sydney or Queensland, you conduct a trial. That is all we are trying to do with the amalgamation proposal—nothing sinister, not changing divisional returning officers. There will be divisional returning officers in all those co-locations at the election. Jobs that are arranged between now and then will only depend on what happens in each particular case.

Senator FAULKNER—I have listened to that. It does not alter my view that the advocacy in favour of this has been very poor indeed.

Mr Becker—The staff are not all as negative as the ones that you are raising there.

Senator FAULKNER—My comments are not directed at staff in offices.

Mr Becker—I am not saying that. I am just saying that you are using these examples, and that is not the whole story.

Senator FAULKNER—If you are making a funding pitch to Senator Abetz, that is fine. I think you should do it outside the committee.

CHAIR—We are due for a lunch break at 12.30. I am happy to go on until the committee is. If we think we can finish with the Electoral Commission before—

Senator ROBERT RAY—You never know with these witnesses. That is the problem.

Senator FAULKNER—That was a long non-answer to a question. That is fine. We are reasonable here. Mr Becker wanted to make a statement and he made it, but it is not an answer to a question.

Mr Becker—It was instructive I think.

Senator FAULKNER—I do not think it was. I think it was extremely poor advocacy—

Senator Abetz—Let's move on. Reason is always on your side of the table, depending on where you are sitting.

CHAIR—Why don't we continue on for a while at least. Senator Ray.

Senator ROBERT RAY—When you are involved in a redistribution process which is determined by population, you calculate future enrolment figures. Is that right?

Mr Becker—Yes, we do.

Senator ROBERT RAY—I want to take you through the methodology of doing that, and the accuracy. I will take New South Wales first. The last redistribution quota date was 26 February 1999 and, if you like, the projection date was 30 June last year. I notice that you had the projected enrolment—which is the key figure; it is not just a month by month one—for June 2003 at 4,392,223. The actual enrolment—because this is one where we can measure the actual enrolment—was 4,270,127. In other words, the estimate was out by 122,096. Have you gone back to see why there is such a wide disparity between actual enrolment and projected enrolment? Have you gone back to look at your methodology to find out why this has occurred?

Mr Becker—I have not looked at that.

Senator ROBERT RAY—Do you want to check around the room? I did not ask you personally.

Mr Becker—No, I am not aware of it.

Senator ROBERT RAY—You are not aware of it? It is not something you check? Let me take you through some of the other states so we can see a pattern emerging. In Victoria—

Senator Abetz—Senator Ray, just before you do that—

Mr Hallett—This issue—not the particular issue you have raised, but the general issue of projections for redistributions—is currently under consideration by our research section. We have had one initial meeting with AEC staff, some people from the Australian Bureau of Statistics and some academic demographers and geographers. It is certainly under consideration, but I cannot give you any more information at this stage.

Senator ROBERT RAY—We have a problem with this—and I am not going to bore you with all the details. Boundaries rely on your projections. The whole basis of our democracy relies on your projections. We know we have given the Bureau of Statistics and their statistical base a big work-out over the Northern Territory and the majority of the members on this committee happen to be on the JSCEM, but we will not revisit that. When you compare the projected electors with the actual electors for Victoria on a certain date—and I am talking

about the projection for January this year, as it was determined back in January 2002—the difference is minus 107,688. When we look at South Australia, on different dates admittedly, we see that it is minus 16,161. When we look at Western Australia, it is minus 97,822. When we look at New South Wales, it is minus 122,096. Finally, when we look at Tasmania, it is minus 4,806. Just to buck that pattern, Queensland is plus 9,150. Essentially, the data that you have been operating on to do all these redistributions is out by a fairly large margin. In fact, it is out by four federal electorates. The figure that I have—and I think the maths is right—is minus 339,423. I would have said that this is a massive problem.

Mr Hallett—This actually occurred to us last year. Our research section started to look at the fact that the current provisions for redistribution are approximately 20 years old, as you would well know. They came in with the major reforms in the 1980s. We decided to have a look at it. Bearing in mind that they are always projections, we would like to work with people who have particular expertise in this field—for example, at an academic level and also colleagues at the Australian Bureau of Statistics—who can help us model it better to make more effective projections.

Senator ROBERT RAY—There is nothing wrong with the legislation that we know of. The legislation does not create this problem—

Mr Hallett—I have not said that.

Senator ROBERT RAY—It creates the requirement.

Mr Hallett—That is precisely what we have done. I have not mentioned the legislation. What we are looking at, with our colleagues from stats and academia, is whether there are better ways of statistical modelling by which we can develop these projections to help us all when we do redistributions.

Senator ROBERT RAY—Who discovered this problem?

Mr Hallett—I would not say it was discovered as a problem. It was considered by our director of research as an issue that was worth looking into. He happens to have a background as a demographer.

Senator ROBERT RAY—I will repeat the question. Had anyone detected that the overall trend here, with the exception of Queensland, was always to get it wrong on the minus side?

Mr Hallett—I would have to take that on notice.

Senator ROBERT RAY—You have not detected that yet?

Mr Hallett—I would have to go back and talk to my director of research. Certainly, we have had one initial meeting that was held late last year, as I have described.

Senator ROBERT RAY—I would like you to take on notice the following questions. When did inquiries start on this? What was the motivator for those inquiries? What pattern have you found so far? It is not hard to find this pattern. The overall projections of future enrolment are miles out. There is some massive methodological flaw here. How does that affect the projection in each of the divisions? If the flaw was uniform over each division, their relativities would not change in all probability; therefore, you could argue that maybe not

much damage has been done. Do you track how accurately your projections were 3½ years, or whatever it is, after a redistribution and publish that stuff?

Mr Hallett—To my knowledge, the first time we looked at it was with respect to the project which commenced last year.

Mr Becker—We are not tracking against figures and the variations.

Mr Hallett—We actually looked at the projections done at the redistribution and then at what the gazetted figures were several years later. To my knowledge, the first time that was looked at was last year. That was an initiative the AEC took to look at ways of doing it better.

Senator ROBERT RAY—You do not exactly apply performance indicators in this area to see what a job you did, do you, Mr Becker?

Mr Becker—They are ABS stats, so I do not know where you are going to look.

Senator ROBERT RAY—When you say they are ABS stats, when do they supply you with those stats on enrolment? They would be using your basic figures, for a start, would they not?

Mr Becker—They would be using the enrolment at the time, yes.

Mr Hallett—Yes, they are enrolment projections.

Senator ROBERT RAY—Where does the ABS come in? I do not understand.

Mr Hallett—We have to do modelling, for example on the growth or lack of growth in a particular area. Therefore, we seek advice from the Australian Bureau of Statistics on things like census data and where growth in new suburbs is expected. The model can then develop the projected enrolment figures.

Senator ROBERT RAY—To explain this figure of minus 300,000 in Barton, are you going to look at one explanation that there is a widening gap between those who are eligible to be enrolled and those who are actually enrolled?

Mr Becker—It is not widening; it is actually getting smaller.

Senator ROBERT RAY—It does not explain it.

Mr Becker—What we have not been capturing in the past we are now capturing.

Senator ROBERT RAY—Therefore I am asking whether you will look at that because, if that is not the explanation, you will have to find another explanation for such a massive disparity. Where it becomes serious is not in the overall totality of each state by way of comparison but where there is variation within a state. You are projecting enrolment figures—trying to have balanced, equal electorates over the seven-year cycle—and, if you are mucking that up, if you are not able to deliver on those projections, you are putting a massive distortion into the electoral process. You are not doing it deliberately. It is even worse—it is happening through some form of incompetence of systems here—and we need to know about it.

Mr Hallett—And that is precisely why last year we started to look into it. I think it is about modelling. We need data from statistics. We need the local knowledge of our divisional returning officers when they talk to councils and local government so that the projection can be made with the best methodology.

Senator ROBERT RAY—You are not filling me with confidence. Have you studied the effect in each of the six states—leave the territories aside, if you like—of how far the raw figures have proved wrong, that is, the enrolment projection and the actual enrolment at the time? Have you done that analysis state wide?

Mr Hallett—Yes, an initial paper was written prior to that workshop.

Senator ROBERT RAY—Would it be possible to have that paper tabled either with this committee or the JSCEM?

Mr Hallett—I do not have it with me. It would have to be tabled.

Senator ROBERT RAY—You can take this on notice. I do not think there would be anything confidential here, Minister. It would be interesting to see how far your analysis has got. But let me take it a step further. That is the raw overall state comparison figure. Have you done it electorate by electorate? Have you gone back to the projection in each case after a redivision of boundaries—where it will be projected to in 3½ years time—and then got the actuals in 3½ years time and found out how accurate it was? There is a statutory requirement. You take future enrolment growth or decline into account when you set the numbers of electors in an electorate, when you set the boundaries. That is right, isn't it?

Mr Hallett—Yes. In answer to your question, it is a few months since I have read the paper but I cannot say for certain whether every single redistributed division since 1984 was examined, but certainly there was a large—

Senator ROBERT RAY—Let me qualify that. I am not interested in since 1984 but in the last redivision of boundaries. We know when the redistribution quota date was. In New South Wales, it was 26 February 1999; in Tasmania, it was 14 April 1999; and in Western Australia, it 23 December 1999. We have all these figures.

Mr Hallett—My recollection is the paper did examine those more recent redistributions in some detail.

Senator ROBERT RAY—Has it established how accurate or inaccurate they were?

Mr Hallett—Analysis was done of the accuracy, and that led us to the view that we should take it further. Hence we set up the meeting with some academic demographers and geographers, some colleagues from the Bureau of Statistics and two of our Australian electoral officers who have recently undertaken redistributions, including the Australian Electoral Officer for Victoria—from your own state.

Senator ROBERT RAY—When do you expect to be able to come forward with some more accurate predictor?

Mr Hallett—I would have to take that on notice and ask the director of research.

Senator ROBERT RAY—Has any of this ever been brought to your attention, Minister?

Senator Abetz—Not to my recollection. I must say I find this a very interesting discussion and something I will pursue as well. I will be looking forward to that paper.

Senator ROBERT RAY—What it involves is a critical aspect of the Electoral Act that may be malfunctioning through the methodology—not through malice but through methodology.

Mr Hallett—I should add that I do not think there is any secrecy here. It is probably at this stage—

Senator ROBERT RAY—Who said there is any secrecy?

Mr Hallett—We did not have a full story to tell because the work is still in progress. Certainly we would brief the minister. We are happy to share the information with this committee and other committees but, at this stage, the work is still in progress.

Senator ROBERT RAY—I am encouraging the work along because I think I would be right in saying that no-one is quite due for a redivision for a couple of years and it would be nice to have it in place before the next time this process goes into place.

Mr Hallett—That is absolutely right. That was another reason why we thought it was a good opportunity to do it now.

CHAIR—Senator Faulkner, do you have any more questions?

Senator FAULKNER—Not for the AEC.

Mr Dacey—Let me clarify a further issue. Senator Brandis was talking before about the issue with the Education Union of Queensland. In fact, a directions hearing was held in the Federal Court last Friday. There has been a request from one of the parties to file documents, and the trial date will not be set until after 27 February. Senator Faulkner asked where it was referred to. It has been referred to the Federal Court.

CHAIR—Mr Becker and Mr Dacey, thank you very much for appearing before the committee.

Proceedings suspended from 12.41 p.m. to 1.53 p.m.

Department of Finance and Administration

CHAIR—I welcome officers from Ministerial and Parliamentary Services.

Senator FAULKNER—I will start off with a follow-up issue from the last round. I have an answer to a question on notice, question 3A. Ms Mason, this is a question you would recall my asking about ministers making applications for the payment of legal costs. I received an advice that the Attorney-General's Department had advised—I presume that means the Attorney-General's Department have advised DOFA—that eight applications were received during the period 1 January 2002 to 4 November 2003. You might be able to help me with this, Minister. Where does the departmental or ministerial responsibility lie with this one?

Senator Abetz—As I understand it—and undoubtedly officers will correct me if I am wrong—it is with the Attorney-General's Department. The Attorney, whoever he or she may be, makes a recommendation.

Senator FAULKNER—Who—

Senator Abetz—Who applies for it?

Senator FAULKNER—No, one assumes the application comes from the ministers, but correct me if I am wrong.

Senator Abetz—Yes, individual ministers would apply.

Senator FAULKNER—If legal assistance is granted, who fronts up for the costs of that legal assistance. Is it DOFA?

Senator Abetz—Yes. As I understand it, DOFA pays for it.

Senator FAULKNER—For the purposes of the estimates hearing, I am interested in the delineation in departmental responsibility. So questions about quantum costs borne in individual cases belong to MAPS in DOFA? Mr Gavin, I am trying to get clear where one should be asking questions about these issues.

Mr Gavin—The parliamentary entitlements regulations—I think regulations 4 to about 33—set out the whole regime for approving and meeting the cost of ministers' legal expenses. The regime was modelled on an administrative scheme that had been around for a long time, but in about 1997-98 it was put into regulations. The regulations were made under the Parliamentary Entitlements Act and therefore the payments are met by the Department of Finance and Administration because our minister administers that act. The whole regime envisages that the approving minister is the Attorney-General. Indeed, the regulations have a provision whereby the Attorney is required to report to parliament when an application is approved and annually on the costs.

Senator FAULKNER—So your department is informed after approval. Is that what you are saying?

Mr Gavin—Yes.

Senator FAULKNER—So from approval onwards are questions to ask of this department; pre-approval are questions to Attorney-General's?

Mr Gavin—Not entirely. After the approval the requirement is that the Secretary to the Attorney-General's Department or a delegate sign off on all the costs before the bills are sent to us for payment. I think it is the Minister for Justice and Customs at the moment who is the one required to inform the parliament of the expenditure.

Senator FAULKNER—So the Minister for Justice and Customs is informing the parliament of moneys that your department is paying?

Mr Gavin—That is absolutely spot on.

Senator ROBERT RAY—How does he inform the parliament?

Mr Gavin—He tables it. The most recent tabling was in about October 2003. He tables a statement listing the firms involved and the amount.

Senator FAULKNER—You will obviously need to prepare that documentation for the Minister for Justice and Customs, given that you are the department which has the responsibility of paying. Is that how it works?

Mr Gavin—It would be rather foolhardy of the Attorney-General's Department to prepare it without consultation with us, yes.

Senator FAULKNER—From your knowledge, this tabling is occurring on an annualised basis, is it?

Mr Gavin—Yes.

Senator FAULKNER—The last one in October 2003?

Mr Gavin—Yes.

Dr Watt—The tabling is to occur within three months of the end of each financial year—September perhaps or October.

Senator FAULKNER—Are you able to provide the committee with more detail about the nine applications that are mentioned in the answer to the question on notice? I am really asking: what areas are competent for this department, DOFA, to be providing information to this committee in relation to the nine applications you refer to in your answer to the question on notice?

Mr Taylor—I think the situation is essentially the one that has been set out previously by Mr Gavin—that is, the department is responsible for paying for the applications for assistance. As Mr Gavin explained, the details are tabled in a report provided by the Attorney-General.

Senator FAULKNER—I am asking you what information you have available in relation to these nine applications that you are able to share with the committee.

Mr Taylor—The particular information?

Senator FAULKNER—Yes. You are saying there is a crossover in responsibility. I accept that. The information from Mr Gavin provided a very useful background for the committee and it is useful to have that understanding. With the benefit of that understanding I am now asking what information you have available to further advise the committee in relation to these nine applications. Can you identify, for example, who is involved, the amounts involved, the status of the applications and so forth?

Mr Taylor—The point we are making is that essentially that is information for the Attorney-General's Department to provide to you. I am sure they would, if requested to do so. We think our responsibility ends at that point.

Senator FAULKNER—Ends at what point?

Mr Taylor—Ends at the point of our having provided some information in relation to the questions on notice, which we have obtained and on which we have consulted with the Attorney-General's Department. We do not think it appropriate to provide further information because we essentially see it as a matter for the Attorney-General's Department to respond.

Senator FAULKNER—Can you confirm that, Dr Watt? In your view, are these matters better progressed with the Attorney-General's Department?

Ms Mason—That is a suggestion. Given the process that seems to be envisaged by the regulations, it seems to fairly clearly envisage that the Attorney-General's Department would be responsible for reporting to the parliament on these matters. As Mr Gavin said earlier, there would be a conversation that takes place between the Attorney-General's Department and Finance and Administration to make sure that the details are correct.

Senator FAULKNER—But you administer the regulations, don't you? These are your regulations. What are the administrative orders in relation to these regulations? Who is the responsible minister?

Mr Gavin—The Parliamentary Entitlements Act is listed under the administrative arrangements order with the Special Minister of State and the Minister for Finance and Administration.

Senator FAULKNER—That is right. I should be asking a question that I do not know the answer to.

Mr Gavin—I am sorry. The regulations are made under that act. However, when you get to regulation 4 onwards it is clearly a scheme whose central player is the Attorney-General. He has the approving role. The minister from that portfolio has the approving role and the responsibility for reporting to the parliament.

Senator FAULKNER—Minister, are you aware of any protocols that have been established with your colleague the Attorney-General in dealing with these matters—questions from parliamentary committees or from members of parliament and the like? If you do not know, perhaps the officers do.

Senator Abetz—I personally am not. That question would more appropriately be directed to Attorney-General's, I would imagine. They are the ones who receive the request and then it is an issue of how they deal with each request.

Senator FAULKNER—I am not saying that what is being said to me is totally unreasonable, but we are dealing here with expenditure which is an appropriation of this department, as you would appreciate, Chair, which I would have thought was core business for this committee.

Ms Mason—If you had particular questions and we knew what the questions were, we could take them on notice and perhaps liaise with the Attorney-General's Department.

Senator FAULKNER—Well, my questions really arise from the answer to the question on notice. I am just trying to establish where the responsibilities lie in the first instance. I would not progress a range of questions here if they are better progressed elsewhere. I am just trying to work this out. There is a lack of certainty about it.

Senator Abetz—I can understand that. I think Mr Gavin has been as helpful as anybody at this table can be on these matters. We deal with the financial side of it, but the approval is undertaken by the Attorney.

Senator FAULKNER—So no protocols exist for the handling of these sorts of things, that you or anyone is aware of?

Senator Abetz—As I understand it from the department—I am sure I will be corrected, or the answer that I am about to give will be modified, if it is not quite right—individual ministers would make application direct to the Attorney-General and, once the Attorney is satisfied as to the issue and the amount involved, payment is authorised and DOFA makes the payment. I think that is pretty much our involvement in it. If the Attorney-General says, 'This is okay to pay,' DOFA pays.

Senator ROBERT RAY—Was this included in regulations that were subjected to disallowance in part in the Senate last year?

Mr Gavin—No, Senator. These regulations go back to 1998.

Senator ROBERT RAY—Who promulgated the regulations—which department?

Mr Gavin—From memory, it was Attorney-General's.

Senator ROBERT RAY—That is interesting.

Senator FAULKNER—Can you assist me with this, Dr Watt. When the department makes a payment—we are talking here about ministers—does the payment go to the Attorney-General or does it go to individual ministers?

Mr Taylor—Perhaps I could assist. The payment actually goes to the relevant firm that is providing advice or assistance to the particular minister. So the invoice as such comes into the department and, so long as it has been certified—we understand by the Secretary of the Attorney-General's Department—that is paid to the relevant firm.

Senator FAULKNER—So you get invoices or something like that sent to you?

Mr Taylor—Yes, that is correct. The invoices themselves have to come through the Attorney-General's Department. We are not able to pay those invoices unless they have been certified.

Senator FAULKNER—So they mark or certify them 'approved for payment' effectively; is that how the system works?

Mr Taylor—Essentially that is correct, Senator.

Senator FAULKNER—Essentially? Does that department approve the expenditure or do you approve the expenditure?

Mr Taylor—As I have said, they have to be certified before we can pay the relevant amounts.

Senator JACINTA COLLINS—So you can tell us how much you have paid?

Mr Taylor—We could certainly take that on notice.

Senator Abetz—I think we have already said that in one of the answers—\$19,000, wasn't it?

Senator JACINTA COLLINS—That is the total figure. You can tell us how much you paid to each firm.

Senator Abetz—Individually, yes.

Senator ROBERT RAY—Did I understand it correctly that that is all tabled in the parliament and attributed to individual ministers already? So it is on the public record.

Senator Abetz—That is right.

Senator FAULKNER—On an annual basis, as Dr Watt said, three months after the end of the financial year. The tabling minister in this case is the Minister for Justice and Customs.

Senator ROBERT RAY—Minister, I read some publicity I think late last year—it could have been this year—that seemed to me passing strange. It was put in the newspapers by Senator Greig—and this is why I raise it. It was not them writing a story; it was quite clear that he volunteered the story. It seemed to me that he was complaining that his nominee for travel purposes could not travel business class on the basis that he was also an employee on a

part-time basis two days a week. Am I right in saying that, if you are an employee under part III or part IV of the MOP(S) Act, you would therefore forfeit all rights to travel to and from Canberra when on work as a nominee?

Senator Abetz—I think I heard you correctly, and the answer to that is yes.

Senator ROBERT RAY—What happens when a nominee of a member of parliament travels as a nominee whilst they are on staff; that is, they might well have travelled business class and dipped into that account—which is effectively double-dipping—when they were only entitled to travel economy? Would they have to repay that money?

Senator MURRAY—How is it double-dipping?

Senator ROBERT RAY—We all have a limited travel budget for staff—mine is in the order of \$28,000 a year—from which you have to pay all transport to and from airports, all travel allowance and all travel. But, if your nominee was also on staff, they could dip into the nominee's side and therefore that person could maybe bring double the amount of staff resources that I can to Canberra. It is double-dipping in that sense; I am not using it in a nasty sense.

Senator MURRAY—It is expanding the budgets available.

Senator ROBERT RAY—Sorry for that diversion but Senator Murray just needed to be brought up to the game.

Ms Mason—Senator, would you mind repeating the question?

Senator ROBERT RAY—I use the word 'nominee' here and the nominee could be a spouse, a partner or a nominee. It falls into three broad categories when it comes to domestic travel when you are a nominee of a member of parliament. But, if you were to travel to and from Canberra as a nominee but in fact were on staff and travelled business class, would that mean on discovery by the department you would insist on having the differential between business class and economy repaid? You are only entitled to economy as staff, unless you are on ministerial staff—and it varies there, I acknowledge that; so let us just deal with the backbench. Is it part III or IV?

Mr Gavin—Part IV.

Senator ROBERT RAY—We will just deal with part IV.

Ms Clarke—Anyone who was found travelling outside of entitlement—and there would clearly be some investigations and inquiries made—would be asked to repay the amount that was outside the entitlement.

Senator ROBERT RAY—If a nominee who was on staff travelled on nominee to and from Canberra, would they have to repay the total amount or only the difference between that and economy?

Ms Clarke—My understanding is that it would be the difference, anything that is outside the entitlement.

Senator ROBERT RAY—Then you would recredit or take that off the overall staff travel budget, the economy airfares that had accumulated, would you?

Mr Edge—I understand that would be the case; that if part of the trip were within entitlement, albeit the difference in the class, then the amount of the economy fare would come off the staff travel budget.

Senator ROBERT RAY—But then go back and come off that?

Mr Edge—Yes.

Senator ROBERT RAY—To complicate things a little more, what is the situation if the nominee is on payroll under part IV of the MOP(S) Act and accesses the interstate entitlement—which is three trips per year—and accompanies the member of parliament while the member of parliament is working?

Mr Edge—The nominee cannot be on staff at the time they access the nominee travel entitlement because there is a prohibition on nominees being employed. That is in the Remuneration Tribunal determination.

Senator ROBERT RAY—I am just trying to get this clear.

Mr Edge—The relevant Remuneration Tribunal determination prohibits a nominee from being a member of staff.

Senator ROBERT RAY—Shouldn't you have expressed it the other way around—that there is a prohibition on staff members being a nominee?

Mr Edge—However you look at it—

Senator ROBERT RAY—I think there is a slight difference there.

Mr Edge—You cannot be a nominee for the purposes of family travel and a MOPS employee.

Senator ROBERT RAY—That is even better; that is even more elegantly expressed. Does that apply to full-time and part-time employment?

Mr Edge—Any employment.

Senator ROBERT RAY—I understood the case of the Canberra person. I think you have now clarified that you cannot travel domestically. What about overseas travel?

Mr Edge—The rules for overseas travel are different.

Senator ROBERT RAY—They probably are. Where are they different and how do they apply?

Mr Gavin—The big difference is that for overseas travel it is limited to spouses.

Senator ROBERT RAY—So, if the spouse is a nominee and working under the MOP(S) Act and travels overseas, you would have presumed that that spouse would have applied for leave.

Mr Gavin—One distinction I need to make is that the determination does not actually say that spouses cannot be staff members; it simply says that nominees cannot.

Senator ROBERT RAY—That is clear. We know that.

Mr Gavin—So when it comes to overseas travel you could be the spouse and a staff member and you would not be prohibited from travelling—or, indeed, working.

Senator ROBERT RAY—But you travel as a spouse, so presumably you would have applied for leave.

Mr Gavin—I have thought about that, particularly in relation to parliamentary delegations, but to the best of my knowledge it has never been raised as an issue.

Senator ROBERT RAY—That is what we are here for.

Senator FAULKNER—It has been now, Mr Gavin.

Senator ROBERT RAY—You are batting; we are bowling.

Senator Abetz—If you have idle time, you can think up these sorts of things.

Mr Gavin—I can conceive a spouse working when away with a member, for instance.

Senator ROBERT RAY—Except that no-one else has an entitlement to take their staff away with them unless they are a spouse. That is the thing.

Senator FAULKNER—And ‘spouse’ in this case means either married or de facto.

Mr Gavin—Yes.

Senator ROBERT RAY—Just to return to the original question, there is no implied prejudice here, is there, Minister, no singling of anyone out? The rules of the department are clear: if you are an employee under part IV of the MOP(S) Act then you do not have nominee entitlements.

Senator Abetz—Yes.

Senator ROBERT RAY—So the department has acted totally appropriately here?

Senator Abetz—That is as I understand it, yes.

Senator ROBERT RAY—Do you agree with that, Ms Mason?

Ms Mason—We are operating in accordance with the Remuneration Tribunal determination. Yes, I believe that to be so.

Senator FAULKNER—I assume that MAPS has effected the usual tabulation of MOPS staff that is provided to this committee on a regular basis? To cut to the chase, I wonder if you would mind tabling that. I point out, Dr Watt, if I can, how sensible it is to have this sort of process. I think it saves a great deal of business time of the committee. I would commend you to suggest to your colleagues in the Department of the Prime Minister and Cabinet that they might adopt a similar approach in relation to government advertising programs.

Senator ROBERT RAY—Just take that one under advisement. You do not have to rub their noses in it.

Dr Watt—Thank you.

Senator Abetz—You are damned by feint praise, I think.

Senator ROBERT RAY—Exactly.

Senator FAULKNER—There was nothing feint about the praise at all. It looks like a reformatting, though. You have set out to trick us!

Senator ROBERT RAY—It is a new world record. It has surpassed the Keating government—and by a lot. We had better dig out the 1996 press release.

Senator FAULKNER—These are the figures as of 1 February 2004? Just remind me, Mr Edge, of the key date in relation to the application of the formula for opposition staff.

Mr Edge—It is 1 March.

Senator ROBERT RAY—To confirm: in ‘opposition personnel’, the bottom two figures are not part of the formula, are they?

Mr Edge—That is correct.

Senator FAULKNER—When did you decide on a change of format for this, Ms Mason? I am not suggesting it is not a positive change.

Mr Edge—There has been no conscious decision to change the format of the table. Since last time it was distributed—that is, this time 12 months ago, in February 2003—there may have been some changes to the headings, but the basic layout is the same.

Senator ROBERT RAY—And we still have the cabinet policy unit not included in the Prime Minister’s figures.

Mr Edge—They are over the page, on page 2.

Senator ROBERT RAY—I know. He actually signs their contract, so they have been separated out to lower his figures. This is an old trick. It was done well before you ever came on board, let me tell you. When the figures originally came out and were produced to this committee the cabinet policy unit figures were included in the Prime Minister’s figures, but when the Prime Minister’s figures got a bit big they were deleted out. That figure really should be 44.1.

Ms Mason—I think the point is that the information is very transparent, and it is possible to easily add the two figures together. If we simply aggregated them, we would probably then be asked the figure for the CPU.

Senator ROBERT RAY—How easy it was! I can add 39 to five. That is right.

Senator FAULKNER—Is there an annotation somewhere that you can point out to me dealing with the category of special adviser?

Mr Edge—No. That is not listed.

Senator FAULKNER—Didn’t we normally have a situation where a series of asterisks or other markings assisted us in working that through? My recollection might not be right.

Mr Edge—We have not presented information in that format in the past in these tables. It follows the same format that we used before.

Senator FAULKNER—Fair enough.

Senator ROBERT RAY—Isn’t there a difference between category as allocated—and then there are personal adjustments; I understand that—

Mr Edge—There are personal classifications.

Senator ROBERT RAY—Yes, personal classifications. But are you really saying now that ‘special adviser’ is just a personal classification? Surely by now it has established itself as a separate category, with its own salary band I assume.

Ms Clarke—It is still regarded as a personal classification, and that has been made clear in the performance review framework that has been given to both government and non-government. So it is still regarded as that, but it does have its own salary band.

Senator ROBERT RAY—That is why I think, breaking down these columns, whilst some of the personal reclassifications would not necessarily have to be recorded in this table, I would have thought ‘special adviser’ should be.

Mr Edge—Because it is a personal classification, and this does not reflect personal classifications, it is not reported in that format and has not been.

Senator ROBERT RAY—Could you take on notice or tell us now how many special advisers there are in the totality of this 380-odd people?

Ms Clarke—I have a handout here, if that would help, which shows that there are five government staff with personal classifications of special adviser.

Senator FAULKNER—That handout might save a bit of time.

Senator ROBERT RAY—Just check the footnotes before you give it to us.

Senator FAULKNER—You recall there was a document once circulated that contained a footnote that—

Senator ROBERT RAY—Opened Pandora’s box.

Senator FAULKNER—Do you recall that, Minister?

Senator Abetz—No, I don’t.

Senator FAULKNER—I think we all do—the accidental footnote, asterisk or whatever it was. You cannot get it right all the time.

Senator Abetz—At least we did not have logging coupes in the middle of Bass Strait.

Senator FAULKNER—No, that is true.

Senator Abetz—I remember one environment minister that did that. I think his name was Senator Faulkner.

Senator FAULKNER—Really?

Senator Abetz—Yes, so we all have our little crosses to bear.

Senator FAULKNER—You are probably the only one who does remember. Probably most people think it is ancient history.

Senator ROBERT RAY—You know you are losing the argument when you go back to Bass Strait.

Senator Abetz—It is indelibly etched in my mind.

Senator CONROY—I cannot believe you have not mentioned Centenary House.

Senator Abetz—Centenary House would be another good one to get going on. There are a lot of scandals around the last government, it seems.

Senator ROBERT RAY—I am struggling a bit to remember where we were last time, but I think staffing since you were here last has gone up by 16.

Mr Edge—It is slightly less than that. It has gone up by the equivalent of 15.8—rounded up to 16, yes.

Senator ROBERT RAY—We will stick with the 15.8. I had 369.6 this time last year.

Mr Edge—That is correct.

Senator ROBERT RAY—And we have 385.4, which is 15.8 more. I know this is not an easy question to answer, because there are ups and downs and roundabouts, but would you like to tell us at what classifications the 15 new staff are? When you have completed that exercise, tell us which position has gone up. I know personnel have changed in the meantime.

Mr Edge—It is really a mix of different positions. I can run through by level where the plusses are.

Senator ROBERT RAY—You might have had a couple of minuses, have you?

Mr Edge—There are two levels where there are minuses.

Senator ROBERT RAY—Do the positives first and the minuses at the end.

Mr Edge—In terms of senior adviser, there is plus 3.2 positions; media adviser, plus one; adviser, plus 12; assistant adviser, plus three; and executive assistant/office manager, plus two. Those are all the pluses.

Senator ROBERT RAY—And the minuses?

Mr Edge—Minus four on secretary/administrative assistant.

Senator ROBERT RAY—Where does that rank on things?

Senator FAULKNER—Down the bottom.

Senator ROBERT RAY—Oh, right down the bottom.

Senator FAULKNER—I think we are starting to build up at the pointy end. The pointy end has just blunted off a bit.

Mr Edge—There is an additional minus 0.4 of a position at the consultant category.

Senator ROBERT RAY—Why don't we deal with the minus 0.4 now and you can tell us where that is.

Mr Edge—It is a consultant to the Prime Minister.

Senator FAULKNER—PM's consultant. Was that just a 0.4 position or an adjustment to the amount at the time?

Mr Edge—It was an adjustment to the presentation of the numbers. It was not a change to the position. It was an adjustment on the basis that the remuneration for the position was \$10,000 per annum. The view was that it had been reported in the past as 0.5 of a position but it would probably seem a little unrealistic to say that that \$10,000 was half a senior position.

Senator ROBERT RAY—So it went down to 0.1 from 0.5?

Senator FAULKNER—This wouldn't be Mr Cousins, would it?

Mr Edge—Yes, Senator; that is the consultant.

Senator ROBERT RAY—So it is just the way you have expressed it.

Mr Edge—That is correct.

Senator FAULKNER—It is useful for you to say that because of the category of the consultant. There is now only 0.1 of a consultant in the government staff establishment; is that right?

Mr Edge—Yes.

Senator FAULKNER—It does not actually appear on this document—unless I have missed it.

Mr Edge—It does appear on the table. It is right down the bottom on the second page.

Senator FAULKNER—Thank you. It is categorised as 'another'. Does this mean that Mr Cousins is no longer a consultant to the Prime Minister?

Mr Edge—No.

Senator FAULKNER—It is just the categorisation.

Mr Edge—It is the representation in terms of the fraction of a full-time position. At \$10,000 it seemed more realistic to report it as 0.1 of a position than half a position.

Senator ROBERT RAY—Minister, is there any philosophy behind taking four positions from the very bottom end of the scale and having what appears to be about 16 at the top end of the scale? Is there any pattern of government that suggests that should be occurring?

Dr Watt—I do not think Mr Edge is able to comment on that.

Senator ROBERT RAY—I said 'Minister'. Mr Edge is not the minister.

Senator Abetz—I am not sure that there is any philosophy other than good government. It requires staff and positions to be varied from time to time. Those decisions are made on an as-needed basis.

Senator ROBERT RAY—I am asking whether there is a conscious philosophy in government which says, 'All these bottom end, lower paying jobs will be removed and a lot more higher paid ones will be put in.'

Senator Abetz—I know that is what you are saying.

Senator ROBERT RAY—I am not asserting that there is a philosophy; I am asking if there is one.

Senator Abetz—No.

Senator ROBERT RAY—There is a pattern here; you cannot deny that.

Senator Abetz—It represents slightly more than one per cent of the amount of staff involved. I think we have four less out of a total of 385. It would be fair to say that, in the scheme of things, it is a fairly small move.

Senator ROBERT RAY—But this pattern has been happening for years. There are far more senior advisers now than you had five years ago—almost double.

Senator Abetz—I cannot comment on those figures. I do not know what they were at the time.

Senator ROBERT RAY—It is not always possible to directly attribute these rises to specific ministers or ministers' positions, because if the ministry has changed—as it has a couple of times—that would be unfair. Where has the 0.2 for senior advisers changed? Can you answer that first of all. You may not be able to answer the question easily because it could be a more complex formula.

Mr Edge—It is more complicated than that in terms of identifying changes by portfolio.

Senator ROBERT RAY—Employment and Workplace Relations has two 0.8 senior advisers and SMOS—Senator Abetz's ministry—has two 0.4. Are these just people working part time?

Mr Edge—Part-time positions are reflected as a fraction of a full-time position.

Senator ROBERT RAY—So you do not know where the 0.2 went—why there is a 0.2 adjustment? Have either of those two changed? That is the easiest way of asking it, I think. Has someone gone up from 0.6 to 0.8 or from 0.2 to 0.4?

Mr Edge—It would take a little while to work through where the changes have taken place.

Senator ROBERT RAY—We do not want you doing that right now. Just take it on notice; it is not urgent. We might try to track that down. There are three more senior advisers in the system since we last canvassed this at estimates. Can you tell us where they are allocated, or who has gone up and who has gone down?

Mr Edge—I am just looking at the table from last time. That might be the quickest way to do it. We have an additional 0.4 of a position in the office of the Special Minister of State.

Senator ROBERT RAY—Is that a Canberra or a Tasmania based person?

Mr Edge—I would have to check that.

Senator ROBERT RAY—I was asking the minister.

Senator Abetz—Tasmania.

Senator ROBERT RAY—I am right again.

Senator FAULKNER—Senator Abetz, can you confirm for me that you have by far the highest staffing establishment of all the non-cabinet ministers?

Senator Abetz—I am not aware of that.

Senator FAULKNER—Just have a look: you are the only one in double figures. Has this accrued to you because of some particular advantage, the position you hold and your responsibilities?

Senator Abetz—I have many tasks to undertake and many ministerial duties to perform.

Senator FAULKNER—There is not a better excuse than that!

Senator Abetz—They are allocated, as you would be aware—

Senator ROBERT RAY—I reckon they are parole officers.

Senator FAULKNER—Mr Andrews is now a cabinet minister, isn't he?

Senator Abetz—He is indeed.

Senator FAULKNER—So everybody above Mr Andrews on this table—

Senator ROBERT RAY—You have an exception there: Mr Vaile. No wonder we got duded; he has nine. So you are wrong.

Senator CONROY—You are more important than Mr Vaile.

Senator FAULKNER—You have two more staff members than Mr Vaile.

Senator ROBERT RAY—It shows.

Senator CONROY—You are smarter than the average bear.

Senator ROBERT RAY—We would have got sugar in if Senator Abetz had been the minister.

Senator FAULKNER—Can you confirm that you have two more staff members than Mr Vaile?

Senator Abetz—I think that is what the table tells us at this stage.

Senator FAULKNER—You have more staff members than any other non-cabinet minister—Ministers Ellison, Macdonald, Kemp, Hockey, McGauran, Anthony, Brough, Vaile, Coonan, Hardgrave, Campbell and Bishop.

Senator ROBERT RAY—Well done, Minister!

Senator FAULKNER—The congratulations of the committee are in order.

Senator ROBERT RAY—It is a top performance.

Senator FAULKNER—You are two in front of—

Senator Abetz—I think the table speaks for itself. The politics of envy are creeping in here.

Senator FAULKNER—You have five more staff members than the majority of them. You have done very well. You have five more staff members than quite a lot of the other non-cabinet ministers.

Senator CONROY—You have got to admire him.

Senator FAULKNER—I am sure there is no jealousy around the building. You outrank in staff Mr Andrews and Mr Vaile, and you are equal to Mr Downer and to Dr Nelson.

Senator ROBERT RAY—But that is not the accurate picture, is it, Minister, because cabinet ministers have a lot more DLOs than you, don't they?

Senator Abetz—They may well do.

Senator ROBERT RAY—How many DLOs do you have?

Senator Abetz—I have one.

Senator ROBERT RAY—Yes, that is right. That is what makes part of the difference. Some of these greedy people have three, which do not show up in these figures.

Senator Abetz—I thank defence counsel.

Senator FAULKNER—Mr Chairman, I do apologise—

CHAIR—Will you please come clean.

Senator FAULKNER—I have misled the committee. You also have more staff than Mr Truss, who is another cabinet minister. Can the record be corrected?

Senator ROBERT RAY—All this diversion was to give Mr Edge a chance to answer my question. How are you going? Do we need another diversion?

Mr Edge—No, I am just working through the table compared to last time. As I understand your question, it is to do with where the gains have been at the senior adviser level?

Senator ROBERT RAY—Yes.

Mr Edge—From February last year there is an additional senior adviser position in Foreign Affairs.

Senator ROBERT RAY—One in Foreign Affairs for Mr Downer.

Mr Edge—No; I am sorry. There is an additional one in the Health and Ageing portfolio. There were two positions as at 1 February 2003, so there are three positions currently.

Senator ROBERT RAY—There were two positions in February—

Mr Edge—There is a net gain of one in Health and Ageing at the senior adviser level.

Senator ROBERT RAY—So the figure you gave me before about plus 3.2 is no longer extant; is that right?

Mr Edge—No, I have not worked through the—

Senator ROBERT RAY—So just in one portfolio you have found one extra?

Mr Edge—Yes, but there are others. Do you want me to go through where the changes are?

Senator ROBERT RAY—Yes, I want to find out where the extra staff went, apart from into Senator Abetz's office.

Ms Mason—Senator, Mr Edge is working through two tables which have a very large number of figures and, as is our normal approach, we want to make sure we give correct evidence.

Senator ROBERT RAY—Yes, so let me cancel Senator Faulkner's congratulation, because every year we also go through where they are and you have not prepared that in advance. So one step forwards and one step backwards.

Ms Mason—That is something we can look at for the future. We are certainly not intending to be unhelpful.

Senator ROBERT RAY—No, no. I know that. I am just saying that—

Mr Edge—If it is helpful, I do have a table that lists all of the changes by portfolio, but that covers positions other than senior advisers.

Senator ROBERT RAY—Why don't you run through that and we might save time.

Mr Edge—It is probably the most accurate and quickest way to do it.

Senator ROBERT RAY—Go for it.

Senator FAULKNER—Or would you care to table it?

Senator ROBERT RAY—Is it in tableable form?

Mr Edge—I can read through the numbers.

Senator ROBERT RAY—Is there a reason why you can't table it?

Senator FAULKNER—Apart from the fact that Senator Abetz has suggested that you not do it.

Senator Abetz—Which I would imagine would be a very good reason not to.

Senator ROBERT RAY—It is just harder. If you go slowly, I can write it all down. If there is nothing in it that we are not going to get read out to us, I would like it tabled. If there is other material there, I would not ask for it to be tabled.

Senator Abetz—That is what I was checking, and I understand that there may be.

Senator ROBERT RAY—Do you want to check a little further, just to make sure? We will wait.

Senator Abetz—I think the time-out has been very successful. If we could have this photocopied, that would be of assistance. I just needed some aspects explained to me. Even I now understand, so I am sure it will be understood by all of you as well.

Senator CONROY—You know the exact number of staff you have now! You are not hiding it from us; you are hiding from your colleagues. We understand that.

Senator FAULKNER—Senator Abetz is looking pretty good at this table. I am not sure he will survive the walk back to his office.

Senator Abetz—The Liberal Party does not engage in the politics of envy.

Senator ROBERT RAY—How could they? There is nothing to be envious about!

Senator MURRAY—I suspect they might want to engage in the politics of catch-up! They all want more.

Senator ROBERT RAY—They certainly caught the Keating government in terms of staffing. They are well beyond that.

Senator FAULKNER—While we are waiting for that document, could I ask an additional question of Mr Edge. It is related. Thank you, Minister, for tabling the document in relation to special advisers. Is it correct, Minister, that each of these special advisers as far as the table is concerned would currently be included in the adviser column? That is the question I would like to have cleared up.

Senator Abetz—We will just get this right. The table we are about to table—

Senator FAULKNER—No. I am talking about the table you have tabled. You have tabled three documents—the third of which we do not have yet. You have identified that five government staff have the personal classification of special adviser.

Senator Abetz—That is right, yes.

Senator FAULKNER—And you have indicated which offices they are located in. Thank you for that. You have indicated that an opposition staff member has a personal classification of special adviser and the office that they are in. That is useful information. I am asking whether all those special advisers for the purposes of the table are included in the column marked ‘Adviser’.

Ms Clarke—They actually appear in ‘Adviser’, ‘Assistant Adviser’ and ‘Executive Assistant Office Manager’.

Senator FAULKNER—Can you tell us which is where?

Ms Mason—That is something that we would take on notice, if we may.

Senator ROBERT RAY—Can you also take on notice the following questions? In which offices are these special advisers allocated to? We have got that here. I mean what category would those officers have been employed under—adviser, senior adviser or whatever? What are the special advisers? In other words, tell us what their nominal position is before they become a special adviser. That was not clearly expressed, but I think you get it. With this media adviser for Senator Patterson, does that now leave her with one or two? Just one, is it?

Senator FAULKNER—No, it is two: Family and Community Services has two media advisers.

Senator ROBERT RAY—I see. Is that extra media adviser now located in the senator’s home state of Victoria?

Senator Abetz—Sorry, was that question for me?

Senator ROBERT RAY—No, it is for anyone who cares to tackle it. I am looking for the home base of the additional media adviser in Victoria.

Mr Edge—We will have to take that question on notice.

Senator ROBERT RAY—The normal pattern is you get one media adviser each and then, so they can set up a media monitoring thing, the extra one is granted across each state. I am just trying to work out why Victoria has got an extra two. This is a bit puzzling. Senator Coonan has got an extra one in New South Wales. Mr Brough has got an extra one in Queensland—no, Mr Macfarlane has got an extra one. They are doubling it up.

Senator FAULKNER—There is Mr Williams in Western Australia.

Senator ROBERT RAY—The pattern has changed slightly; they have got double in a couple of states.

Senator FAULKNER—Senator Minchin in South Australia; it is pretty well covered.

Senator ROBERT RAY—Okay, I will let that one go. In the Attorney-General’s office, since Mr Williams left, are we reading this right that there are five extra staffers gone in there now?

Mr Edge—In Mr Williams's office?

Senator ROBERT RAY—When we last looked at this, Mr Williams was the Attorney-General. He has now gone to communications and Mr Ruddock is now the Attorney-General. Am I reading—no, I am not reading this right.

Mr Edge—No.

Senator ROBERT RAY—He has gone up by three and down by two.

Mr Edge—That is correct, yes. You have to look at the plus and minus columns together to see what the net change is.

Senator ROBERT RAY—So he has only gone up by a net of one.

Mr Edge—Yes, there are an additional three positions and two positions are shown up as minuses, so that is correct.

Senator FAULKNER—Senator Vanstone is the big winner, I think.

Senator ROBERT RAY—She goes up by four.

Senator JACINTA COLLINS—Senator Patterson is up by four.

Senator FAULKNER—Sorry, Senator Patterson is the big winner.

Senator ROBERT RAY—Propped up by four.

Senator JACINTA COLLINS—She needs it.

Senator FAULKNER—She has got four extra advisers than what Senator Vanstone had when Senator Vanstone was Minister for Family and Community Services. Yes, so she is a winner.

Senator ROBERT RAY—This last one—National Party—is that an additional staffer for Senator Boswell now? It is right at the bottom of the page.

Senator Abetz—Yes.

Senator ROBERT RAY—So he has now got six staff in all—three electorate and three others.

Mr Edge—There is an additional EAOM position that has been assigned to Senator Boswell.

Senator FAULKNER—But he is no longer a parliamentary secretary, is he?

Senator Abetz—No, he is not.

Senator FAULKNER—That is because he is the Leader of the National Party in the Senate, isn't it?

Senator ROBERT RAY—All four of them.

Senator FAULKNER—A party that does not have party status in the Senate.

Senator ROBERT RAY—Is one of these a specialist large print typist or something?

Senator FAULKNER—Yes, it is best described as compensation when that other position was ripped off him.

Senator ROBERT RAY—Is there any chance at some stage of reviewing taking the allocation of whips out of these overall allocations—I am not suggesting you do it now, because these things are best done well into the future—just as a progressive step, because it may affect you one day. There is enormous disparity, as it turns out, between the number of staff given to opposition whips and government whips, which eventually reflects on the government of the day because the work cannot be covered—eight to three, I think it is. I am not suggesting that if you have had a comparative disadvantage in the past it should be immediately corrected—I hesitate to say that—but in the future as either major party could be in government, can we have some sort of review of that? You could even grandfather it in in five years so you do not know who will be in power then. It seems to me that this is one area in which all this could be reformed.

Senator Abetz—I acknowledge the point you make. This was in questions on notice from 28 and 29 May 2003.

Senator ROBERT RAY—It has been raised before.

Senator Abetz—At the time we were not aware but we are now aware, as represented in the written answer, that the Leader of the Opposition is allocated a block of personal staff positions at various levels. I understand that it was Mr Beazley, was it, who made the decision to take those whip positions that used to be allocated to the opposition whips into the central basket of positions and then reallocate them. So an opposition leadership decision was taken to allocate resources elsewhere. I understand that in the past it was accepted practice that out of the 21 per cent the whip staff should be allocated. For whatever reason, within Labor party circles, that was changed, so we cannot say that the opposition whips per se were understaffed. It was a leadership decision by the opposition to understaff their whips.

Senator ROBERT RAY—Whatever the reason I have not alleged anything on the behalf of government in the allocation at all. I am wondering whether it is in the interests of both government and opposition in the long term not to have the allocation to whips positions in these overall figures. They would not be in the government or the opposition figures. If there has been some comparative disadvantage suffered by the current government in the past, you would not want that rectified to your disadvantage. Bringing about some reform so that it cuts in into the future seems to me to be in the mutual interests of both potential governments and oppositions. That is why I raise it and I put it in those terms: not to be done today but to be done in the future at some time.

Senator FAULKNER—Thanks for providing the information in relation to the five government staff and one opposition staff with the personal classifications of special adviser. There is still a significant number of other MOP(S) staff who have personal classifications, isn't there?

Ms Clarke—Yes, there are 30 government staff with personal classifications.

Senator FAULKNER—And the number of opposition staff?

Ms Clarke—Again, I have a hand-out I can table.

Senator ROBERT RAY—That 30 is down one or two, isn't it? Or didn't it include special advisers?

Ms Clarke—No, it certainly includes special advisers. I think since February last year it is down probably six.

Senator ROBERT RAY—I thought it was down.

Senator FAULKNER—The figure of 30 includes the five in the document that Senator Abetz has tabled.

Ms Clarke—That is correct.

Senator ROBERT RAY—Would you pass the document up to the minister so that we can have it? It might save questions.

Ms Clarke—There are two documents here: one is the personal classifications for the government and then also for the opposition.

Senator ROBERT RAY—We would have to have both, otherwise we would be accused of covering up.

Senator FAULKNER—Are there any personal classifications of staff other than government and opposition? Do you know that, Minister?

Senator Abetz—I think there are.

Senator FAULKNER—That should be included, too.

Ms Clarke—There is one in an approval process, which has not occurred yet.

Senator FAULKNER—Fair enough.

Senator ROBERT RAY—These do not include the two electorate staff who have personal classifications at the direction of the minister, do they? The two were employed under part IV of the MOP(S) Act and they received special classification.

Senator FAULKNER—That has previously been canvassed here; that is why I raise it.

Senator ROBERT RAY—I thought you were asking whether the Democrats or someone else may have it.

Senator FAULKNER—I think we have had some evidence about that before.

Senator Abetz—We have, indeed. The two documents are stapled together.

Ms Clarke—To answer your previous question about whether this document includes the electorate officers, the electorate officers were not personal classifications, but the ones that are being handed out now are.

Senator ROBERT RAY—Have there been any additions to personal classifications of people employed under part IV of the MOP(S) Act?

Senator Abetz—It might be semantics, but personal classifications need to be approved by the Prime Minister's office. The two who were canvassed previously have a classification of 'a non-standard starting salary' and that is approved by me.

Senator ROBERT RAY—Has anyone been added to that—

Senator Abetz—No.

Senator ROBERT RAY—or is it remaining at two?

Senator Abetz—Yes.

Senator FAULKNER—Thank you for the document, Minister. You may have this information available and, again, you might be able to supply it in document form. If not, could you take it on notice? The salary bands for these sorts of classifications were decided some time last year. When were the salary bands determined?

Ms Clarke—The original salary bands for ministerial staff were determined back in July 2000.

Senator FAULKNER—The most recent incarnation was last year, was it not?

Ms Clarke—Then there was a review of non-government salary—or office holder salary—bands in January 2003.

Senator FAULKNER—You said ‘non-government’.

Ms Clarke—Office holders, senior staff. That is how they are described.

Senator Abetz—The Speaker and the President; is that right?

Ms Clarke—Yes.

Senator FAULKNER—And ministers.

Ms Clarke—No. That was separate.

Senator ROBERT RAY—You did one in 2000 and there has been no adjustment.

Ms Clarke—That is correct.

Senator ROBERT RAY—Then you went on and did opposition office holders et cetera in a second round in January 2003.

Ms Clarke—You will recall that we had a review at that stage to bring them into line with equivalent ministerial salary bands, so there was that readjustment then.

Senator FAULKNER—Is that in an easily accessible form, again, that can be tabled?

Ms Clarke—The salary bands?

Senator FAULKNER—Yes.

Ms Clarke—I do not have a copy with me now but they can certainly be tabled. They belong to the performance review framework, which has been sent to the Leader of the Opposition.

Senator ROBERT RAY—Are they on a web site somewhere? It might be just as easy to access them in that way rather than put you to the trouble.

Ms Clarke—I cannot recall if they are on a web site, but they are certainly an accessible document.

Senator FAULKNER—That is right, isn't it, Dr Watt; it is publicly available information? This material has been floating around for years, hasn't it—or a year?

Dr Watt—I think that is all Ms Clarke was saying.

Ms Mason—I believe this information has appeared previously on the public record.

Senator ROBERT RAY—Do you think you could get a copy over—not for this examination but for us today?

Ms Clarke—We are arranging that now.

Senator ROBERT RAY—We will not have any follow-up questions; we just want a copy of it—the two sets on government and opposition office holders.

Senator FAULKNER—At the last estimates—Minister, I think this is one for you—we canvassed the issue of a broader paper on entitlements that was under consideration and I think you were going to provide an update for us. Where is this process up to? I am sure this was canvassed at the last estimates round.

Senator Abetz—I thought it was on the basis that things were moving along amicably.

Senator FAULKNER—Can you tell us where the preparation of that paper is up to?

Senator Abetz—It is still a work in progress—let's put it that way.

Senator FAULKNER—It seems like a slow work in progress.

Senator Abetz—It has taken a fair degree of time because of some of the complexities. Senator Murray first canvassed the issues. There are a lot of grey areas, or uncertain areas, and the thing is being progressed slowly but—I would like to think—thoroughly.

Senator FAULKNER—Can I be assured, Ms Mason, that there are MAPS resources being applied to this task? I do not know what priority it has in MAPS but, as far as the opposition is concerned, it is a high priority. I think Senator Murray has indicated on behalf of the Australian Democrats that, as far as he is concerned—and I am sure it is the view of other senators—it is a high priority.

Ms Mason—I can assure you that MAPS resources are being dedicated to this task.

Senator FAULKNER—That is good. But I am not aware of that. This is an issue, Minister, that was discussed at the November estimates round. It has been discussed on a number of occasions. I am pleased to hear that work is continuing on it. I am sure it will be a relief to Senator Murray as well. I just want to be assured that you, Minister, still consider this a priority.

Senator Abetz—Absolutely.

Senator FAULKNER—That is good. Just in relation to the Government Members Secretariat, there have been some major changes there, I gather, Minister, have there?

Senator Abetz—It depends what you mean by 'major'.

Senator FAULKNER—Is there anything you would like to bring to the attention of the committee about how things are evolving down there—however unpleasant it might be at the Government Members Secretariat?

Senator Abetz—I am sure I could, but it is not my responsibility.

Senator ROBERT RAY—Would you just like to define what your responsibility is in regard to that, just so we have it on the record, definitively?

Senator Abetz—Yes. The staff that are employed in the Government Members Secretariat of course are paid by MAPS and therefore they fall into my responsibility in that regard, just as much as staff members employed by the opposition or the Democrats might fall into my responsibility, but the day-to-day operation of the GMS is run by the Chief Government Whip.

Senator ROBERT RAY—Therefore, there is no actual ministerial responsibility for these employees' behaviour? In other words, you do not take responsibility for their behaviour; is that right? Like you would for your own staff—Dr Phelps behind you, and everyone else.

Senator Abetz—Behaviour is a very wide term.

Senator ROBERT RAY—You take responsibility for the actions of your 11 staff members and you are held responsible for them.

Senator Abetz—That is right.

Senator ROBERT RAY—I think we understand that.

Senator Abetz—That is fair, yes.

Senator ROBERT RAY—But you are not responsible for the nine government member secretariat.

Senator Abetz—That is correct. The Chief Government Whip is.

Senator ROBERT RAY—Right, and no government minister is.

Senator Abetz—That is correct.

Senator ROBERT RAY—Therefore, if there is no one to take responsibility for them, but they get paid and resourced out of your area, and they also get all their equipment paid out of your area, don't they?

Senator Abetz—Yes.

Senator ROBERT RAY—Then there is nothing to stop me—seeing as there is no minister responsible for them—calling them to give evidence before this committee.

Senator Abetz—Yes. But, similarly, let us say that there is no minister actually responsible for your staff or Senator Murray's staff, albeit that MAPS provides them with the office in which to work, computer facilities and their wages, et cetera.

Senator ROBERT RAY—Yes, there is a distinction. Our staff are employed under part IV of the MOP(S) Act. These staff are employed under part III of the MOP(S) Act—quite different. And, in fact, the rationale used by your side of politics to call before the estimates committee the group known as aNiMaLs, the National Media Liaison Service, is precisely the same argument I am now using to get a unit, that is the Government Members Secretariat, called before this committee. Why can't I?

Senator Abetz—That is a matter for the committee. I am not going to raise—

Senator FAULKNER—You do not have a view?

Senator Abetz—I do not think it would be desirable but, if the committee decides that they want to call certain people, then that is up to the committee, and that is for internal discussion within the committee and not for me to comment on.

Senator ROBERT RAY—Minister, what I want is a minister to take responsibility for part III employees, employed within the government allocation, deliberately moved out of ministerial responsibility, over to the Chief Government Whip, knowing that comity between the houses deny us the opportunity to examine what their activities have been. That is perfectly fair. What happens when one of the members of the Government Members Secretariat is terminated—sacked? You have no involvement in that?

Senator Abetz—No, I do not.

Senator FAULKNER—Hang on! They are staff under the MOP(S) Act, aren't they?

Senator Abetz—Yes.

Senator FAULKNER—Surely determination of their contracts is a matter for DOFA.

Senator Abetz—In that regard, yes, I do have an involvement, but if you or Senator Murray were to terminate one of your staff it is not for me to determine their termination. I am presented with a fait accompli that they have been terminated and then the department deals with the administrative requirements that flow from that termination.

Senator MURRAY—Take the example of an unfair dismissal. If I dismiss somebody and they take exception then they would take the unfair dismissal action against me as their employer and I would consult with DOFA for advice because of where they are paid from. What happens to these staff if that happened? Who would they take action against?

Senator Abetz—As I understand it, they take action against the Commonwealth and then their employer, who would be in this case the Chief Government Whip.

Senator MURRAY—Okay.

Senator ROBERT RAY—If the Chief Government Whip has to terminate a member of the GMS you would be aware then—as in any sacking; it does not matter which side of politics it is—of the possibility of an unfair dismissal case. Do you give them advice as to who should come in and mediate? For instance, in one case noted of late it is alleged that a senior member of the Prime Minister's staff went into mediate in the Government Members Secretariat with a sacked member. Does that not have the potential to entangle any unfair dismissal case in the future?

Senator Abetz—If there were discussions we were not privy to them and cannot take the matter further.

Senator FAULKNER—Who signs the contracts? Who does the employee in the Government Members Secretariat sign the contract with? Who is the employer? Do we know that?

Senator Abetz—It would be the Chief Government Whip or if it were more junior staff—we might have to check on this—there might be somebody authorised by the Chief Government Whip to deal with more junior staff. At the end of the day it is the Chief Government Whip.

Senator FAULKNER—It is the Chief Government Whip who signs for senior staff?

Senator Abetz—Yes.

Senator FAULKNER—Who is in charge of the Government Members Secretariat these days? Who is the chief shebang there? The chief staffer? We know that Mr Lloyd does not have any role. You do not know who it is? You know who it was, don't you, Senator Mason?

CHAIR—Yes, I think I do.

Senator FAULKNER—Do you know who it is?

CHAIR—No.

Senator Abetz—I am not sure who is the person in charge of the Government Members Secretariat. I can take it on notice.

Senator FAULKNER—You cannot be serious, Senator Abetz. It is no longer Ms Dawn Crosby, is it?

Senator Abetz—There has been some publicity around that.

Senator FAULKNER—Sorry, is that a no? Ms Dawn Crosby is no longer—we know that.

Senator Abetz—That is right.

Senator ROBERT RAY—Is some of the misunderstanding here because it is not necessarily the senior adviser who would be regarded as head of this one but somebody at a lower rank or would it normally be, as in the cabinet policy unit, the most senior person—

Senator Abetz—I am not aware of the detailed structure within the Government Members Secretariat.

Senator ROBERT RAY—It says here in the document that you have given me that they have one senior adviser, four advisers, three assistant advisers and one secretary admin assistant. That gives a total of nine in all. I was wondering—because I want to have these people called before the committee—would it be the senior adviser that would be regarded as being in charge of this unit?

Senator Abetz—I am not sure that you can make that assumption.

Senator ROBERT RAY—That is why I am asking.

Senator Abetz—It seems reasonable, but I would need to check that out.

Senator FAULKNER—Are you seriously saying, as the government's Special Minister of State—with huge staff resources, more so than many members of the cabinet—that you cannot tell this committee who the head of the Government Members Secretariat is since Ms Dawn Crosby has had her employment terminated?

Senator Abetz—I am not sure that a replacement has been appointed.

Senator ROBERT RAY—Are you sure a dealer and wheeler has not been moved in?

Senator Abetz—I am not sure about that. I am not sure whether such a person has been moved in or not.

Senator ROBERT RAY—So a former Liberal Party organiser and failed Liberal Party candidate for the ACT who has a long history around the place—a very competent player—has not been put in charge? You do not know that? You are so far down the food chain that no one has told you? I find that difficult to believe.

Senator FAULKNER—So you cannot assist us?

Senator Abetz—No, I cannot assist you.

Senator ROBERT RAY—Am I allowed to ask—and tell me if I am not—whether Ms Crosby resigned or was sacked? I may not be entitled to know that—I am just asking. Can I be told that?

Senator Abetz—As I understand it, the employment was terminated to effect a restructure.

Senator FAULKNER—Can you tell us what the restructure is?

Senator Abetz—No, I cannot.

Senator FAULKNER—You do not know that either? So you do not know who is running it and do not know how it has been restructured?

Senator Abetz—I do not know that somebody has been appointed in the restructure as head of the GMS. I have read and heard the speculation—and Senator Ray has very wittily made references to certain individuals whose names have been floated around—but I am not sure that any appointment has actually been made to the restructured organisation or whether the restructure is fully in place. I would anticipate that I might be told at some stage when it is all in place—keeping in mind that it is the bailiwick of the Chief Government Whip and not myself.

Senator FAULKNER—A huge amount of taxpayers' money is being spent in relation to this Government Members Secretariat. We could ask a whole lot of questions about the sacking of Ms Crosby; we have decided not to do that. We could mention the names of some very prominent government staffers and their alleged involvement in all this; we are not going to do that.

Senator ROBERT RAY—Crikey has already done it.

Senator FAULKNER—I do not know if it has been mentioned on Crikey or not, but we are not going to do it here at the committee. All we are asking you is: who is running the show? Who is responsible for this operation that is responsible for guzzling—

Senator Abetz—The Chief Government Whip. I have told you that half-a-dozen times, and you will keep getting the same answer—it is the Chief Government Whip. It is not surprising that I do not necessarily know everything that the Chief Government Whip does with his staff. You might think it amazing, but I think most reasonable people would not find that an amazing proposition.

Senator FAULKNER—Who has replaced Ms Crosby since she got the royal order of the boot?

Senator Abetz—I am not sure that there is a currently a person who has actually replaced Ms Crosby. As I understand it, a restructure is taking place. I am not sure if that restructure is in place or of whether official appointments have been made.

Senator FAULKNER—Who is in the current staff leadership position in the Government Members Secretariat?

Senator Abetz—I can take that on notice. I do not know who is in that position.

Senator FAULKNER—I think most reasonable people would expect you to know that, Minister, frankly, given the amount of public moneys that are being spent in the Government Members Secretariat and given the staff resources that you have—you cannot answer such a straightforward and simple question.

Senator Abetz—Mr Chairman, I think for the dozenth time now, it is not my area and unlike Senator Faulkner I do not make a habit of sniffing around other people's areas to determine what they have done with their staff or how they have allocated them and reallocated them or how they have restructured their offices. That is something that I do not seek to involve myself in.

Senator FAULKNER—You probably do not, given that you have more staff members than virtually anybody else in the whole government—apart from the Prime Minister.

Senator Abetz—You will be pleased to know that they are not engaged in trying to determine which officers are being restructured and how or who is going to be appointed.

Senator FAULKNER—I wish one of your 11 staffers had the wherewithal to be able to find out who is running the Government Members Secretariat. I can only come to the conclusion, as any reasonable person would—as it is transparently obvious—

Senator Abetz—That is an oxymoron—you and 'reasonable' in the same sentence!

Senator FAULKNER—that you do not want to tell us. I wonder why. Put in a phone call to the Prime Minister's office.

Senator Abetz—Keep your conspiracy theories going.

CHAIR—I think we have reached an impasse, Senator Faulkner.

Senator ROBERT RAY—In this restructure, has there been any request for additional resources?

Senator Abetz—Not that I am aware of.

Ms Mason—There has been no request that MAPS is aware of.

Senator ROBERT RAY—I just thought there might have been if there had been a restructure. You will need to take this on notice. Could I have a breakdown of the expenses of the government secretariat that you supply in terms of salaries; ministerial staff allowance; cost of supplying equipment, including computers; any newspaper subscriptions; and any travel expenses? I think you get the story. Could you give me the across-the-board expenses that you have to supply to the Government Members Secretariat, as the department is a conduit to that? By all means take it on notice.

Senator Abetz—Yes.

CHAIR—I thank officers from MAPS for their assistance.

Proceedings suspended from 3.28 p.m. to 3.56 p.m.

CHAIR—The committee will continue its examination of the Department of Finance and Administration, moving to outcome 1 and general questions.

Senator CONROY—I want to ask about the Uhrig review. Does someone want to volunteer?

Dr Watt—Why don't you ask your question?

Senator CONROY—In November 2002 the Prime Minister announced a review by Mr Uhrig in relation to the corporate governance practices of various agencies such as the ATO, ASIC, APRA and the ACCC. Over 12 months have passed and nothing has been released. The Prime Minister's press release of 14 November 2002 states:

It is expected that Mr Uhrig will report directly to me after a six month review process ...

That should have been about May 2003. Can you advise me whether Mr Uhrig has reported to the PM?

Dr Watt—I can do that. Mr Uhrig has reported to the Prime Minister. The Prime Minister announced that on 3 July 2003. I do not have a copy of his press release. The report is currently being considered by government.

Senator CONROY—Senator Abetz, how is the consideration going? Is there any sign?

Senator Abetz—I am sure the consideration is going very well.

Senator CONROY—Do we know if Mr Uhrig's report has been given to anyone other than the PM—Senator Minchin or Senator Abetz?

Senator Abetz—Not to me.

Dr Watt—I would need to refresh my memory, but I think it was reported to both the Prime Minister and the Minister for Finance and Administration. Mr McPhee is nodding; it looks like I am right.

Senator CONROY—So we have no idea when it is likely to be released, if it is ever going to be released? Senator Abetz, that is probably more a government question. Is there any indication?

Senator Abetz—It is under consideration but I cannot assist you with a release date.

Senator CONROY—Have you set up any internal groups or committees to consider Mr Uhrig's recommendations?

Mr McPhee—We have not set up any groups. Obviously, we are considering Mr Uhrig's report in the context of providing advice to the minister.

Senator CONROY—Are you in charge of that? Is that your section?

Mr McPhee—It is in my group, yes.

Senator CONROY—Minister, or Dr Watt, are you able to advise the committee of the general nature of Mr Uhrig's recommendations? If you cannot, that is understood.

Dr Watt—They are recommendations to government.

Senator CONROY—Can I clarify who was being reviewed? I mentioned a couple earlier. There was the ATO.

Mr McPhee—I could give you a summary of the nature of the review. When the Prime Minister announced that Mr Uhrig would undertake the review into corporate governance of Commonwealth authorities and office holders in November, the terms of reference were attached to the press release at the time. I do not have a copy of that, but the key parts are that the objective of the review is to improve the performance of statutory authorities and office holders in their accountability frameworks and that the review will examine structures for good governance as well as the relationship between statutory authorities, office holders, portfolio ministers, the parliament and the public, including business.

Senator CONROY—I have that press release. It lists a number of organisations. I want to see if there were any that were not included eventually in the review or if there were any added.

Dr Watt—I do not think the review was into those organisations. The review was more to have a specific focus on agencies with critical business relationships and then a number were mentioned, but not a review into them so to speak. The review was designed to draw on the assessment of those agencies with a view to analysing good governance arrangements more generally.

Senator CONROY—You have paraphrased it. The press release says:

A specific focus of the review will be on a select group of agencies ...

I am trying to establish the total list. Were some dropped off or were any added?

Mr McPhee—That is the list of the agencies that were considered by Mr Uhrig.

Senator CONROY—So no extra ones were added?

Mr McPhee—No extra ones were added, but he did consult widely as expected. So he did speak to other agencies as well.

Senator CONROY—Is it possible to know which other agencies?

Mr McPhee—I do not have a full list. It was a very broadly based review, Senator Conroy.

Dr Watt—I would expect that when the report is released it is normally the case in reports of this kind that a list of consultations—

Senator CONROY—Would be identified, sure. It is just that you mentioned 3 July, and it is 17 February today. It has been about eight months. Was Mr Uhrig assisted in his review by any companies or consultancies aside from the secretariat provided by DOFA?

Mr McPhee—No. The department provided the secretariat to assist Mr Uhrig.

Dr Watt—The secretariat was made up of officers from a number of government departments, but they were on secondment to DOFA.

Senator CONROY—How many people were on the secretariat helping?

Mr McPhee—Broadly five or six, from memory. We had an SES officer in charge of it and a number of senior officers.

Senator CONROY—So would you be able to advise the total cost?

Dr Watt—We could take it on notice. It would not have been very much. You are talking about five or six people for several months. That would have been a low expense, I would have thought.

Senator CONROY—No travel outside Canberra?

Dr Watt—Mr Uhrig did as part of his consultations. He certainly had consultations in a number of state capitals.

Senator CONROY—Can I get a breakdown of Mr Uhrig's costs?

Dr Watt—Again, we can take that on notice.

Senator MURRAY—Sounds like about a quarter of a million to me.

Senator CONROY—You would be in a better position to calculate that than me, Senator Murray.

Mr McPhee—I think that would be at the outside, Senator Murray.

Senator MURRAY—I just saw five or six well-paid people times six months, plus a bit of travel and so on.

Dr Watt—I do not think the secretary travelled very much.

Senator CONROY—You let me out by himself?

Dr Watt—Mr Uhrig did most of his consultations with one officer from the secretariat.

Senator CONROY—One officer, thank goodness.

Senator FAULKNER—Minister, you made a statement to the Senate on 27 November last year in relation to Comcover's reinsurance provider. I am sure you are aware of it.

Mr McPhee—That I am.

Senator FAULKNER—I wondered if you or one of your officials could give the committee an update on progress on that particular matter.

Mr McPhee—Can I indicate to you that investigations et cetera are still taking place and the advice I have, which I think is good sensible advice, is that we not divulge anything further at this stage. Suffice to say that it is a matter that we took very seriously, hence my proactive statement to the Senate, the parliament. The position has not been completely finalised from an investigation point of view. Suffice to say that we are relatively happy with developments to date, given an unsatisfactory situation. But developments to date are seen as being relatively pleasing.

Senator FAULKNER—My questions are process questions. I am just interested in understanding where the investigations or other actions or activity that are under consideration are up to. That is what I would like to know. Perhaps if Mr Lewis could assist. I do not want to go to the substance of the issue. I accept your views on that, Minister. I would not share them but I am interested in the process of the investigations so be clear on that.

Mr Lewis—Further to the comments from the minister, we are currently finalising our review into contract compliance. We are awaiting advice from our independent auditors and legal advisers—that is expected very shortly—following which we will brief the minister and

recommend an appropriate course of action. As you are aware, the minister has already undertaken to provide a further statement in relation to the matter once action is taken.

Senator FAULKNER—Are you able to give any assurance in relation to the position regarding current reinsurance cover for the Commonwealth? In other words, does the Commonwealth retain adequate reinsurance cover?

Mr Lewis—Heath Lambert's role was to assist us in placing the reinsurance. They were acting on our behalf. The placements themselves remain in place and we have the cover—there is no question about that. The issue was about Heath Lambert's role in assisting us in making those placements. Those placements were made around the middle of last year. There is very little work that is required between years, so we are concluding our review and we will recommend an appropriate course of action to the minister once we receive the report.

Senator FAULKNER—What is the status of the contract with Heath Lambert?

Mr Lewis—The ordinary course expires at the end of this financial year?

Senator FAULKNER—Yes.

Mr Lewis—There is a re-tender in relation to the following financial year, which is presently under way, and, as I say, there is very little activity required under the contract at the present time. Once we receive the report from our auditors we will recommend a course of action to the minister.

Senator FAULKNER—I just thought there might have been some move to terminate contracts.

Mr Lewis—We wait for the advice first.

Senator FAULKNER—Could I ask a general question, Dr Watt, about the department's involvement, if any, in the issue of politicians' superannuation, just last week? Is there any involvement of the Department of Finance and Public Administration in preparing advices to government or the like? I am not going to the substance; I am just interested in the process issues, the departmental activity, if any.

Mr Hutson—The answer is yes, Senator, advice was prepared for the minister in relation to parliamentary superannuation.

Senator FAULKNER—What part of the department was that prepared in?

Mr Hutson—In the Financial Management Group by the Superannuation Branch.

Senator FAULKNER—Who tasked the preparation of that advice?

Mr Hutson—It was requested by the minister's office.

Senator FAULKNER—Can you tell me when?

Dr Watt—I think we would have to take that on notice. I am sure we have details here.

Senator FAULKNER—It should not be too hard to find out. It was some time last week, wasn't it?

Dr Watt—We will see what we can do to get you an answer. My memory of the timing of the request is not clear, so I will get it checked.

Senator FAULKNER—Advice was prepared for the minister?

Mr Hutson—Yes.

Senator FAULKNER—When was it provided to the minister?

Mr Hutson—The formal advice would have been provided to the minister on Wednesday. I cannot work out the date, but it was last Wednesday.

Dr Watt—Again, I would like to confirm that.

Senator FAULKNER—I would hope that could be done reasonably quickly.

Dr Watt—I think we can do that immediately, Senator.

Senator FAULKNER—I will await that exciting intervention from you and perhaps follow the issue through after that.

Dr Watt—We are checking now, Senator; someone is on the phone. It may take a few moments.

Senator FAULKNER—Senator Conroy has many other questions of far greater significance than any I could ever ask. He would like to ask them now. Let's not hold up proceedings.

Senator CONROY—In light of the recent sale of ComLand, can you outline the history of the sale, including the scoping study which was completed in March 2003. I am talking about the Lend Lease offer—Maribyrnong and St Marys.

Senator Abetz—Is there anything specific you want to know?

Senator CONROY—It is just a general question.

Senator Abetz—But outlining the history, is there anything in particular you want to drill down to so that officers can concentrate on those aspects?

Senator CONROY—I was doing my best not to offend you by asking too specific a question.

Senator Abetz—This cooperation has got to stop!

Senator CONROY—If you would like me to be more specific I will.

Senator Abetz—That would be great.

Senator CONROY—Finance's annual report states:

At 30 June 2003, the Government was considering a number of commercial issues arising from the study.

Can you outline what these issues were and were they resolved prior to the sale?

Mr Lewis—Could you provide a little background to start with? I think it would be useful to set it in sand a little.

Senator CONROY—I can give you some background but I do not want the minister to cut you off!

Mr Lewis—The Australian government decided on a sale process in relation to this sale which would maximise competitive tension while minimising the probity issues that would

arise from Lend Lease, as ComLand's existing joint venture partner, competing with other bidders.

Senator CONROY—The issue here is why you decided not to have a tender. Fundamentally, I am sure you have worked out that is where I am going.

Mr Lewis—Based on advice from the scoping study's business and legal advisers, the sale team ran essentially a two-stage tender process in which the first stage of the process was restricted to ComLand's joint venture partner, Lend Lease. Lend Lease was offered the opportunity to bid for ComLand in the full knowledge that, if its tender was not acceptable against an independently set benchmark valuation, the Australian government would proceed to an open tender process in which Lend Lease would be not able to compete.

Senator CONROY—Not able to compete?

Mr Lewis—Not able.

Senator CONROY—A case of 'give us your best offer or you are out'.

Mr Lewis—This was the advice of our advisers.

Senator CONROY—Who were your advisers?

Ms King—The adviser was Macquarie Bank, and Gilbert and Tobin were our legal advisers.

Senator CONROY—Why did you call in Macquarie Bank? You just mentioned your regular advisers. Why did you have a second?

Ms King—Normally, in an assets sales process, we engage business and legal advisers to assist us.

Senator CONROY—Okay.

Mr Lewis—In essence, therefore, Lend Lease had one opportunity to bid, the background to it being the joint venture partner of ComLand. As you are aware, Lend Lease have been in that situation since 1994, when ADI originally introduced Lend Lease as a development partner in relation to three properties. I could provide details in relation to those three if you were interested.

Senator CONROY—I am from Melbourne, where we live and die by the auction process more readily than other towns. I am just confused as to why you would have a recommendation to go through a two-stage process. I understand you do things differently in Sydney.

Mr Lewis—The advice to us is that it is reasonably common in eventualities where you have joint venture partners that when one partner wants out to offer it to the other partner, because they share contractual arrangements. They share various knowledge and understanding of the site. The advice from our advisers was that if, put under some competitive threat, they would offer us a very fair price for the share.

Senator CONROY—Wouldn't putting them under a competitive threat be actually inviting a competitor to bid?

Mr Lewis—I suspect the advice from our advisers—and Ms King can help me if I do not get this right—often works the other way. Because they are so much in a box seat, you can go through what appears to be a tender process but in fact one party has a very strong stamp on the whole competitive process. They tend to get a weaker field and, because of that, they then do not put their best foot forward. Very much based on the advice of our advisers, here was an opportunity for us to drive a strongly competitive process with a joint venture partner before looking to alternatives. We are very satisfied with the outcome.

Dr Watt—If you are an outsider to a tender process, and you have someone in the field who has a lot more knowledge than you, how hard do you really try, knowing that you can never have as good a sense of the value of the asset that is being bid for as someone else in the field? It effectively makes it asymmetric information and that weakens appeal. There is one other point that is worth mentioning. It was not just a matter of Lend Lease giving us the best bid; the Commonwealth also separately set a range of what it considered fair value. If Lend Lease had not fallen within that range, that would have been an issue for us. But they did, and well within it.

Senator CONROY—I drive past Edgewater and Waterford Green on a regular basis. I have been watching with interest the process that has been going on there, so I was particularly interested in what we paid for it—or what they paid to us, as in the Commonwealth. I was surprised. I thought it was a relatively modest price. It has the best views of Melbourne from just about anywhere, so I was surprised that, although it was not a really low price, it was not as high as I expected—not that I am an expert in the field. If you have driven past it—I am not sure if either of you have—it really does have the best views of Melbourne.

Mr Lewis—We are confident that it is a very good outcome for taxpayers. I can add that the bid was assessed against not only the objectives we set for the sale but also an independently set risk-adjusted valuation by valuers firm Rogers Milne. They valued the properties at \$145 million to \$168 million. As you would be aware, the price achieved was towards the top end of that range.

Senator CONROY—Sure. In terms of that valuation—and I appreciate the joint partner issue—there was of course separation so that Lend Lease would not know what that price was?

Mr Lewis—Categorically. They did not know the valuation.

Dr Watt—These valuers were advisers to the government not to the partnership.

Mr Lewis—That is what we are confirming.

Senator CONROY—When did you commence negotiations or approach Lend Lease with its proposal to not tender out the sale? I just want to get a timeline on that.

Ms King—During the scoping study we obviously had discussions with Lend Lease as the joint venture partner, at which point Lend Lease indicated to us that they would be interested in making an offer. We subsequently had discussions with Lend Lease, in particular in setting up the process whereby they agreed to the fact that they would only have one opportunity to bid, during the months of July and August last year.

Senator CONROY—Is a copy of the scoping study available? Now that the deal is out of the way, is it still commercial?

Mr Lewis—It still contains a range of commercially sensitive information and, in accordance with longstanding practice, we would not envisage providing a copy of the scoping study report. It is advice to the government.

Dr Watt—As you are aware, Senator, I do not think we have ever provided copies of that—

Senator CONROY—I did not anticipate that the answer would be yes—I was just asking. You cannot fault a bloke for trying, I always say. So the scoping study recommended not to use a tender but to go through the two-stage process?

Mr Lewis—They recommended a two-stage process if we needed the second stage.

Senator CONROY—But it recommended that the first stage not be a tender?

Mr Lewis—Yes.

Senator CONROY—And that this would ensure the best possible return for taxpayers.

Mr Lewis—I do not know if that paraphrases it precisely, but I think that would be the sense of it.

Ms King—It was, in fact, a tender process—it is just that it had only one participant. We issued an RFT to Lend Lease and they submitted an offer in line with that RFT.

Senator CONROY—You mentioned a valuation from Rogers Milne. Are they a Melbourne based company?

Ms King—Yes, they are.

Senator CONROY—Is it possible to get a copy of that valuation? You mentioned a couple of figures there—is that commercial-in-confidence?

Mr Lewis—I think the figures are about as far as we intend to go for the same reason we mentioned before.

Senator CONROY—What would have been the cost of going down a tender path? Presumably this was a much cheaper way to go through a sale process. What would have been the cost of a tender?

Mr Lewis—That is a hypothetical question.

Senator CONROY—In your experience—you must have flogged off a few bits of land in your time?

Mr Lewis—I have conducted tenders with a value of \$20 million and I have conducted tenders with a value of \$200,000.

Senator CONROY—And this is at the top end of that scale?

Mr Lewis—This is definitely not at the top end of that.

Senator CONROY—I thought you said \$2 million.

Mr Lewis—No, I said \$200,000.

Senator CONROY—Up to?

Mr Lewis—About \$20 million. I am giving you broad orders of magnitude, but it very much will depend upon the scale and complexity of the business for sale. It will depend on the due diligence required. It will depend on the legal issues attached to the sale. It will depend on the nature of the prospective purchasers. That is just not a simple question to answer.

Senator CONROY—Did the independent valuation include an assessment of the return from 5,000 homes in Sydney's west?

Ms King—Yes, it did.

Senator CONROY—And how did that work?

Ms King—The valuation that Rogers Milne took us through looked at the likely returns from the sale of land over the period of the development. The St Marys site is expected to be developed over the period until about 2017. It then looked at the likely costs involved in the development and the proceeds that would be available after those costs to share between the two joint venture partners to arrive at its final valuation figure of between \$145 million and \$168 million. I can take you through it roughly. If you assumed the sale of 5,000 blocks at St Marys at \$200,000 to \$250,000 per block that would give you a rough gross proceeds of between \$1 billion and \$1.2 billion. In order to determine the net proceeds you would then need to take out the costs, which our advice is are in the order of 60 to 80 per cent of a project like this. That covers things such as infrastructure—putting in new roads, water, power, drainage and those sorts of things—contributions to external transport systems, such as the existing roads that enter into the site, and other community assets that are required under the development agreement with the state and local councils. Much of this is expense incurred at the beginning of a project. Once you take those costs out, that leaves about 20 to 40 per cent of the proceeds to cover things such as rates and land taxes as well as the financing costs of the actual acquisition, corporate overheads and the development returns. Once you do all of that there is not a lot of money left over for a profit which, as I said, has to be split between the two joint venture partners according to the agreement.

Senator CONROY—You mentioned the 60 to 80 per cent costs. Does that include the environmental elements of the site that the government has agreed to protect?

Ms King—Apart from a very small section in the eastern sector of the site, it has already been fully remediated. So those costs have already been incurred by ADI and ComLand in its various forms.

Senator CONROY—What will happen to that small part that is left?

Ms King—ComLand will continue to retain the obligation to do the remediation. I understand they are in the process of letting contracts to undertake the remediation and obviously Lend Lease will have responsibility once the final completion of the sale has gone through.

Senator CONROY—Any idea of the cost of that?

Ms King—I understand from ComLand that it is expected to cost in the order of \$0.5 million.

Mr Lewis—We are at the tail end of a very substantial remediation program. That money would flow to the developer over about the next 15-plus years. You are talking about a long—

Senator CONROY—You mentioned 2017 for the full development.

Mr Lewis—It is a very long period of time, with all the developer risk associated with that.

Senator CONROY—It will be there before our beef will be in the American market—it is okay.

Mr Lewis—We have crystallised the proceeds on the side of taxpayers with none of that downstream development risk for our share of that development. We are very comfortable that there has been an excellent outcome for taxpayers.

Senator CONROY—What about Maribyrnong? Is that the same sort of process? Can you outline that?

Mr Lewis—ComLand is the vehicle that owns each of these investments.

Senator CONROY—You gave me a breakdown of the costs for the 5,000 homes in St Marys. Is there a similar breakdown for Maribyrnong?

Ms King—Maribyrnong is at a much more advanced stage. The development has proceeded much more quickly. It is much further developed.

Senator CONROY—Each time I drive past there are new houses.

Ms King—A lot of the profit from that side has already been realised as the blocks have been developed and sold off, but we would work through a similar equation. Obviously, there are a small number of blocks. I do not have with me the actual way of doing the valuation but it was the same process.

Senator CONROY—Can you take on notice to give me those same sorts of estimates that you had before?

Ms King—Yes.

Senator CONROY—That would be great. Breaking down the valuation, what was the valuation of St Marys within that total figure?

Ms King—I do not have that information here. I can take that on notice. Obviously, St Marys is the real driver of the value of the sale.

Senator CONROY—Is it 60 per cent or 70 per cent? Obviously I have seen Maribyrnong but I have not seen St Marys.

Mr Lewis—My guess is that it would be more. We would be happy to get that for you.

Ms King—I would have to take that on notice.

Senator CONROY—The Minister for Finance and Administration's press release states:
... the Australian Government considered that it was an opportune time to realise its investment in ComLand and remove its protracted exposure to property market risks ...
What risks was the minister referring to?

Mr Lewis—I think it was the 2017 issue. The government would, in essence, be assuming risk until the year 2017, possibly beyond, as a joint venture partner in a property development play.

Senator CONROY—Was he talking about the property bubble bursting?

Mr Lewis—I do not think he was making any short-term comment about housing or property bubbles. He was talking about the role of the Commonwealth government in relation to property development.

Senator CONROY—Did the scoping study indicate that there was protracted exposure to property market risks?

Mr Lewis—I would be surprised if our scoping study advisers did not refer us to the risks if we had maintained the Commonwealth's position as a property owner of those sites over the next 1½ decades.

Dr Watt—I think the issue is one of structural risk rather than a cyclical one.

Senator CONROY—I am just trying to get a sense of what he was meaning. Presumably the department shared the view on the structural risk?

Mr Lewis—I would certainly hold the view that it is not a suitable role in the ordinary course for the Commonwealth government to be in the business of being a long-term property developer. That is a role better played by the private sector.

Senator CONROY—About \$25.3 million of the proceeds were used to pay existing ComLand debt. Was this debt held by the joint venture's or the government's share?

Mr Lewis—I think it was just held in ComLand.

Ms King—It was held by ComLand.

Mr Lewis—It was held by the entity. We needed to pay that out because that was the entity we were selling.

Senator CONROY—What are the elements of the debt?

Ms King—It was a facility that ComLand had with Westpac. It was established—

Senator CONROY—Was it for remediation liabilities and things like that?

Ms King—And so that ComLand could make their contributions to the joint venture development companies. As the costs came up, they needed to be able to make those contributions. As I am sure you can appreciate, the revenues are not there at the beginning of a project, so they needed to fund those. They had a debt facility in which they could do that. That was guaranteed by the Commonwealth, which is why we needed to pay it out prior to the completion of the sale.

Senator CONROY—There were a lot of complaints at the time from local residents. They felt it had been sold for a pittance. Do you have any views on that? I am quoting from a newspaper article where they are saying 'pittance'. I am just interested in your response.

Mr Lewis—I think it is an excellent outcome for taxpayers.

Senator Abetz—I have never known an asset to be sold, either by a state government or a federal government, where a local community group did not think they could have got a better price. It happens in my home state when the state Labor government sells property; it happens when the federal Liberal government sells property. I think it is one of those things. I would not put too much weight on it, Senator Conroy.

Senator CONROY—Did the scoping study have any thoughts on the necessity to sell right now? I know you have mentioned that the government had a view on structural risk—I think Dr Watt described it as that. In terms of the cycle, was there any view by the scoping study about whether or not this was the best time to sell?

Ms King—I think the government always had an intention to exit from these property developments.

Senator CONROY—It is timing that I am really looking at.

Ms King—In terms of driving value, one of the key issues was the proceeds of the planning approval process at St Marys. That process was well under way and, as a result, it was an opportune time for the Commonwealth to realise the value of its investment.

Senator CONROY—I may have one or two other questions, but I might come back to them.

Dr Watt—If you have finished on ComLand, we have answers to Senator Faulkner's questions which I will give, and we can certainly give them again when he comes back.

Senator CONROY—I am sure you will flush him out.

Dr Watt—On Tuesday, 10 February, the department received a request from the office of the Minister for Finance and Administration for a briefing on the parliamentary superannuation scheme. The department provided factual information to the office on 10 February and a brief was prepared for the minister, which was delivered to the minister's office on the morning of Thursday, 12 February.

Senator CONROY—Thanks. I am sure Senator Faulkner may come back and ask you that. I will now pass over to Senator Collins for questions in a slightly different area.

Senator JACINTA COLLINS—I have some questions in relation to the department's involvement in the interdepartmental task force on work and family. Can you tell me who the department's participant was in that task force?

Dr Watt—Yes, we can. I would like the head of budget group to answer your question.

Mr Bowen—The departmental representative on that task force was Kathryn Campbell.

Senator JACINTA COLLINS—And this is Kathryn Campbell beside you, is it?

Ms Campbell—Yes, Senator.

Senator JACINTA COLLINS—What research, if any, did the department undertake in relation to the task force report?

Ms Campbell—The department undertook internal research but no independent external research.

Senator JACINTA COLLINS—Can you describe for me the internal research?

Ms Campbell—The internal research was mainly in relation to costing the proposals and determining the underpinning assumptions for those costings.

Senator JACINTA COLLINS—Which proposals did you cost?

Ms Campbell—I am not sure that we can answer the details of those issues because they are still under consideration.

Senator JACINTA COLLINS—Okay. So there is no external research that was commissioned from this department which informed the task force's considerations?

Ms Campbell—No.

Dr Watt—In fact, we are not a department that commissions a lot of external research.

Senator JACINTA COLLINS—No, I appreciate that but I am exhausting all departments since PM&C have found this issue difficult to grapple with directly. Two days before the task force was commissioned, Minister Minchin released a statement outlining the costings of the paid maternity leave scheme. Did the department undertake those costings?

Ms Campbell—Yes, we did undertake those costings.

Senator JACINTA COLLINS—Can you take me through those?

Ms Campbell—When you ask that we take you through those details, are you looking for the details that were outlined in the press release?

Senator JACINTA COLLINS—Yes.

Ms Campbell—Okay, we can talk through those. The first option that was costed included full wage replacement for women who were employed with one employer for 12 months or more, and the second option was for women employed with one or more employers for 12 months or more. The leave paid at the rate of the mother's current wage and salary—that is, uncapped—was \$680 million per annum for the first category and \$780 million per annum for the second category.

Senator JACINTA COLLINS—These are the figures that actually appeared in the initial report, if I recall correctly?

Ms Campbell—These are the figures in this press release.

Senator JACINTA COLLINS—Were these the figures drawn upon by the task force as well?

Ms Campbell—I am not sure that I can comment on those costings, given that these matters are still under consideration.

Senator JACINTA COLLINS—Okay. Were further options costed in relation to paid maternity leave?

Ms Campbell—I am not sure I can answer that given those matters are still under consideration.

Dr Watt—The department does cost a lot of different things.

Senator JACINTA COLLINS—Yes, I appreciate that, and I also appreciate that other options to the two that were canvassed in the minister's press release were also considered by

the task force. Did you provide the costings on paid maternity leave to the minister and/or to cabinet either through representations made by your department or through the task force?

Ms Campbell—In our role we always provide costings to the minister and to inform the task force findings. That was a key part of our role.

Senator JACINTA COLLINS—Was there a particular reason why the minister released these costings prior to the task force's considerations?

Ms Campbell—I am not sure I can answer that. I think that is one for the minister.

Senator JACINTA COLLINS—Minister, I don't suppose you are informed on that matter?

Senator Abetz—I will take it on notice.

Senator JACINTA COLLINS—Can we have a copy of the modelling that was done with respect to the two options that were costed and referred to in the press release?

Ms Campbell—The press release includes a number of options and, in fact, it included four options with two different categories of women. Those who had worked with the one employer and those who had worked with multiple employers.

Senator JACINTA COLLINS—Which categories of women were they?

Ms Campbell—There were four options of how much was actually paid to the women, and there were two options of the categories of women who had been employed for 12 months by one employer or women employed with one or more employers for 12 months or more.

Senator JACINTA COLLINS—Just before you go on. So, there were two categories and four different payment level options. Is that right?

Ms Campbell—Yes, that is right. The information relating to that costing is included in that press release dated 12 September.

Senator JACINTA COLLINS—You do not have further information about the assumptions or the basis of those calculations?

Ms Campbell—I do not think we have got any further information that we could release at this time.

Senator JACINTA COLLINS—What costing or research modellings did the department undertake in relation to the baby bonus scheme?

Ms Campbell—The baby bonus scheme is managed by the Treasury and so we did not undertake detailed modelling on the baby bonus.

Senator JACINTA COLLINS—So you wipe your hands of the responsibility for the baby bonus, do you?

Ms Campbell—It is really an issue for the Treasury.

Dr Watt—To be fair to the officer, it is a revenue issue, not one for us.

Senator Abetz—Yes.

Senator JACINTA COLLINS—Has the department done any work on a redesign of the baby bonus scheme?

Ms Campbell—The baby bonus scheme is really an issue for the Treasury.

Senator JACINTA COLLINS—Has the department done any costings in relation or research or modelling in relation to child care?

Ms Campbell—The department does quite a lot of work in providing policy advice on all these issues, and we do provide advice continually to government as requested on these issues.

Senator JACINTA COLLINS—But not anything, for instance, that has been the subject of the minister's press release on child care, or is there something that I have missed?

Ms Campbell—I do not think Senator Minchin has made any press releases on that.

Dr Watt—We are not aware, but if we were we would probably not be able to comment on it.

Senator JACINTA COLLINS—So the only reason that you were caught into a position where you needed to comment was that the minister had put a release out with costings in relation to paid maternity leave; is that correct?

Dr Watt—We do not normally comment at all on costings that are not public.

Senator JACINTA COLLINS—Except when your minister makes them a matter of public matter.

Dr Watt—Or they are made public, for example, through the budget process, and the budget papers include all of our costings.

Senator JACINTA COLLINS—Here is one matter that has been finalised, and that is in relation to the delivery of outside school hour care places. You may be aware that the government made a decision in December to allocate 10,000 outside school hour care places. Did the department do any modelling on why or the total cost of meeting the full level of demand, which was 30,000 as opposed to the 10,000 places which the government ultimately decided to provide?

Dr Watt—We may have provided advice to government. But, again, because it is advice to government we cannot comment on it.

Senator JACINTA COLLINS—Yes, but this is a concluded matter. I am asking if you did costings on a concluded matter.

Dr Watt—I think you asked us to comment on the cost of a 30,000 place option. The concluded matter, as I understand it, was the provision of 10,000 places.

Senator JACINTA COLLINS—Did you cost the 10,000 place option?

Dr Watt—In the normal course of events we may well have provided costings.

Ms Campbell—Yes, we would have costed the 10,000 option.

Senator JACINTA COLLINS—Do you have the detail of the assumptions that were made in that costing?

Ms Campbell—No, I do not have those assumptions with me.

Senator JACINTA COLLINS—Could you provide those to me on notice?

Dr Watt—We do not normally provide extensive details of costings but we will take it on notice and have a look at it.

Senator JACINTA COLLINS—One of the main reasons why I want to see these costings is that, for instance, the government trumpeted an enormous announcement in relation to in-home care. I think it was Minister Newman at the time—it was back that far—who announced that there were going to be more than 7,000 in-home care places. Several years later we discover that not even half of that number of places have been provided, and we are finally told that the reason for that is that we significantly underestimated the cost that those places might come to. I am interested in understanding the accuracy of the estimates that are being made now to ensure that what the government is announcing it is providing in relation to places is likely to be what eventually does occur.

Dr Watt—I am unaware of the issue you raise. I do not think my officers are aware of it either. But when we provide costings to government we do put our professional reputation on them. Finance costings are costings we take very seriously.

Senator JACINTA COLLINS—Now that you have raised that, let me ask a further question about the costings that were done at the time in relation to the government's announcement of the in-home child-care program. Were they done within your department and, if so, what was the basis of those assumptions?

Dr Watt—I would have to take that on notice. I do not think any of the officers here were around at the time.

Senator JACINTA COLLINS—No, but—

Dr Watt—We will take it on notice and have a look.

Senator JACINTA COLLINS—I am sure you will have records within the department that do not rely upon the particular staff members remaining across time. I would hope so.

Senator MURRAY—When you do costings, are you able to use the modelling facilities available from Treasury—PRISMOD and so on—or are you forced to go externally if you need to do modelling?

Ms Campbell—Depending on the situation—depending on who has the expertise—Treasury have assisted us with some of our modelling.

Senator MURRAY—In your normal and routine costings do you simply use the spreadsheets normally available, or do you have to go to external models?

Dr Watt—Most of the analysis is done in-house. We do draw on external expertise from time to time but that is unusual. Remember, the nature of the costings is very much first-round effects. We are not trying to model, and you cannot really model, the full dynamic effects of some of these changes.

Senator MURRAY—So it is basically spreadsheet work.

Dr Watt—A lot of it is spreadsheet work, although one of the interesting issues for our IT system is that these people can get more out of a spreadsheet than I ever thought possible. We really torture the data and the spreadsheets, and that is one of the things that causes us IT

problems. My understanding is that a spreadsheet is a fairly simple issue. These things are not simple, in some cases; in other cases they are decidedly simple.

Senator CONROY—I want to have a bit of a chat about revenue distribution, GST and all those sorts of exciting things, starting with some very general questions. Obviously GST revenues are collected and paid to the states. What other revenues are currently distributed back to the states?

Dr Watt—You can ask the questions but I am not sure you have got the right people.

Mr Bowen—Some of these questions are probably more appropriately directed to the Treasury. Significant general revenue is directed to the states through special purpose payments for various activities. That would be the other major—

Senator CONROY—Have we still got general purpose?

Mr Bowen—They are not general purpose revenue grants; they are specific purpose grants. But they are provided out of general revenue, such as for roads, health care and things of that nature.

Senator CONROY—It could be just my terminology being slightly off, but I thought it broke down to specific purpose payments—or grants, as you call them—and general purpose payments. You do not separate them out in that sense?

Dr Watt—They are separated out on that basis. If you wish to talk about special purpose payments then this department has a significant role in those. If you wish to talk about general purpose payments that are made now as part of the refunded GST revenues and the budget balancing arrangements over the top of that then you would have to talk to Treasury.

Senator CONROY—I wanted to talk a little about the distribution to the states, the formula and Commonwealth Grants Commission type issues. Some of those fall in your area.

Dr Watt—Commonwealth Grants Commission is within the portfolio of the department of finance. The grants commission does provide relativities between the states and do annual updates of those relativities, but the taking those and turning them into grants is a matter for the Treasury department.

Senator CONROY—I am just trying to make sure I stay within your portfolio. If I am straying, I am sure you will tell me. I appreciate your patience. So the Commonwealth Grants Commission distributes money to the states on what basis?

Dr Watt—The Commonwealth Grants Commission advises on relativities.

Senator CONROY—That is the fine point I wanted to come to. So it looks at horizontal fiscal equalisation to help determine that. Is that the major issue?

Dr Watt—That is the issue: horizontal fiscal equalisation.

Senator CONROY—Shall we say HFE just so that we do not all get very tired. So the Commonwealth Grants Commission recommends on the basis of HFE the breakdown of states and what goes next.

Dr Watt—Yes.

Senator CONROY—But the Treasurer can accept or reject that in general or just on the GST?

Dr Watt—I think, again, that is a question you will have to ask Treasury. I am not familiar enough with that. While the Commonwealth Grants Commission is in the finance portfolio, it is for administrative purposes. If that body were in the Treasury portfolio, the states might be less comfortable with it given that it is the body that recommends relativity. So it was always intended that it should be kept at administrative arm's length from the Treasury, and that is why it is in our portfolio. But the reality is that the policy implications of its work all lie within the Treasury portfolio. For example, it used to be in the former Department of Administrative Services, if you go back that far.

Senator CONROY—Let me just bounce a couple of things off you. They may all get the response that they are more Treasury matters than matters for you. I wanted to ask: what is a disability? Would that be one that would be better to ask of Treasury?

Dr Watt—Yes.

Senator CONROY—I am happy for that to be the case as long as they do not tell me that it is a finance portfolio issue.

Dr Watt—I am reasonably confident they will not tell you that.

Senator CONROY—And they will be happy to answer those?

Dr Watt—I can be reasonably confident they will not tell you it is a finance portfolio responsibility.

Senator CONROY—Excellent. I think some of my other questions fall into the disabilities category, so I will not torture you with them. I wanted to briefly examine exemptions from hedging. During the last Senate estimates you advised us that two exemptions had been granted with regard to external hedging, from recollection.

Dr Watt—Yes, that is my rough recollection.

Senator CONROY—Could you provide details of the process of determining qualification for an exemption?

Mr Culhane—Requests for exemptions from the prohibition on hedging are considered on a case by case basis.

Senator CONROY—This is a government prohibition?

Mr Culhane—Yes, that is right. It is a prohibition on government agencies hedging their foreign exchange transactions.

Senator CONROY—Did the press statement that was issued indicate that there were exemptions?

Mr Culhane—I am not sure. I do not have a copy.

Senator CONROY—‘Prohibition’ is a pretty straightforward word. It usually means ‘no’. How did we establish an exemptions protocol or process?

Mr Culhane—The government, at the time it considered the policy, put in place arrangements for exemptions from the prohibition on hedging.

Senator CONROY—That was part of the announcement?

Mr Culhane—I am not sure if it was part of the announcement; it was part of the policy. I can get a copy of the press statement and check.

Senator CONROY—I do not have it; I am pretty certain I do not have it. I was just looking to determine who actually came up with the exemption policy and then what it is. How do you apply it? How does it work?

Mr Culhane—The policy is set out in the government's guidelines on foreign exchange, which are publicly available on the Internet. How it works is that a minister would make a request of the finance minister for an exemption for a particular agency or a particular activity. The finance minister would consider that request, consult with the Treasurer and respond.

Senator CONROY—What are the criteria?

Mr Culhane—It is considered on a case by case basis. There have been very few applications to date.

Senator CONROY—There have been two granted. Have there been more than two applications?

Mr Culhane—Yes.

Senator CONROY—The two agencies you identified last time were the ABC and Indigenous Business Australia. Who got knocked back? I am asking just out of interest.

Dr Watt—I do not think it is appropriate for us to comment on that.

Mr Culhane—There was also a partial exemption agreed in relation to the CSIRO on a project specific basis; it is not a general exemption. It means that CSIRO can, with the agreement of finance on a case by case basis, hedge particular activities.

Senator CONROY—What activities are they getting up to?

Mr Culhane—None at the moment.

Senator CONROY—None? They applied for partial exemption for nothing.

Mr Culhane—At the moment they have not applied in relation to any specific project, but I think they foresee that there may be circumstances which warrant hedging.

Senator CONROY—I know CSIRO would come into that category. I was just wondering what sorts of projects they foresee. What are they up to? Tell me all about it.

Mr Culhane—I am not sure. You would really have to ask CSIRO that. I would only be speculating. I know that Indigenous Business Australia have their exemption because they were entering into joint venture activities with private sector partners and those partners had some reluctance to leave themselves exposed to that sort of grief.

Senator CONROY—What sorts of activities are we talking about? Apologies if you answered some of these questions at the last estimates. I am not sure if you went down this path. As you know, I was not here. What sorts of activities are they jointly doing that would need hedging?

Mr Culhane—Who is that? Indigenous Business Australia?

Senator CONROY—Yes, start with them.

Dr Watt—I think you would be better off asking the CSIRO.

Senator CONROY—You are sort of the cosignatory to them. You have approved them. You must know what they are.

Dr Watt—Mr McPhee has an answer to that.

Mr McPhee—In our response to a previous question we said:

Indigenous Business Australia (IBA) enters into coal sales ventures with commercial partners. Typically, IBA has a total foreign exchange exposure of about \$17.8 million (at the 31/10/03 exchange rate of \$US0.70) of which \$9.1 million is hedged.

Senator CONROY—That was for?

Mr McPhee—We provided that answer to question 23B, which was asked at the estimates hearings of 4 November.

Senator CONROY—In answer to 23A, you said EFIC was being considered. Has that been finalised?

Mr Culhane—That is still under consideration by the government.

Senator CONROY—That is a long time. The dollar has moved a bit since they first applied! Have there been any new applications since November 2003?

Mr Culhane—I do not believe there have been any new applications since then. We will confirm if there have been.

Senator CONROY—In 23A, where you outline the ones that had not been granted—which you did not want to comment on earlier—you say:

A limited exemption in respect of joint research ventures with commercial partners was granted.

But you do not know what those ventures are?

Mr Culhane—No. The arrangement that was entered into was that, should CSIRO wish to enter into a joint venture arrangement—

Senator CONROY—They have to come back to you.

Mr Culhane—That is right.

Senator CONROY—So it is not a block on them actually getting to a point where they say, 'We want to do this for someone, but we can't do it.' They can come back to you and negotiate it through with you?

Mr Culhane—That is right.

Senator CONROY—Okay. The ABC—are they hedging the Wiggles? What are they up to?

Mr Culhane—What are they hedging?

Senator CONROY—What are the ABC hedging?

Mr Culhane—The exemption in relation to the ABC exists because of some provisions in the ABC Act that basically exclude them from government direction in relation to certain activities.

Senator CONROY—So the government could not actually prohibit the ABC from hedging.

Mr Culhane—That is that essence of it.

Senator CONROY—In a roundabout way is that what you are telling me?

Mr Culhane—Yes, that is correct.

Senator CONROY—Are there any other organisations that fall into that category that you are aware of?

Mr Culhane—No.

Senator CONROY—So we have no idea what the ABC are hedging, if they are hedging. It is just that they have a general exemption from the prohibition?

Mr Culhane—We have an idea of what they are doing. In our response to 23B—

Senator CONROY—Do you want to ask them? Are you interested?

Mr Culhane—In our response to 23B from the last Senate estimates I think we indicated that the ABC at the time had an external exposure over the following 12 months of \$17.1 million, of which \$3.6 million was hedged.

Senator CONROY—That must be their overseas trips.

Mr Culhane—I imagine they are purchasing programs et cetera from overseas, but you might be best talking to the ABC.

Senator CONROY—So they might be hedging the Wiggles. Do the SBS fall into the same category? Do they have a general exemption? I am assuming they have a similar general prohibition.

Mr Culhane—They have not been provided an explicit exemption. It may be that they fall outside the net of agencies that are captured by the policy.

Dr Watt—We could take that on notice.

Senator CONROY—I am just interested.

Mr McPhee—We will come back to you.

Dr Watt—On the difference between the SBS and the ABC, I am reminded there is a direction power in the SBS legislation; there is not in the case of the ABC legislation.

Senator CONROY—So they would have to apply for a—

Dr Watt—That is right.

Senator CONROY—And go through a normal process, unlike the ABC, which has a blanket exemption that you formalised.

Dr Watt—I think we can say we have answered that one.

Senator CONROY—Thank you for that. Once the ABC, or anybody else, have that exemption, they cannot seek recourse from the budget if they have any losses. Is that the way it works?

Mr Culhane—If you have an exemption then you cannot seek recourse to the budget for losses; that is correct.

Senator CONROY—Do you know how they are going?

Mr Culhane—The ABC with an exemption?

Senator CONROY—How they are going with their hedging policy. The dollar has hit 80c virtually.

Mr Culhane—I am not aware, no.

Senator CONROY—Do you have to keep an eye on it for any reason? You are obviously going to monitor CSIRO and the other ones, but this one—

Mr Culhane—We are monitoring it. We monitor on a six-monthly basis. The next reports are due with the Department of Finance and Administration with the budget update, I believe. All agencies are required to advise finance on that basis. The prime responsibility for managing those hedging arrangements lies with the chief executives.

Senator CONROY—Sure. I appreciate that. I was wondering, because you would want to keep a bit of an eye on them. Given how volatile the foreign exchange market is—and it has jumped enormously even in the last three months—is six months enough to keep an eye on them before you notice that they have got this huge exposure that is opening up like a yawning gap? They may not have but, given the volatility of the market, do you think six months is too long to take your eye off them?

Dr Watt—I think there are two points here. Firstly, as Mr Culhane said, the responsibility for the financial health and financial affairs of agencies lies with the chief executive, not with the department of finance. Therefore, before a chief executive with a foreign exchange exposure has that exposure, they should always put proper arrangements in place and are responsible for seeing that that occurs and that they are monitored actively—as they do. Secondly, as I understand it, the foreign exchange exposure that agencies are expected to take are a very small proportion of their total budgets.

Mr Culhane—That is correct, certainly with respect to the great majority. For some body like Indigenous Business Australia it might be a more significant portion, but with the great majority of agencies it is a very minor portion.

Senator CONROY—A minor portion, provided nothing goes wrong. I am not trying to pin their losses on you guys. I do not want you to misunderstand. I know you have been tightening up monitoring the agencies in a whole heap of other areas, but I just wonder whether you think six months is too long, given the volatility. This may be one of the areas you want to tighten up in terms of getting even a three-monthly report.

Mr McPhee—For the material agencies, we certainly receive monthly financial statements as well and we are moving to get monthlies from smaller agencies as well, so you are right

about our monitoring role. The AAUs—agency advice units—within the department certainly keep an eye on those sorts of things and any significant movements would be noticed.

Senator CONROY—They do not always bring them to book straightaway in the same way that one of the banks has, and Treasury particularly is an expert in this area. I think they are all the questions I have on hedging. Thank you.

CHAIR—Any more general questions?

Senator CONROY—We are just trying to round Senator Sherry up at the moment to come and ask questions on the CSS and PSS.

Senator Abetz—Let us do something else.

Senator CONROY—No. I have plenty of questions.

Senator Abetz—I was fearing that.

Senator CONROY—I am sure you would be disappointed if I did not have a chat about the ANAO report.

Dr Watt—We would be delighted.

Senator Abetz—Again, where are they housed, Senator Conroy?

Senator CONROY—You are the expert on that?

Senator Abetz—Centenary House, that is right. Thanks for reminding me.

Senator CONROY—The problem is that they did not hedge their exposure.

Senator Abetz—Did the government of the day allow them to? That is the big issue.

Senator CONROY—I am conscious of not wanting to go too deeply into it when I know Senator Sherry will be here shortly. We might have a bit of a general chuckle before we move into the more substantive—

Senator Abetz—Thirty-six million dollars—no chuckle.

Senator CONROY—Senator Abetz, it pales next to the \$3½ billion your government lost on hedging or not hedging.

Senator Abetz—No such thing.

Senator CONROY—You are still getting value money, though. It is a very nice building.

Senator Abetz—That is why they are not renewing the lease, just like the suggestion at the royal commission.

Senator CONROY—I want to start with some very basic general questions, if we can interrupt Senator Abetz's chuckling. I just want to talk about timing issues that relate to the audit of special accounts and your work on the revamped guidelines. When was Finance first approached to advise regarding the ANAO's intention to audit?

Mr Culhane—I believe it was around April last year, 2003.

Dr Watt—Around April.

Senator CONROY—The day after the Senate estimates—about April. When did you actually commence work on the guidelines?

Mr Culhane—Guidelines had commenced about October–November 2002.

Senator CONROY—So April 2002, ANAO, or did you say 2003?

Mr Culhane—No, sorry, ANAO was early 2003.

Senator CONROY—Around April 2003, we think.

Mr Culhane—That is my recollection.

Mr McPhee—I could perhaps confirm that from the audit report where it says that audit field work was conducted between April 2003 and September 2003.

Senator CONROY—That is field work, but what I asked was when was Finance first approached? I presume they did not just—and I am sure you know this expertly, Mr McPhee—bowl up and say, ‘Ian, nice weather we are having, I have come to audit you.’

Mr McPhee—We certainly appreciate notice, Senator Conroy. I think you are right. It would have started earlier.

Senator CONROY—Is it 30 days; is it two months?

Mr McPhee—I imagine it is a month or two, yes.

Senator CONROY—That would then bring it back to early 2003.

Mr McPhee—The Audit Office publish a program of potential audit topics on an annual basis.

Senator CONROY—They are tricky buggers: they sometimes pull a snap one on.

Mr McPhee—They always provide a range of audits much greater than they will undertake, but I think it was pretty well clear that they would proceed with special accounts.

Dr Watt—We can see if we can check when we were first approached, Senator.

Senator CONROY—It is not critical; I am just interested in the time line. Prior to the release of the guidelines in 2003, what was Finance’s role in the management of special accounts across Commonwealth agencies? I know we have talked about this at some length previously, so I am overlapping and going back to some earlier discussions, but what was your role in special accounts?

Mr McPhee—The department has the responsibility for the framework and also where agencies wish the minister to determine a new special account we obviously provide advice to the minister on that. So we have got an administrative role but also a care and maintenance role in respect to the framework.

Senator CONROY—Care and maintenance. Can you just confirm the ANAO’s finding that the accuracy with which special accounts were reported actually deteriorated between the establishment of the FMA Act and the commencement of the audit? Is that a fair assessment by ANAO?

Mr McPhee—I would answer it this way: prior to the new FMA legislation there had been stability for about 90-something years in terms of the framework. The FMA legislation then took effect on 1 January 1998, which created the reserve money fund and the commercial activities fund. We then had 18 months later an amending piece of legislation which abolished

those two funds and the components of those funds which were like the old trust accounts. We abolished them and then we created the special accounts. So we went through a period of very significant change not only in terms of special accounts but also in terms of the resource management framework more generally. While perhaps not excusable, it is understandable why we had some issues to deal with in terms of the framework.

Senator CONROY—You did not even know some special accounts existed. Was there a lot of care and maintenance there?

Mr McPhee—In some cases, agencies were reporting special accounts which never in fact existed in their reports. I guess there is a bit of a question about whether Finance should know about that or not, but I can tell you now that we have put the cleaners through the special accounts. We are very confident that we know about them.

Senator CONROY—And no-one is happier about that than me, I promise you, Dr Watt and Mr McPhee.

Mr McPhee—The other thing I should say in my response on care and maintenance is that I perhaps did not do justice to the work of the department in recent times on enhancement because, as you would be aware, we have considerably improved disclosure in financial statements, the minister in his own consolidated financial statements now produces the list, we have improved the information in the budget papers and we ourselves are keeping a register of special accounts.

Senator CONROY—You have abolished that on your web site, though.

Mr McPhee—We have taken it off the web site.

Senator CONROY—I know that web site because of a few hiccups over the last 12 months or so. A conspiracy theorist like me would perhaps think that was a little suss.

Mr McPhee—I think it is just incongruous to have part of your accounts up on a web site.

Senator CONROY—It is a list of titles; it is not really a—

Mr McPhee—It is a list of titles.

Senator CONROY—You actually have the mechanism now to get it right as opposed to previously when there was a little ambiguity about what was on it. I am just perplexed, given that you have the systems that I am confident will capture it, why you would want to take it down now. I could understand that 12 months ago you would have wanted to take it down, but it occurs to me that taking it off now is a little odd.

Mr McPhee—It is only that it is a partial response. Why stop there? Why not put a whole lot of other information up?

Senator CONROY—I am about transparency and disclosure. Why would you stop there? Why would you reverse your position, given that they have been the subject of some discussion?

Mr McPhee—The beauty of putting it in the consolidated financial statements is that it is subject to audit and it gives users greater assurance than anything the department might put on the web site. It just gives greater assurance. It used to be the approach that was adopted for many years too. I do not think the Web is the right place for this sort of information.

Senator CONROY—Where would I find it if I wanted to see which ones had been created in one consolidated spot, rather than having to go right across 30-odd departments and all the agencies that hang off them? Where would I go, given that you have taken it down, if I wanted a quick ready reckoner of what they are up to this week?

Mr McPhee—On an annual basis, clearly you could compare the consolidated financial statements year on year, but alternatively, in forums like this, we could provide you with that information.

Senator CONROY—I appreciate that but, if I were wanting to keep track of what they are up to, 12 months is a bit of a long time between drinks to get a chance to keep track of them for parliament. As you know, the accountability to parliament is one of my major concerns—and Senator Murray and even some members of the government would be concerned.

Mr McPhee—We have not had a great demand for this information, apart from your particular interest.

Senator CONROY—Apart from Jane, I am sure you have not.

Dr Watt—In fact, yours is the first interest we have recorded.

Senator CONROY—As you know, I am a little obsessed about many things. It is just one of those. I was just disappointed to see you take it down when you have finally got it under control. If I have not said this publicly, I am happy to do it again now: I think the reforms that you have made are substantial and important for the efficient functioning of the whole structure and the parliament is grateful that you have done that. So I was just disappointed to see that you have pulled that one off the web site. Jane is broken-hearted.

Dr Watt—It might be useful at this point to reflect on when the ANAO approached us about the audit. The ANAO wrote to me on 20 March 2003. It was a letter sent by the acting director—I do not know the person's name—and I received it on 21 March.

Senator CONROY—So you guys started working on your revamped guidelines in October-November 2002.

Mr Culhane—Yes, prior to the correspondence.

Senator CONROY—And then on 20 March you get the letter saying, 'We are going to come and have a chat'. Then you poached Mr McPhee. Did you sign that letter that was sent, Dr Watt?

Dr Watt—I think we had already poached Mr McPhee.

Senator CONROY—When did you arrive, Mr McPhee?

Mr McPhee—I think it was 9 January 2003.

Senator CONROY—So I cannot even blame you for the guidelines starting to be revamped. One of the issues about it being on the web site is that the CFS only includes really basic information: the names and balances, not the credits or purpose of the accounts. You guys did provide more information on your web site. That is an oxymoron, but you would be providing more information on your web site if it were up now about these instruments. What do we call them now? We came up with a name that sounded eerily familiar when I heard about it again.

Mr McPhee—They are still called special accounts. The JCPAA recommended the term ‘designated purpose accounts’. The government has not responded to that report yet.

Senator CONROY—The point I am making is that you guys actually explained what they did whereas the information once a year will not be as detailed.

Mr McPhee—My only response is that it is rather incongruous. We do not put a whole lot of other appropriation type mechanisms up on our web page. Why pick on an island of information? That is the only issue.

Senator CONROY—As I say, I am just really disappointed. On everything else you have been running full ball in really great directions. This is a very tiny thing. I appreciate that I am harping on a bit, but it did help actually kick off the debate way back. I would be disappointed to find that you were not interested in having good, robust debate about these issues in the future—not that I think there is going to need to be. It would make it easier to follow funding to the programs if you had them up there and were keeping them updated for the general community. As I said, it is hard to pull them all together across 30-plus agencies and departments. I can only encourage you to take it into consideration and perhaps put them back up some day. We were talking about the framework, which I think you said was stable till 1998. The ANAO suggested that reporting actually deteriorated—and you were talking about stability. Between 2001 and 2002, 266 special accounts existed but 108 were not reported. That is fairly unstable, wouldn’t you say?

Mr McPhee—Yes, that is very disappointing. I think that improved to 17 per cent unreported last year, and I am sure that, given the focus of Finance and the Audit Office, we will get a lot better result again this current financial year.

Senator CONROY—I acknowledge the significant improvements that you have made in recent times. Does the department acknowledge that, without oversight of accuracy and management, the improved disclosure is meaningless? Is that an unfair view?

Mr McPhee—Without oversight and accuracy, disclosure and transparency is meaningless? I am sorry, Senator.

Senator CONROY—That is okay. Do you acknowledge that, without the oversight of accuracy and management, improved disclosure is meaningless? I mean unless the information being disclosed is actually relevant and accurate, then just disclosing bumf is a waste of time.

Mr McPhee—Clearly we wish to disclose accurate and complete information, there is no question about that, and the guidelines expect that.

Senator CONROY—The ANAO appears to be baffled by the nonreporting, stating that there is no apparent reason for the nonreporting—that is paragraph 2, dot 54. Can you explain why this may have occurred and been allowed to occur? Welcome, Senator Minchin, to the table. It is good to have you with us. We missed you for a little while—

Senator Minchin—It is kind of you to say so.

Senator CONROY—but Senator Abetz has filled in more than adequately, you will be pleased to know.

Senator Minchin—He is a very good junior minister.

Mr McPhee—Senator Conroy, I have gone back personally and looked at the requirements in the Finance Minister's Orders about disclosures expected in agencies' financial statements, and it is pretty clear that special account disclosures were anticipated. If you take 2002 as a base requirement, 2003 was even further enhanced, and we are even looking to do a bit more in the disclosure requirements about 2004. A bit like the Audit Office, I am at a loss, except that perhaps agencies believe that they can use materiality as a basis for not putting certain special accounts in. I am only speculating.

Senator CONROY—Can you just explain that a bit more? What would be materiality?

Mr McPhee—It would mean that, if you have got minimal balances or no balances, agencies may have misunderstood that they had the discretion not to report information. Generally, when you report on a set of financial statements, you particularly need to make sure all the material elements are reported. There is some scope at the margin for minor amounts not to be bothered with or lumped in with other groupings. I am only speculating. There are really no excuses and we are emphasising again this year the importance of reporting. And, as I said, the trend line is encouraging.

Senator CONROY—We have talked about a figure where we are not getting 100 per cent yet. When would you envisage we would be able to get 100 per cent?

Mr McPhee—With the attention of the audit report and the focus that we will be giving it, through both the new FMO guidelines and the chief financial officer forums that we run, you would really be out of touch if you did not appreciate that special accounts and the reporting of them is an important issue.

Senator CONROY—Does that mean you think you would be able to get 100 per cent this year or have we still got a few recalcitrants out there?

Mr McPhee—No, I do not think they are recalcitrants. It is just oversight or issues dealing with—

Senator CONROY—But I am sure by now you have actually mentioned to them that they have got them.

Mr McPhee—Yes. I think we will get very close to the lot. The Audit Office will also be focused on this, so together we will be shooting for the 100 per cent.

Senator CONROY—We have talked about the reporting of them and why there was no record of them. The ANAO found errors within them in the actual figures as well. Should Finance have picked up those errors, even in the ones that were reported? I think \$575 million is the figure that is mentioned by ANAO.

Mr McPhee—These were largely credits that were not recorded in particular special accounts, and it goes down to a misunderstanding of complex legislation.

Senator CONROY—By Finance or by the agencies?

Mr McPhee—By the agencies putting their accounts together. The legislation suggested that these special accounts should be credited. I think the issue revolved around the fact that the legislation did not have appropriation clauses or that the appropriation clauses were

unusual and the agencies did not believe that the act in itself provided the necessary authority. So, in the main, it was really just a situation of misunderstanding. That is my understanding of the situation.

Senator CONROY—In trying to achieve the 100 per cent objective we were talking about previously, is there scope to discourage the inappropriate use of special accounts? How are you monitoring them? You have agencies reporting the figures flying backwards and forwards, but there are question marks over the appropriateness of the flow, not just the fact that there has been a flow.

Mr McPhee—I do not think there is any way that Finance can confidently say that agencies' recording of transactions is totally accurate in the sense that we would not know the purpose of particular payments. We rely on the controls within agencies to make sure that they are properly authorised.

Senator CONROY—The problem there is that the fatal flaw is relying on them to know what they are doing. They have clearly demonstrated over the last three or four years that they are not quite up to the job.

Mr McPhee—Certainly the misunderstanding on the legislation was \$500 million worth in terms of these credits not being made—I think that is the story. I am not sure that the audit report came across any more than a few instances of inappropriate transactions going through special accounts. I think there were only a few instances where questions were raised about whether the transactions were for the purpose of the trust account.

Senator CONROY—When the agencies establish these accounts, Senator Minchin has to sign off on them. Presumably Dr Watt makes a recommendation to Senator Minchin and, Mr McPhee, maybe you make the recommendation to Dr Watt. Clearly you know what they are for because they have got to tell you what they are for.

Mr McPhee—I agree. The special accounts are set up either by a determination, as you say, or through legislation in its own right. The purposes are clearly defined. We have a pretty good legislative framework around it, and we have now issued guidance. We have the material out there, but my point was that we would not know if there was an errant transaction being passed.

Senator CONROY—Do you think the ANAO's job is to test the transactions against the criteria?

Mr McPhee—That is obviously their decision, but it is primarily the agency's responsibility.

Senator CONROY—I appreciate that. But, given their recent track record, what checks and balances have we got? If it is not you, is it the ANAO? If it is not the ANAO, is it you?

Dr Watt—I think Mr McPhee's point is that agencies should have, as part of their normal accounting framework, the checks and balances to pick up some of these things within their own agency. After all, they all have quite extensive accounting arrangements. They have audit committees, they have external auditors—not just the ANAO. There are a wide variety of checks and balances. I think that is where the agencies should first be looking. They should be saying, 'What did we not get right?' The ANAO is the external auditor and has a role to play,

and I suppose we have a role to play in setting the framework, but in terms of individual transactions it is very difficult, as you know, for us to monitor even a fraction or to look at even a 10th of a fraction of the transactions that flow through individual agency accounts on a daily basis. We just cannot do it.

Senator CONROY—Are there any special accounts on the ANAO's list that you now think should not be special accounts, that are actually something else and that are not an appropriate way for moneys to be moving around? Are there any that fall into the category where you would want to revise them and maybe make a recommendation to the minister that says, 'No, this one just fails the test'?

Mr Culhane—All the special accounts on the list are properly established special accounts. If you are asking whether, on reflection, some of them should be abolished, a couple of agencies have approached us about abolishing particular special accounts. Since the audit was finalised I think three special accounts have been abolished.

Senator CONROY—Which ones are they, just out of interest? You have taken it off your web site so I cannot check it myself.

Mr Culhane—Five have been abolished since the audit was finalised. In relation to the Department of Foreign Affairs and Trade, there was the Australia-New Zealand Foundation account, the Grawemeyar Award account and the Australia Abroad Council account. In relation to the Commonwealth Ombudsman's office there was the other trust moneys account and the services for other governments and non-agency body account.

Senator CONROY—Are there any others in the pipeline that people are chatting with you about? You do not have to identify them.

Mr Culhane—Yes. Agencies have sought the abolition of two or three other accounts. There have also been three created since—

Senator CONROY—Who has created what? What are they up to now? If I could check your web site I would not have to waste your time on this.

Mr Culhane—One was established in the Department of Industry, Tourism and Resources—the national offshore petroleum safety account. That was established under the Petroleum (Submerged Lands) Act 1967, or an amendment to that act recently. In the Department of Family and Community Services, a child-care centre capital replacement and upgrade special account was established. In the Department of Education, Science and Training the superannuation productivity benefits Aboriginal Tutorial Assistance Scheme tutors special account was established.

Senator CONROY—As you know, the issue has always been about transparency and trying to keep track of what is going on. It is really a function of wanting to keep track of what the departments are doing—their relationship with the parliament and the parliament's ability to scrutinise the appropriations. I was hoping by now that people would have started moving away from special accounts. I would have hoped you would have been encouraging them back within more appropriate guidelines and that they would not be using special accounts as their preferred vehicle. Clearly, they have a long lag time before they report to parliament and it is very hard for the parliament to scrutinise what is going on. But I do not

get any sense that departments have that view or that you think there is a more appropriate vehicle.

Mr McPhee—There is no question that the appropriation mechanism is the standard one and the presumption is that you would use an appropriation unless for some reason a special account was required. The case needs to be made for a special account over and above the appropriation arrangements.

Senator CONROY—I think people were happy with that flexibility at the beginning. We voted for the legislation. Senator Minchin's forerunners recommended it. 'Abused' is too strong a word, but certainly when we supported it way back we would not have envisaged the proliferation—never mind the quantum—of dollars flowing through them. It seems that that is the favoured mechanism. One of the reasons it is perhaps favoured is that it is much harder to keep track of the dollars and say, 'Show me the money.'

Mr McPhee—I think the alternative view is that, by ring fencing the activities of these special accounts, you actually get more transparency around the activities; whereas if they were part of an outcome appropriation you may not get that same level of specificity. The arguments can cut both ways.

Senator CONROY—There has been rephrasing or reallocations and money has been around in many ways. There are some issues about the Constitution, which we will get to, but some of the rephasings are moving from year to year and so on. You would have to say that it is not as transparent as it was previously.

Mr McPhee—I am not sure I would agree with that. We have enhanced considerably the disclosure requirements around special accounts; so on an annual basis, accepting your earlier point that a few agencies overlooked the fact that they were required to disclose matters—but putting that aside—we have a pretty good regime and it is going to get even more transparent come 2004, including a break-up of the appropriations running into these special accounts, whether they have investment powers et cetera. It is going to be very transparent. The other thing I would say is that the JCPA A over many years, at least twice, have looked into the use of the trust fund—I think in the 1950s and more recently, as you and Senator Murray are very well aware, last year. While there were suggestions for enhancement—there is no question about that—I did not detect an overriding concern in both of those reports about the nature of the mechanism.

I think the committee started off—my reading of the committee—particularly in the 1950s, with a very sceptical perspective on the use of the trust fund. By the end of that report it was reasonably convinced about the need to have arrangements like trust accounts or special accounts. As I say, the case still has to be made today and it is interesting that a number of agencies in the light of recent exposure on special accounts have actually closed some down. Finance has asked the question too whether they—

Senator CONROY—Three, did we say, have been closed down?

Mr McPhee—Three, but the most—

Senator CONROY—But three or four have been opened, so in net terms we are still—

Mr McPhee—I am advised that we closed 26 special accounts last financial year. So we are on the case.

Senator MURRAY—If I may say so, there were two aspects which came home. One was that the process of opening an account was relatively tough but the process of maintaining that account when its use was no longer required was weak and there is not that automatic review to ensure that accounts are justified periodically—not necessarily every year but within a three-year cycle. The second major issue was the off-balance-sheet area, withdrawing it from the public and particularly from the parliamentary eye. I think, if those two areas were examined, the JCPAA felt that things would move along a lot better. Really, if I can intercede here, Senator Conroy, I would ask whether Finance is paying attention to those two areas.

Mr McPhee—Taking the second one first, through the increased disclosure we are certainly trying to make sure there is nothing hidden from the parliament's eye, if you like, so we are at least getting that disclosure. We now have requirements in the portfolio budget statements at budget time to have estimates receipts and expenditure. I believe we have sufficient disclosure around that. On the first question about whether we keep an eye on the continuing need for special accounts, over history you would have to say the answer is probably mixed, but certainly in recent times—I mentioned 26, but let me update that figure—29 were abolished because of no need and we have abolished a few more. It is getting more attention arguably than it did in the past now.

Senator MURRAY—How would you be able to formalise them? One of the great problems of any organisation or government is that you create laws, structures, functions and institutions and long after their use-by date they are still hanging around. How do you institutionalise it? Do you formalise it into somebody's terms of reference or into the finance department's procedure manual? What do you do?

Mr McPhee—That is a very good point. At the moment it is subject just to our review processes. We have not formalised it further to say that every three years we will undertake a review and provide advice to the minister or the other agencies. We can perhaps have a look at that.

Senator MURRAY—I would think a triennial approach is appropriate, because quite a lot of budgeting is still done triennially and it would coincide quite well. I have read the ANAO's report. They did not recommend that, did they.

Mr McPhee—No, they did not.

Senator MURRAY—But it is not something you would be adverse to in principle?

Mr McPhee—I think you make a valid point. Assessment of continuing need for the special account, given the special arrangements which attach to it, is a fair point. The question just becomes: what is the most appropriate mechanism? We can give some consideration to that, Senator Murray.

Senator MURRAY—Another one which occurred to me was that quite often moneys held in special accounts are held for either joint or sole use by the states for particular programs. Is there any danger that money is moved out of a kind of Commonwealth special account lying in a state special account but still with Commonwealth control, at least through the

department or agency, and that you will not have your hands on exactly what is happening with that money and where it is?

Mr McPhee—Only if it is done inadvertently or in an untoward fashion. The system is designed to be reasonably tight. The legal obligations, as you know, are reasonably tight—it must be in accordance with the purposes for which the special account is set up—so that situation should not occur if the controls are properly working.

Senator CONROY—We had agreed to bring on the CSS/PSS. I thought we might just take the opportunity to break and do that and then we can come back.

Senator SHERRY—And the public sector super advice—we normally do them together.
[5.48 p.m.]

PSS/CSS Boards

ComSuper

Dr Watt—Where would you like to start?

Senator SHERRY—I have a couple of general questions about the public sector super advice. I want to clarify one thing. In the supplementary estimates on page 21 we have the figures for the Australian government superannuation employer contributions starting in 2004-05. I looked at the explanation and this reflects the new arrangements that are proposed and have been announced, but it says from 1 July 2004. I thought it was 1 July 2005.

Senator Minchin—It is, yes.

Senator SHERRY—The explanation is at the top of page 22.

Mr Painton—I think that it is talking about the variations between the new estimates and the previous assumptions concerning changes from 1 July 2004. So the sentence is trying to compare the new arrangements with the previous estimates, and the 1 July 2004 is in the bit talking about the previous estimates, which was how the last lot of estimates were done.

Senator SHERRY—So the figures in the columns in the chart represent the additional cash cost that is required for payment following the introduction of the new arrangements?

Mr Painton—In a sense it is the other way around, because the estimates that were previously included in the budget estimates assumed the government was going to proceed with two things: one was to provide choice to existing employees and the other was to close the PSS to new employees and have alternative arrangements. Both of those things would have had a cash cost, because in both cases there would be money flowing outside the Commonwealth to go into funding external superannuation schemes. Previously there were two things in the estimates which both had a cash cost.

Then the government announced last year that it was going to proceed with closing the PSS, or at least have funding arrangements for new employees which would continue to have a cash cost, but the other component which was offering choice to existing employees was not to proceed at this time. So, one of the things that had a cash cost was to proceed; the other thing that had a cash cost was not going to proceed. So in fact the new estimates compared to the previous estimates actually reduce the government's cash costs.

Senator SHERRY—But do the figures here—\$260 million, \$280 million and \$290 million—represent the effective 15.4 per cent employer contribution? If they do not, what are those figures?

Mr Painton—Those figures are the difference between the estimated cash cost that would have been incurred had you provided choice to existing employees and closed the PSS from 1 July 2004. That is the base case. Then compare those figures to funding the PSS for new employees. Most of the money in those numbers is actually the estimated impact of not offering choice to existing PSS/CSS members.

Senator SHERRY—Do you have the cash figures for the new employees at the rate of 15.4 for each year on the forward estimates?

Mr Painton—Yes.

Senator SHERRY—Can you give those to me, please?

Mr Painton—Yes, I can provide those. Assuming you have new arrangements applying for new employees from the start of the 2005-06 year, an estimated cash cost, the money that would have to be paid out to fund those arrangements, would be \$30 million in 2005-06, \$90 million in 2006-07 and \$160 million in 2007-08. That obviously increases in future years—

Senator SHERRY—Because of the turnover.

Mr Painton—because each year you have more new employees, yes.

Senator SHERRY—What was your staff turnover rate, your new employee rate, effectively, for the basis of the calculation?

Mr Painton—In terms of numbers?

Senator SHERRY—What percentage.

Mr Painton—The percentage? Do you mean the contribution?

Senator SHERRY—No. It is new employees, so there is an assumption about the number of new employees coming into government employment in order to make an estimate of the figure.

Mr Painton—I think we estimated around 12,000 a year, based on some Public Service data we had from previous years.

Senator SHERRY—To confirm: it is new employees, isn't it, from 1 July 2005?

Mr Painton—Yes, new employees who join the Public Service from that date.

Senator SHERRY—As part of the examination of the new proposals, did you look at the way in which what are known as defined benefit funds have been shut in other public sectors?

Ms Wilson—We have looked at that over the years. What particular—

Senator SHERRY—I assumed you would have looked at it. I just wanted to get to first base. So you can confirm you have looked at closures of DBs in other jurisdictions?

Ms Wilson—In a general sense, yes.

Senator SHERRY—Do you ever look at any in the private sector as well?

Ms Wilson—No, because we do not have a lot of information about the private sector available to us. Trust deeds of existing schemes are available, so we have looked at a lot of accumulation arrangements, but not actual transitioning out of defined benefit schemes.

Senator SHERRY—In your general examination of these closures of defined benefit funds, are there any funds where the defined benefit has been shut to existing members?

Ms Wilson—I cannot recall any off the top of my head.

Senator SHERRY—I cannot recall any, either, but I just wondered whether your examination in this area would have brought to light any DB that has been shut to an existing member.

Ms Wilson—You could go back to the Superannuation Act 22 scheme which preceded the CSS, but that is a long time ago. In that situation, you roll everybody out of one scheme into another. It could be done, but I am not aware of any recent ones.

Senator SHERRY—I will get to whether it can be done in a moment. The effect is to force existing employees with an entitlement, whatever that may be, into a new scheme of a lesser standard, presumably.

Ms Wilson—Sorry, what is your question?

Senator SHERRY—If you have a DB and you shut it to existing members and require them to transfer over to a new fund, the outcome would be that it would carry a lesser benefit, wouldn't it?

Ms Wilson—It really would depend on the comparison between the defined benefit scheme and the accumulation scheme, because some people actually could be better off in an accumulation scheme.

Senator SHERRY—Yes, but in recent years I have not seen an accumulation fund that is better than a DB.

Dr Watt—I think that is the point: it is not impossible to contemplate one. If it was generous enough, it could be.

Senator SHERRY—Yes, that is right. If the accumulation were better than the DB, it could be advantageous for some people.

Dr Watt—Exactly. Or if it had a particular circumstance that suited your particular arrangements.

Senator SHERRY—Yes. I just wanted to confirm that your work had not found any such scenario. It is somewhat relevant in the context of current debates that are occurring, and I was just interested in your observation.

Senator Minchin—You have some nervous members in the caucus, have you?

Senator SHERRY—No, we have not got any nervous ones. I am just interested in the sound principles of practicality and law that apply in these circumstances and the way in which you are applying it to the public sector closure. I am interested more in whether Senator Murray wants to apply their recently announced principles to the public sector, which I suspect might cause severe concern. I do not have significant number of questions about the

new proposals with the shutdown of the DB, but has there been an examination of the administrative costs to the government as a consequence of the move to an accumulation fund?

Ms Wilson—Are you talking about ComSuper's costs?

Senator SHERRY—Yes.

Mr Dent—The cost to ComSuper to administer an accumulation in the normal course of events would be lower than a defined benefit. The exact cost will depend on the final set of rules which are developed for the scheme and the extent to which our computer systems need to be modified.

Senator SHERRY—Would the administrative costs overall still be lower even where investment choice options are made available?

Mr Dent—Yes, that would be the case. We have an investment choice for the military scheme.

Senator SHERRY—Mr Gibbs, I know you have had some experience outside the public sector. Are you familiar with the closure of a DB fund going to a lower benefit in an accumulation fund where existing members of the DB have been required to leave the DB? Are you familiar with that ever having been adopted in Australia or anywhere else?

Mr Gibbs—I cannot give you a specific instance of that. I am aware of some cases where existing people have been incentivised to move.

Senator SHERRY—Cashed out, yes.

Mr Gibbs—I could not say it has never happened, but I cannot give you an example.

Senator SHERRY—Is the cashing out or incentive to leave the DB to cover the potential for any legal challenge in respect of loss of benefit?

Mr Gibbs—In the ones I am aware of, it has been an option that is entirely at the individual's discretion. I am not aware of any compulsion, although I can not be categorical that it has never happened.

Senator SHERRY—But that is not what the government is offering under the proposed new arrangements, is it?

Mr Gibbs—I am not sure I am the right person to comment on that.

Senator SHERRY—There is no cash-out offer or conversion?

Ms Wilson—No, the announced policy does not include anybody moving from one scheme to get it.

Senator SHERRY—I had a constituent query with respect to the application of the military fund. If I give it to you, can you answer the query? With respect to the military fund, I am advised that a member can take up to four years of their benefit early to assist with resettlement in civilian life. I was not aware that was the case. Are you aware whether that is the case?

Mr Dent—No, I am not aware of that provision.

Dr Watt—I think Senator Sherry is now getting into the details of the scheme.

Senator SHERRY—I am interested in the administrative treatment of it. If you are not familiar with it, perhaps you would take it on notice. Apparently, you can pay the sum back but, if you do not pay the sum back, your benefits are reduced. Even though you pay the sum back into the DB, your pension benefit is not adjusted. I found it a little extraordinary that that was the case. Nevertheless, that is what someone has complained to me about. Are you aware of the issues involved here?

Mr Dent—No. I have not come across that provision at all. I am quite happy to take it on notice.

Senator SHERRY—Thank you. I do not know whether that is the case—whether there are many persons in that situation, because I have never struck it before.

Mr Dent—It may not be the case, but I will confirm that.

Senator SHERRY—If it is not the case, let us know. Mr Gibbs, are you able to make any comments on the rate of return on investment? You could bring us up to date with what is happening with the CSS and PSS.

Mr Gibbs—The numbers in the PSS, to the end of December, were positive 8.1 per cent and in the CSS, positive 7.8 per cent. Since 31 December we estimate—and it is only an estimate, as of yesterday—that you could add another approximately 1.2 to 1.3 to those numbers which would bring the financial year to date for the CSS to just over nine per cent and for the PSS up to about 9.3 per cent. That is investment performance. Of course, both funds started the year with a negative reserve, even though that was reduced substantially last financial year. But we have eliminated that to the point now where people exiting the schemes are receiving in the order of five per cent to 5½ per cent exit rate for the portion of the year that has so far gone.

Senator SHERRY—If you had a return of nine per cent plus by the end of the financial year, to what extent would that negative offset it, approximately? You have not made a decision yet, but you have got the negative from the years when the fund lost that money.

Mr Gibbs—If the board decided to credit all of the positive, it would be crediting in the order of 5½ per cent.

Senator SHERRY—Your option could be to credit at a higher rate and carry over the loss from the previous years for another year or is that not your preferred option?

Mr Gibbs—That is not the board's policy at the moment. The board's policy is to replenish the reserve and then to recredit a positive performance. However, if performance got to beyond bank bill rate plus one, then some of the excess would be withheld and put back into a positive reserve.

Senator SHERRY—We will get to that in the May estimates hearings. Once we get to the end of the financial year and all of this has been worked through, I would be interested in what your average crediting rating has been over the last 10 years compared to other funds. I suspect you would be in a pretty good performance range from what I have seen to date.

Mr Gibbs—I have not looked at the 10-year figure recently. I have certainly looked at the five-year figure, and we are just above the median on the crediting rate over five years.

Senator SHERRY—I do not have any further questions on superannuation.

CHAIR—Senator Conroy, we will go back to general questions.

Senator CONROY—Earlier, we established some dates as to when you started chasing up the revision of the guidelines. I think that was in October-November 2002.

Dr Watt—I think that is correct.

Senator CONROY—And then on 20 March you got a letter.

Dr Watt—That is correct. I think the letter was dated 20 March and I received it on 21 March.

Senator CONROY—Do you recall that this committee raised the subject of special accounts during the budget estimates hearings in June 2002?

Dr Watt—I recall that we have had a number of discussions on the subject of special accounts.

Senator CONROY—The first time might have been at the budget estimates hearings in June 2002. I understand that you requested a review of special accounts, which, and I quote:

... aimed to identify potential risks that stem from the use of Special Accounts ...

Is that correct? That is on page 35 of the audit report.

Dr Watt—That is correct.

Senator CONROY—I understand the report was presented to the minister in October 2002.

Dr Watt—Yes, that is also correct.

Senator CONROY—I quote again:

The review identified nine broad areas of concern and risk ranging from lack of guidance for establishing Special Accounts to a lack of central monitoring of Special Accounts on an individual basis.

What were the other seven broad areas of risk that you identified in that review?

Dr Watt—I would need to refresh my memory. Perhaps Mr Culhane can help.

Mr Culhane—They are issues of reporting, the need to conduct a review of the legal status of some special accounts to establish definitively the number, investment powers—

Senator CONROY—Did you say ‘review of the legal status’?

Mr Culhane—Yes—that is, the process we have undertaken over the last year to come up with a definitive list.

Senator CONROY—You have said reporting and review of the legal status. There are five to go.

Mr Culhane—Investment powers, guidance, detailing the process for establishing special accounts, clarification of internal responsibilities within finance, the impact of the budget

estimates and framework review, financial reporting, and the outcome of the audit itself. I should say that they might have been described as risks in the audit report but in some cases they were more in the nature of issues that we needed to examine.

Senator CONROY—I am assuming the ANAO were quoting Dr Watt when we were identifying potential risks.

Dr Watt—I think the ANAO are doing a little paraphrasing.

Senator CONROY—Are they paraphrasing you, Dr Watt? Those naughty ANAO people! You have mentioned that you were looking at the legal status. Did the review raise any issues about the legal authority for transferring funds between special accounts?

Mr Culhane—I do not think we examined that issue in detail. We considered it at the time, in late 2002. It was raised in the Senate estimates context. There was a discussion about it. We considered it. The review did not raise issues in relation to that, but in the process of revising the department's guidance—which has now been published—we cover off the issue of when amounts can be debited from one account and credited to another account.

Senator CONROY—I appreciate what you have done in going forward. What I am asking you about is the past.

Mr Culhane—The review did not examine, if you like, individual special accounts and individual transactions that may have occurred. It was a framework review.

Senator CONROY—What I am asking you is: did you review any issues about the legal authority for transferring funds? We have had a bit of a discussion about this issue. I am wondering whether or not you looked at it.

Mr Culhane—I would say that in the course of getting legal advice on various issues surrounding special accounts that issue was covered off.

Mr McPhee—I think the central focus was the legitimacy of the individual trust accounts rather than the—

Senator CONROY—I understand that you were looking at whether or not they were really legally established under the Constitution.

Dr Watt—We are happy to take this on notice.

Senator CONROY—Thanks. Can we get a copy of this review? Is it available?

Dr Watt—It is not a public review. Again, we are happy to take on notice to see if it will be released.

Senator CONROY—I understand it is not a public review. If it were I would already have a copy—

Dr Watt—Not necessarily.

Senator CONROY—though I do sometimes get copies.

Dr Watt—We are happy to take on notice to see if it can be released. We will refresh our memory of what is in the review.

Senator CONROY—What exactly do you mean by reporting, guidance and the impact of the review? What exactly were those headlines?

Mr Culhane—We reassessed the existing guidance that was available on special accounts; we sought some advice on a few issues from the Government Solicitor; we significantly enhanced that guidance, which culminated in the publishing of guidelines on the use and management of special accounts last October, I believe; and we distributed those guidelines.

Senator CONROY—You published a whole new set of guidelines and never looked at the issue of transferring funds between special accounts?

Mr Culhane—Are you suggesting that we did not do that in the context of the guidelines?

Senator CONROY—No, I am asking. I would be surprised if when you were looking at this guidance you did not give some guidance on—

Mr Culhane—It is in the guidance. It is not described in the context of transferring amounts between special accounts; it is described in the context of debiting and crediting special accounts, which is what occurs at law.

Senator CONROY—No, but I am looking at a subset of that, where they pass between. Not every single debit and credit is passing between two special accounts.

Mr Culhane—It deals specifically with debits and credits—between debiting one special account and crediting another special account. So that specific subject is dealt with.

Senator CONROY—You mentioned reporting. I asked for the seven areas and there was one with the heading ‘reporting’. What is that?

Mr Culhane—We examined the existing reporting requirements in portfolio budget statements and annual financial statements, and we enhanced those reporting requirements. In fact I think in relation to portfolio budget statements we introduced reporting requirements.

Senator CONROY—As you know, that has been a particular bugbear of the committee and the parliamentary process.

Mr Culhane—Yes.

Senator CONROY—So you can appreciate that. What did you mean by the impact of budget estimates and framework review?

Mr Culhane—At that point in time the budget estimates and framework review was only part way through. As I said, this was just an issue that we had to be aware of in terms of monitoring the framework for special accounts. So we had to be aware of what was happening in the budget estimates and framework review which may have impacted. One of the things that occurred in the budget estimates and framework review was the abolition of the Agency Banking Incentive Scheme, and that in turn impacted on the special accounts framework

Senator CONROY—An excellent initiative that was, Dr Watt.

Mr Culhane—I think that was the only issue that impacted on the framework.

Senator CONROY—What was the existing power for debiting and transferring?

Mr Culhane—The power for debiting a special account is—

Senator CONROY—No, was. I appreciate you have now given guidance, but what power are you hanging it off?

Mr Culhane—The guidance does not give any power itself. It explains the existing power.

Senator CONROY—What is the power?

Mr Culhane—Section 20 or 21 of the Financial Management and Accountability Act 1997.

Senator CONROY—So you believe that there was an existing power.

Mr Culhane—To debit a special account or credit a special account, yes.

Senator CONROY—And to transfer. I call it transfer, but I do not want to get caught in semantics here. I am trying to give you a question which is as broad as possible and I am hoping you are not going to give me the narrowest of possible answers to slide past my question. I am trying to be as broad as possible. You did decide that there was an existing power?

Mr Culhane—Yes, to transfer in the broad sense of the term.

Senator CONROY—So there was an existing legal authority for transferring money out of accounts?

Mr Culhane—Amounts out of accounts, yes.

Senator CONROY—So why have you introduced the new debits power in the new bill? If you have already got a power, why have you introduced it in the new bill?

Mr Mowbray-d'Arbela—The drafting of the Financial Framework Legislation Amendment Bill is a process where we are going through the framework, particularly with regard to special accounts, to ensure that any areas that could be improved and clarified are addressed. As we gave evidence to the Joint Committee on Public Accounts and Audit, we thought there would be a benefit in clarifying the question of whether an amount debited from a special account acquaints to what is called a notional payment under the FMA Act. The reason there is a question is that a special account is merely a ledger account within the consolidated revenue fund, and so it does not actually describe a part of the Commonwealth. It is not a physical place; it is a notional concept. When an amount is debited from a special account and then an equivalent amount is credited to a different special account, the definition in the FMA Act that suggests that there has been a payment from one part of an agency to another part of an agency is arguably not as clear as it could be. In fact we are talking about different concepts. We are not talking about two parts of the Commonwealth; we are talking about notional ledgers within the consolidated revenue fund. The reason for the amendment to the FMA Act that is proposed by the FFLA Bill, which was considered by the JCPAA, is to clarify that the transfer—as you were saying in general terms, the debit of one account and the credit of another account—is a transaction that should be recognised as an accounting transaction.

Senator CONROY—Why is this retrospective? Why is this going back and covering off on previous transactions, because that is what the impact of this is, as the Clerk of the Senate made the point. Fundamentally, this bill reaches backwards and covers off on previous

transactions, not future ones. You would have to say that that implies there is a legal question. By definition if you need to clarify something you have legal advice that tells you, 'It is unclear that this is legal, now just cough it up.'

Mr Mowbray-d'Arbela—We did not actually take legal advice on that issue, we just reviewed the act ourselves and decided that we could clarify that.

Senator CONROY—Then let us be clear that, on your reading, it is legally unclear whether you had the power to debit it and transfer it to another one.

Mr Mowbray-d'Arbela—There was no question about the power. The capacity to debit a special account must always be within the purposes of the special account and must be supported by an appropriation. We were not identifying any transactions or suggestions that this issue needed to be considered, whether there was sufficient appropriation and therefore power.

Senator CONROY—We are talking about a debit to another special account. The amendment you are moving to your own act—I do not mean you personally—specifically deals with past transactions.

Mr Mowbray-d'Arbela—That is not the case.

Senator CONROY—It is just the impact. You can sit here and say that that is not the case, but that is what happens. You have covered off on all previous transactions.

Mr Mowbray-d'Arbela—That is not the case. In fact, the Clerk of the Senate raised the question of whether the proposed amendment would have retrospective effect. We said, in the JCPAA hearing, that we were not of the view that it did have a retrospective effect but that we would obtain legal advice from the Australian Government Solicitor to confirm that position. We obtained that advice and it was accepted by the JCPAA that there is not a retrospective effect of the Financial Framework and Legislation Amendment Bill.

Senator CONROY—It does cover past transactions though.

Mr Mowbray-d'Arbela—No, it will not. Indeed, it is an issue that we thought probably describes the way that the legislation is currently understood to work but that, in the interests of getting clarity on special accounts—a particular interest, for example, of yours—we should make sure that there is no confusion and that special accounts are not parts of agencies. They are notional aspects of the consolidated revenue fund, and if we were going to be as distinct on that issue, then we needed to clarify the capacity to have debits from special accounts where there was not a movement of money outside the CRF. Where there would be an equivalent credit to a different special account, it was necessary to ensure that the accounting treatment of those transactions matched the legal treatment of those transactions. I would suggest that it really is quite a small point. When we went through the act we thought, on a really technical level, it could be clarified and improved. As you are aware, we put that draft bill to the Joint Committee of Public Accounts and Audit—the first time that has occurred.

Senator CONROY—What was the legal power previously for transferring money between two special accounts in the past? Tell me what the legal power was. If you think it needs to be clarified, what was the legal power?

Mr Mowbray-d'Arbela—It simply comes down to two examinations of two accounts that might be affected by such a transaction. The first question is: is the debit from the first account within the purpose of that special account? That has to be satisfied. Secondly, no credit can occur to the other special account unless that is a credit that has been stated by parliament or in a determination approved by parliament as a credit that is allowed to be made to that special account.

Senator CONROY—Then you do not need this amendment.

Mr Mowbray-d'Arbela—There is an argument that this is a technicality that does not change the world, but there are issues we have tried to make clear with special accounts and the way they operate—for example, that they are dealing with notional ledgers of the consolidated revenue fund. That meant that we thought that level of information across government and the parliament was necessary, and that is why we put it to the Joint Committee of Public Accounts and Audit, who accepted that recommendation.

Senator CONROY—The problem I have is that, while you keep talking about parliament, part of why we have this debate is that I am not convinced that the authority was there for these transfers. I think the existing situation—you have not got the amendment up yet—has undermined parliamentary scrutiny and control of spending, because things have not quite ended up—

Mr Mowbray-d'Arbela—Senator, it is a bit difficult for me to react to that, other than to say that our obligation is to try to ensure that the framework is as robust as possible. Indeed, I think various amendments that have occurred to the framework over the years have indeed improved the accountability of parliament. For example, parliament has to see these determinations for special accounts with the purposes, and those do not take effect until five sitting days. That was not part of the Audit Act scenario until 1998. Parliament did not previously even have a role of disallowance for these determinations, so we have always—

Senator CONROY—Where you are going is not a problem. Where you are trying to take us, I welcome and I am a big supporter of it.

Mr Mowbray-d'Arbela—I appreciate that, Senator.

Senator CONROY—The question is: what has been going on? I do not want to labour the point now, because I want to go through some other issues, but I will be coming back to this specific issue because what you are saying and what the Audit Office are saying are not quite the same. I will come back to what I specifically mean by that. Anyway, I wanted to move on. Dr Watt, or volunteers, could you explain what you mean by 'a lack of central monitoring of special accounts on an individual basis'? Does that in reality mean there was no monitoring of special accounts on an individual basis? We might have slightly covered that earlier, Mr McPhee, but there was actually no monitoring at all of an individual special account.

Mr Culhane—I do not think that is right, Senator. There were a few special accounts that the Department of Finance and Administration did not have the details on, but most special accounts are reported in agencies' annual financial statements, and the department of finance—

Senator CONROY—A lot were not, as we have established. But you will go far being able to say that with such a straight face, I promise. It was great! The audit report on page 93 stated:

Finance commented ... in the context of its 2002 review of Special Accounts, it examined the legislative framework and, through the Financial Framework Legislation Amendment Bill, put forward a number of amendments resolving and clarifying issues that required addressing.

Could you explain why—and I have already had this discussion a little bit with Mr Mowbray-d'Arbela—when this bill went before the JCPAA, DOFA representatives repeatedly assured the committee that the legislation was responding to particular issues but Mr Hutson said, 'This legislation is purely housekeeping,' and Mr McPhee said, 'We are not dealing with an immediate problem here'? But it seems that you said something just fractionally different to the auditor—that it is 'resolving and clarifying issues that required addressing'. That seems to be just a little inconsistent. On the one hand, it is just a housekeeping bill; on the other hand, no, it is addressing specific issues.

Mr Hutson—In my view, both statements are entirely correct. One of the things which is a large part of the Financial Legislation Amendment Bill is, for example, changing terminology throughout a series of other acts of parliament so that it all fits with the Financial Management and Accountability Act. In particular, the use of the words 'special accounts' is not currently in many bills. We are updating them so that they start to use the correct terminology. That is very much housekeeping, but it is also housekeeping that is required to be done.

Senator CONROY—I am assuming it was Dr Watt that signed off on this statement. I will repeat it to you. It reads:

... in the context of its 2002 review of Special Accounts, it examined the legislative framework and, through the Financial Framework Legislation Amendment Bill, put forward a number of amendments resolving and clarifying issues that required addressing.

Mr Hutson—Yes, these issues did require addressing. It is not appropriate simply to leave them unsaid.

Senator CONROY—But that is not housekeeping. Actually responding to something that is a particular problem is not housekeeping.

Mr Mowbray-d'Arbela—Perhaps I can provide an example. There was an audit on trust moneys and the way in which Comcare payments are handled by agencies. The Joint Committee of Public Accounts and Audit on two occasions and the Audit Office believed that the practice of Comcare payments was appropriate but the law should be reviewed to reflect what was seen as an efficient practice. That is a matter which, in our submissions to the JCPAA, we said we would take up. So the FLA Bill really was a consequential amendments and housekeeping bill. It is quite a large bill, as you are aware, and accordingly we are taking—

Senator CONROY—We can have a semantic debate about what housekeeping means but, Mr McPhee, you were much more specific. You said:

We are not dealing with an immediate problem here.

And yet the audit report quotes Finance, which I can only put down to Dr Watt, as saying:

... amendments resolving and clarifying issues that required addressing.

‘Responding to issues’ and ‘requiring addressing’ are not the same as ‘not dealing with an immediate problem’.

Mr McPhee—Let me try it this way. The device of the purposes clauses around trust accounts and special accounts had been used for many, many years without causing any immediate issues. The whole purpose of this amendment proposal is simply to further clarify the requirements to make it absolutely clear that expenditure can only be for the purposes of the special account. We had no situations where the Commonwealth expenditure or revenues were at risk because of this. It was simply seen as part of our review of the legislation—a refinement which would clarify and assist users of the legislation to be crystal clear about what was expected. But there were no pressing issues that we were dealing with at the time.

Senator CONROY—‘Resolving and clarifying issues that required addressing’. That, to me, sounds pressing—I am sorry.

Mr McPhee—Yes, but there were other matters as well.

Senator CONROY—Perhaps your answers to questions at a previous committee should have addressed those.

Mr McPhee—Not at all, because in my evidence—if you go back to the *Hansard* transcript of my appearance before the JCPAA at the time—I went on to give an example of matters dealing with changes in investment powers that the Treasurer had and now the finance minister under the proposed bill will have.

Senator CONROY—I am sure there are some things that you and I would both agree are housekeeping in this bill. There is no question about that. You are now identifying a few. But these things that you identified to the Audit Office were specific problems that needed addressing. You did not write the word ‘problem’; you wrote the word ‘issue’. That is Public Service code for a problem.

Mr McPhee—No, it is not at all. We were seeking to clarify the framework. We were seeking to continually improve, if you like, the legislation. It is a matter of refinement; it is nothing more than that.

Senator CONROY—Okay. We will come to some of the refining you are doing in a minute. At the hearing Mr Hutson reassured us that DOFA would be aware if any money had not been correctly credited to a special account, because:

... as soon as we know about it—and we have a lot of audit systems in place to ensure that it does not occur—we go after it.

That is on page 30 of the *Hansard* of 7 March 2003. How does this statement relate to the conclusion of the DOFA internal review that there is a lack of special monitoring of special accounts on an individual basis?

Mr Hutson—I suspect when they used the word ‘we’ they were probably referring to the Commonwealth rather than Finance specifically. I am without the *Hansard* in front of me. I need to check the transcript.

Mr Watt—Perhaps we need to check the transcript.

Senator CONROY—I have quoted it accurately and I accept your right to be cautious. I have not tried to pick out one bit that is out of context. You are right, Mr Hutson. The issue of the debits amendments is not a housekeeping matter, Mr McPhee. It is responding to a specific problem that even Mr Mowbray says was identified. It is not a housekeeping issue.

Mr McPhee—I would not use the word ‘housekeeping’ in evidence.

Senator CONROY—No, it was Mr Hutson’s term.

Mr McPhee—I used a different formulation there. I think I was gently modifying the housekeeping suggestion—if I am to be frank. What I am saying to you is that it is an enhancement. I cannot say it any clearer than that.

Senator CONROY—I would like to turn to the conclusions of audit report No. 24. I understand that in 2001-02—and we have briefly canvassed this, Mr McPhee—

Mr Watt—Could I please have the page reference?

Senator CONROY—I will be quoting from page 13. Forty-one per cent of the special accounts were not disclosed in agency financial statements. Even after ANAO informed the relevant agencies of the problems, 17 per cent of special accounts remained unreported in financial statements. Again going back to Mr Hutson’s comments that we have a lot of audit systems in place, how does that marry up? As I said, we have briefly canvassed this and we are hoping to get 100 per cent. I stress the word ‘hoping’. In the end, all you can do is try to get them to do it. I am just looking at the reassurance that Mr Hutson gave us that there are a lot of audit systems in place.

Mr McPhee—I am not sure Jonathan was specifically dealing with the issue of financial reporting, but I guess just to recap my earlier evidence, we have put out better guidance; we will promote it through the CFO forum. My expectation is clearly a very significant improvement even on the 17 per cent that we saw up until 2003.

Senator CONROY—Senator Minchin, are you going to crack the whip?

Senator Minchin—It is not necessary, Senator Conroy.

Senator CONROY—Mr McPhee is indicating he cannot guarantee the parliament that there will be 100 per cent reporting on how public moneys are being spent. The Minister for Finance and Administration will have to crack the whip with his colleagues. This is something Mr McPhee cannot do any more. He used to when he was at ANAO. It is up to you, Minister, to take a firm hand here.

Senator Minchin—I will take note of your injunction.

Senator CONROY—I was not trying to verbal you there, Mr McPhee. You were indicating that you were hoping to 100 per cent, but you could not quite get 100 per cent.

Mr McPhee—I was going to do my best to get 100, but chief executives tend to have minds of their own.

Senator CONROY—That is why I am encouraging Senator Minchin to crack the whip, because I know what they can be like.

Mr McPhee—We look forward to your questions after the end of the 2004 financial year. We are on notice.

Senator CONROY—You would be the first public servant to ever tell me that they were looking forward to my questions and I welcome that. The balance in special accounts is a component of the balance in the consolidated revenue fund, which was also reported in the budget papers for the first time since the new financial framework was introduced. I think I acknowledged that was a very welcome thing. Is the balance of the consolidated revenue fund correctly reported in the 2003-04 budget papers? Are we confident that is the right number? I know we have had a few problems with that fee.

Mr McPhee—That is the best estimate we can provide.

Senator CONROY—The best estimate does not fill me with confidence. I want a firmer statement than that. As an auditor I am sure if someone sat in front of you and said, 'Look, Mr McPhee, I have given you the best estimate I can,' you would probably take them into a room quietly and explain some facts of life to them. I am hoping that you can be a bit tougher than that.

Mr McPhee—Senator Conroy, I have got the consolidated financial statements for the year ended 2003. You actually asked the question in relation to the budget papers.

Senator CONROY—The budget papers 2003-04, the consolidated revenue fund. Have I quoted the wrong place?

Mr McPhee—No. We do put it in the budget papers as well. I just do not have the relevant page at the moment. But I do have the page in the consolidated financial statements.

Senator CONROY—One is audited and one is not, so I am not sure I am going to let you do that. Unless they are absolutely identical, I am going to struggle with accepting that switch.

Dr Watt—Why don't you take the audited ones?

Senator CONROY—I will happily take the audited ones; it is the budget papers I am after.

Dr Watt—Are we sticking with the budget papers, Senator?

Senator CONROY—Yes. I am sorry, I have been doing this just long enough to know not to fall for that one, Dr Watt.

Dr Watt—Which document would you prefer us to focus on?

Senator CONROY—I apologise, I am normally very well footnoted on these things, but my notes just say 'Budget papers 2003-04'.

Dr Watt—Thank you. We have them in front of us.

Senator CONROY—Is it correctly recorded in the budget papers?

Mr McPhee—There are two issues. One is the estimate for the consolidated revenue fund. The other is how we derive that figure. Between the budget and the preparation of the consolidated financial statements we have further improved our methodology to forecast the CRF balance. The issue centred around whether special public moneys, which are fundamentally trust type monies, are held within the consolidated revenue fund or outside it. The legal advice is not crystal clear, but the advice says that we are entitled to take the view

from a policy perspective that special public moneys or, if you like, trust type moneys form part of the consolidated revenue fund. So we have factored that into the financial statement outcome, but that position was not settled when the budget was put to bed. So the budget papers do not reflect that position.

Senator CONROY—A lot of questions arise out of that. Firstly, are you confident that these new methodologies will accurately predict the figure in the next set of budget papers?

Mr McPhee—Yes, correct.

Senator CONROY—As we said, special accounts were reported in the portfolio budget statements for 2003-04 for the first time since the new financial framework was introduced. Is that right?

Mr McPhee—Certainly they were introduced again. I am not sure what the history was.

Senator CONROY—Were all the special accounts correctly disclosed in the PBSs? The answer is no.

Mr McPhee—We have not done a review of that.

Senator CONROY—We know that they were not all reported, so by definition they could not have all been reported accurately.

Mr McPhee—I think the Auditor-General's comments were reported in financial statements. I am not sure that his review focused on budget papers. I just do not know. But I accept your proposition—they would not all be there.

Senator CONROY—If we accept that proposition, then by definition it is impossible for the consolidated revenue fund balance to be accurate.

Mr McPhee—No, that is not the case. It depends on what your data source is.

Senator CONROY—If you are drawing off those special accounts, they are not there, so you can hardly have accounted for them in your CRF. Please, jump right in.

Mr Mowbray-d'Arbela—When you are looking to the balance of the consolidated revenue fund—

Senator CONROY—This is the budget papers.

Mr Mowbray-d'Arbela—Yes.

Senator CONROY—Not the final one that an auditor has looked at; this is a political document.

Mr Mowbray-d'Arbela—As a matter of principle, the consolidated revenue fund is a legal concept that relates to amounts of cash.

Senator CONROY—My question is: fundamentally, how do you calculate the balance on the consolidated revenue fund when you do not know the balances in the special accounts? I do not think you can, but please tell me you can if you can.

Mr Mowbray-d'Arbela—Because the concepts are not linked.

Senator CONROY—They are not linked?

Mr Mowbray-d'Arbela—No.

Senator CONROY—That is a big call.

Mr Mowbray-d'Arbela—Special accounts are appropriations and appropriations must, when used, derive from the consolidated revenue fund or the Treasury, as the Constitution describes the concept.

Senator CONROY—That is a very big call. I have to say that that is a huge call.

Dr Watt—I wonder if we might just have a minute to clarify the point here. I am not sure it is the one you are thinking of.

Mr McPhee—Senator Conroy, I just wanted to come back.

Dr Watt—I think it would be useful if Mr Mowbray-d'Arbela repeated his comments to you before you said it was a big call.

Mr Mowbray-d'Arbela—I interpreted that your question was suggesting that the budget figures for the consolidated revenue fund could be called into question in some way because the audit report on special accounts has suggested that there has not been a clear reckoning of all the special accounts and therefore that the portfolio budget statements on special accounts was not a complete reckoning of special accounts. That is what I interpreted the question was.

Senator CONROY—I may correct myself, but please keep going.

Mr Mowbray-d'Arbela—What I was trying to advance was that the consolidated revenue fund is a concept derived from the Constitution that is dealing with cash as actual amounts of money that the Commonwealth controls or has in its custody. The amounts that may be appropriated through special account mechanisms are derived from the balances of special accounts, but the balance of special accounts are ledger amounts that can be—

Senator CONROY—You say, and the audit report says, they are a ledger; they are just fundamentally ledger accounts.

Mr Mowbray-d'Arbela—Yes, but they are ledger amounts that may be appropriated from the consolidated revenue fund. The amount of special account balances does not add up. There is not an equivalent concept to the amount of cash that may be in the consolidated revenue fund at any particular time. For example, with standing appropriations that do not have a specific dollar amount attached to them, you see that distinction arises. It is not actually correct to say that there is any difficulty with a cash amount for the consolidated revenue fund if there is a question about the number of special accounts, because the CRF is not derived by adding up the balances of special accounts.

Senator CONROY—So you would confidently say that the figure—and this is the question I asked Mr McPhee before we tracked into some of this—in the budget papers of the consolidated revenue fund is correct? Mr McPhee, we were talking about that and then we got into a discussion about how you could actually derive it if you did not have all of the special account balances. Apparently now it is impossible to calculate a special account balance on a cash basis, which has got me a bit boggled, but I am hoping you are going to clear this up for me.

Mr McPhee—Perhaps if we explain how we derived the figure. We took the total general government sector cash information, which is reported in the budget papers, and we took

away from the CAC agencies that operate outside the CRF the balances of cash they held from the financial returns we get from those bodies. We added to that the special public moneys, because special public moneys are not reported as agency revenues, if you like; they are often put in the notes. The reason I am more confident about us having a comprehensive understanding of the balance of special public moneys is that we did not use the portfolio budget statements, which was your earlier point; we actually contacted agencies directly to obtain the information of special public moneys. So that is why we can be more confident—to pick up your word—as to the balance of the CRF presented in the financial statements.

Senator CONROY—Thank you for that. The cash balance of special accounts is a subset of the balance of consolidated revenue—is that a fair comment? Please tell me no if it is no.

Mr Kerwin—Just to follow on from what Mr Mowbray-d’Arbela mentioned just a moment ago, the balances that are in special accounts—particularly in our current program of not allowing or permitting agencies to have cash until they have an immediate need for it—are probably invariably not cash. They are, however, an entitlement to an appropriation, and that is the nature of the numbers that are in the special account, or part of the numbers that are in the special account. So, if we went through and added up all the balances in special accounts, at the end of the day we just would not have a cash number. If we, however, add up all the cash on hand balances that are sitting in balances sheets of all the agencies, then we do have a cash number, and that is the number that we have used. For FMA agencies, along with special public money, that legally is the CRF, which is about all moneys raised and received by the Commonwealth. So that picks that up because they are, in fact, the cash flows.

Senator CONROY—That seems reasonable.

Mr Hutson—Senator, to come back to a point which you raised earlier about my evidence at the Joint Committee of Public Accounts and Audit, I have not got a copy of the relevant *Hansard*. The part of my evidence that you were discussing was really in the context of an example of a body outside the Commonwealth which had failed to pay public money to the Commonwealth. That was not about debits out of special accounts. The answer was that, if we knew of somebody who owed money who had not paid it to us, we would go after it. That was the evidence that I gave. Then later you asked us whether or not we had an example of public money which had not been collected, and I said we did not think we had any. Mr McPhee went on to say that it is a very difficult question to respond to and further:

The legislative provision is not responding to a problem of the sort that you are referring to. It is making responsibilities and obligations clear, rather than addressing a problem we have with bodies not paying moneys to the Commonwealth.

Senator CONROY—Thank you for that. On page 14 of the audit report, the ANAO identified 19 instances where agencies recorded the existence of a special account where none existed. It is 19 examples and stated that:

... that there may be no legal appropriation under the FMA Act to make more than \$486 million in payments from these so-called “Special Accounts”. Accordingly, there was a risk that there had been widespread, persistent breaches of Section 83 of the Constitution. Section 83 states that no money shall be drawn from the Treasury of the Commonwealth except under an appropriation made by law.

Familiar with that one?

Mr McPhee—Yes, Senator.

Senator CONROY—In audit-speak, it does not come any more damning than that.

Mr McPhee—I think you need to read the next sentence.

Senator CONROY—You did receive legal advice, I understand.

Mr McPhee—No, but the agencies would have, I am sure. This is the Audit Office saying that there is a risk of a breach of section 83, not that a breach has occurred.

Senator CONROY—They are so cautious normally they would wait until after someone had gone to jail for it.

Mr McPhee—No, no—

Senator CONROY—To even use those words is like a flashing beacon.

Mr McPhee—It is a flashing beacon only to the extent that it is a serious issue for an agency to get under control. The Audit Office has called breaches of section 83 of the Constitution in the past. It is not so calling in this case, the reason being that there was a valid appropriation on which these payments could have been charged.

Senator CONROY—I want to move on to that. Your legal advice stated:

... Section 83 of the Constitution is not breached where payments purportedly made from a non-existent Special Account could have been legitimately recorded against another ...

That is, another special account. I love lawyers like that who just make it up as they go.

Mr McPhee—I do not think this was our lawyer; this was the lawyer of agencies.

Senator CONROY—I appreciate that you want to make that distinction.

Dr Watt—I think the distinction is important.

Senator CONROY—I accept that it is perhaps not your lawyer. But that is the sort of legal advice that brings lawyers into disrepute, frankly.

Mr McPhee—I think it is actually based on advice the Audit Office got. They would be taking their own advice on this.

Senator CONROY—Are you prepared to say that in each of these 19 instances reported by ANAO—and I presume that you have looked at them by now, if you had not already—these expenditures could have been legitimately recorded against another special account?

Mr McPhee—I have not looked at these in detail but I am sure the Audit Office has. I am obviously happy to accept their position that—

Senator CONROY—They do not say they are or they are not or that they could have been. What I am asking you is: were they legitimately recorded against another special project? Could they have been? In each of these specific examples—

Mr McPhee—We as a department have not checked this out. This is not our responsibility. This is the administration of these special accounts by agencies. We have got an interest from the framework point of view. The Audit Office is saying it is probably more by good luck than by good management that these agencies have not breached section 83—a point with which we agree.

Senator CONROY—You did get your own legal advice, though?

Mr McPhee—No, not that I am aware. There is an important control issue, which is part of your point, and we accept that, but the reality is that the Audit Office came to the conclusion—obviously based on advice—that the Constitution was not breached in these cases. The Auditor-General did in a number of cases, though, mention in his audit report on the financial statements of these agencies that he believed the agency had not kept proper accounts and records and thus breached section 48 of the FMA Act.

Senator CONROY—The lesser of the two charges.

Dr Watt—And, incidentally, he put the agency on notice to clean up their act. This is where I think Mr McPhee and I depart a little bit from some of your comments, in that this is an issue importantly for agencies, not just for Finance.

Senator CONROY—I accept the point that you are generally making that agencies have responsibility. These were set up by Senator Minchin.

Dr Watt—And chief executives are responsible for the financial affairs of their own agencies.

Senator CONROY—But these were set up by Senator Minchin and you have an overarching responsibility.

Mr McPhee—The problem is that these were not set up by Senator Minchin or his predecessor; these were invalid special accounts.

Senator Minchin—If I had set them up, there would not have been a problem.

Senator CONROY—I actually think you are right, Senator Minchin. It is just a great pity for the Commonwealth that you were not the Minister for Finance and Administration for this period.

Senator Minchin—We will not go into that.

Senator CONROY—I am happy to take a break at this point.

Proceedings suspended from 7.00 p.m. to 8.36 p.m.

CHAIR—The committee will continue its examination of outcome 1, Department of Finance and Administration.

Dr Watt—Mr Culhane would like to correct a small part of his evidence from earlier this evening.

Mr Culhane—Earlier in the discussion on foreign exchange, I was asked by Senator Conroy whether there were any other organisations that fall into the same category as the ABC—that is, where the government does not have the power to direct the organisation as a feature of its legislative establishment. There is one other authority in the general government sector in the same situation—that is, the National Registration Authority for Agricultural and Veterinary Chemicals.

Senator CONROY—Are they up to anything that we should be aware of?

Mr Culhane—I am not sure.

CHAIR—Thank you very much for that, Mr Culhane.

Senator CONROY—Amongst the many things we were talking about earlier, I was asking about the 19 instances reported by the ANAO and whether these expenditures could have been recorded legitimately against another special account and whether you were able to give us any information. I want to go back to that. I think you had indicated that it was not your responsibility; it was the responsibility of the individual agencies or the auditor?

Mr McPhee—Just to clarify that, you just asked whether these transactions could have been recorded against any other special account.

Senator CONROY—I was quoting from the ANAO's legal advice rather than yours. I just wanted to clarify that. It stated:

Section 83 of the Constitution is not breached where payments purportedly made from a non-existent Special Account—

and we have accepted that there were non-existent special accounts—

could have been legitimately recorded against another special account.

For instance, if it said, 'Spend money or debit it across to this transport account,' and the transport account did not exist but there was another one that covered land transport and it was for a road, then you could say, 'It should have gone there rather than there, so it is okay.' Do you look at those?

Mr McPhee—Senator Conroy, just to clarify that, my understanding of what the audit report stated is that it is not necessarily another special account but another appropriation.

Senator CONROY—Okay. I am just going from the quotes.

Mr McPhee—Could you refer me to the page where the 19 are referred to?

Senator CONROY—I have got two quotes. One of them is on page 14.

Mr McPhee—The point is that there is another appropriation, perhaps an administered appropriation or a departmental appropriation, which the transaction could validly be put against. The point is not that there is another special account sitting behind these, but that there is another valid appropriation which I would think in the generality would be an annual appropriation or an administered appropriation rather than a special account.

Senator CONROY—To your knowledge, did the ANAO or you ascertain whether in these 19 cases there were in fact other appropriations or special accounts that they could have been credited against?

Mr McPhee—No, we did not. We obviously rely on the due process of the Audit Office, which would raise the issue with the agency. The agency would respond, 'Yes,' 'No' or whatever. We have relied on the due process followed by the Audit Office to take assurance that what is being said here is sound and we have got no reason to doubt it.

Senator CONROY—Are you aware of whether they tested this proposition to see if it held for the individual circumstances?

Mr McPhee—I would be surprised if they did not. When the Audit Office raises an issue, agencies generally have a close look at it and either agree or disagree. My understanding is that these are agreed positions.

Dr Watt—That is correct. They are agreed positions.

Senator CONROY—I want to jump to a slightly different issue because of something that Senator Minchin has been up to today, and then I will come back. I need to have a chat about the successful sale of the Sydney basin airports.

Senator Minchin—I am pleased to hear you use the description ‘successful’.

Senator CONROY—I am reading the title of your press release so that you would know what I was talking about, Senator Minchin—I was not passing a judgment. But I appreciate your enthusiasm for your own press release. Can you confirm that the successful bidder made the highest bid?

Mr Yarra—The person selected coming out of the sale process for Sydney basin airports was the person that best met the selection criteria set for the sale.

Senator CONROY—I take it that was a ‘No, it wasn’t the highest dollar bid’.

Mr Yarra—I am not confirming or denying. I am saying that the process is about selecting the person that best meets the criteria.

Senator CONROY—Here is a trick question: this is the parliamentary Senate estimates and you get to answer my questions, not tell me you are not going to answer them, unless you have a reason not to answer them. Was it the highest dollar bid? I am happy for Senator Minchin to take the question. Was it the highest dollar bid?

Senator Minchin—Obviously, we set a comprehensive set of criteria that need to be met for the government to sell an asset. Price is obviously a critical criterion but it is not the only criterion. We set a number of sale objectives. I think in this one we published our sale objectives—we normally do. You will see from the published statement that they were comprehensive and that price is very important, but it is not the only objective. We do not say—and I think it is wise—whether the successful bid was or was not, at end of the day, the highest bid, because price is not the only criterion.

Senator CONROY—You defend it on the basis you are—

Senator Minchin—So we will not be saying in the case of this sale or any other sale whether the accepted bid was or was not the highest bid in dollar terms. What we will say is that it was the bid that most closely met the sale objectives taken as a whole, and I think we normally do say that in our statements.

Senator CONROY—You sold it to BaCH Airports Consortium.

Senator Minchin—That is right.

Senator CONROY—Who is behind them? Is it the Commonwealth Bank, Fielding and Toll?

Mr Lewis—That is correct.

Senator Minchin—It is on the record who is there.

Senator CONROY—What is the problem in identifying whether it was the highest dollar bid? You are proudly saying that it is the best bid on all the criteria.

Senator Minchin—We might as well go through all the criteria and say who was where on which criteria. I do not think that is helpful, sensible, necessary or necessarily proper. What is proper is for us to publish and make clear our sale objectives and the criteria for the sale and to indicate publicly who, in the view of the government—based on the best professional advice we can obtain—best meets those sale objectives. I can assure you that I acted on and accepted the advice of those professional advisers. The professional independent advice to me was that this was the best bid, taking account of all the sale criteria set by the government, and I accepted that recommendation.

Mr Lewis—Senator, the only thing I would add to that is that we are talking about the last three airports in an airport privatisation program which involved the trade sale of 22 airports. It was a model that had been in place for I think about six or seven years and had been followed diligently throughout. It has been subject to at least three performance audits by the Auditor-General that I am familiar with.

Senator CONROY—I am not for a moment suggesting that there is anything wrong with the process. Minister, you indicated you have published the objectives.

Mr Lewis—I think we did.

Senator Minchin—Yes, I am sure we have.

Senator CONROY—I just do not understand why you are being so coy.

Mr Yarra—The main reason is that this starts to unravel the evaluation itself.

Senator CONROY—I would not have thought it does. The minister is proudly standing by his position.

Mr Yarra—You have picked an element of the evaluation—that is, the price element. There are a number of other elements of the evaluation that were brought to bear in selecting the winning consortium. To focus on one of those without talking about the others just confuses the message and sends the wrong message. If there is to be a discussion about why one person won, you need to discuss why another person lost, and we are reluctant in the public domain to discuss why.

Senator CONROY—But I have not asked you to do that.

Mr Yarra—But we have to do that in order to reach the comparative judgments you ask us to talk about in forming the view against each sale selection criterion, and we are not prepared to do that in the public domain.

Senator CONROY—I can only assume from your reluctance that this confirms that the highest dollar bid did not win.

Senator Minchin—No, you should not assume that, because it is just not our practice to confirm or deny in relation to any asset sale whether or not the ultimate price was, in fact, the highest price bid, because that is not the single criterion for a sale.

Senator CONROY—I have not said it was, but any reasonable person watching or reading this transcript in the future would only draw the assumption that the highest dollar bid, one factor in a range of factors, was not the successful bid.

Senator Minchin—If it was or if it wasn't, we would not comment on that question, and nobody should read into this—

Senator CONROY—I have not been around for long in political terms, compared with you, Senator Minchin, but I have never met a government that is not prepared to shout from the rooftops that it got the best price possible. This has only happened this afternoon and I have not—

CHAIR—Senator Conroy, we will have to let the readers of the transcript decide upon their own interpretation I think.

Senator Minchin—I think you will find in the case of all asset sales that we say we accepted the bid that most closely met the sale objectives set at the outset of the process. We do not trumpet whether it was the highest bid or not. We do not say that, because that is only one of the criteria. If or when you are finance minister you will understand the wisdom of that.

Senator CONROY—I thought Macquarie Bank got hammered on the basis that they paid too much for the last airport, so everyone must have known somehow what the price was then. Did that slip out by accident?

Senator Minchin—As you know, the reality is that we cannot prevent other bidders going around claiming that they may have got it at a higher price.

Senator CONROY—No, but everyone knew what Macquarie paid for Sydney airport. The market punished them for what they paid because it was considered they paid too much.

Senator Minchin—We have said how much we sold them for. We have published the price. As I say, we cannot do anything about the incidence of other bidders going around saying that they bid a higher price than the one we accepted—whether or not that statement is true or false—and it leaves us in a position of not being able to comment on speculation to that effect for the reasons that I have outlined. Whether or not in this case the bid was the highest or not, we are simply not going to breach the practice of not saying whether or not the successful bid was actually the highest. What we always say is that the successful bid was the one that most closely met the government's stated sale objectives.

Senator CONROY—Okay, I will move on. The cost of the sale advisers, consultants—

Senator Minchin—I should add that the two losing bidders were very comprehensively debriefed. We gave them every opportunity to be debriefed on why it was that their bids were not accepted. That is a very important part of the process. None of us like to have aggrieved losers in a process like this, and it is very important they understand why their bids were not successful, which we have done.

Senator CONROY—The cost of sale advisers, consultants, all those sorts of—

Mr Yarra—We are still wrapping up the administrative detail of the sale. I can give you orders of magnitude on the costs of sale.

Senator CONROY—Please.

Mr Yarra—Approximately \$4 million.

Senator CONROY—You will come back to us with the final figure?

Mr Yarra—We had the Caliburn partnership as our business adviser and AGS as our legal adviser. We had Gavin Anderson as our communications adviser. They had subcontractors in place. I can give you indicative figures again for Caliburn and AGS, but I cannot give you all the figures. I am happy to take that on notice and get back to you quite rapidly, probably this evening.

Senator CONROY—Just a final figure at the end of the day. Thank you very much.

Mr Lewis—We cannot get the final figure today.

Senator CONROY—No, at the end of the day; I did not mean tonight.

Mr Lewis—Mr Yarra is offering tonight.

Senator Minchin—The department takes everything literally!

Mr Yarra—For clarity, Senator, I will come back tonight with reasonably accurate figures, but they will not be the final figures.

Senator CONROY—You can give me the final figure when you have it.

Dr Watt—Just as long you are aware that it may take some time to obtain the final figure.

Senator CONROY—I was not anticipating that you would have it now. What is happening with the proceeds of the sale?

Senator Minchin—Consistent with government policy, they go to reducing debt.

Senator CONROY—Are any of the proceeds going to the department to offset expenses?

Senator Minchin—The department is supplemented for expenses.

Dr Watt—For sale cost expenditure.

Senator CONROY—So all \$211 million is going to retiring debt?

Senator Minchin—In effect.

Mr Lewis—The department has appropriated funds to manage the sale, the sale cost to which Mr Yarra refers. The proceeds of the return flow to the public account.

Senator CONROY—So about \$4,207,000 worth of debt should be paid off.

Dr Watt—No. The full proceeds would turn up to reduce debt. The appropriation for sale cost has already been made.

Senator CONROY—It is not credited back.

Dr Watt—We do not net it off on the way through. We have never dealt with asset sales that way.

Senator CONROY—I was just checking. No department gets any bit at all?

Mr Lewis—No.

Senator CONROY—The department of transport appear to have informed Senate estimates that it was not the highest bid. Are they incorrect?

Senator Minchin—All we can do is act consistently with our clear policy in relation to asset sales. We are the department responsible for asset sales and we will not make any comment on what Transport might or might not have said.

Senator CONROY—Are you aware of that testimony?

Mr Yarra—I spoke to the Transport officials this evening and in fact that is not what they told me.

Senator CONROY—That is why I was asking you. I did not want to verbal them. I was giving you the opportunity—

Mr Yarra—They told me that they had advised of the person who best met the selection criteria. That was their answer to that question.

Mr Watt—We have not seen the transcript so we—

Senator CONROY—I have not either. That is why I was using the opportunity to ask whether you are aware and you obviously followed up on it. At this point that is probably all I have, unless some other questions occur to me.

Dr Watt—In about 15 minutes we will come back to you with the cost to date of the advisers.

Senator CONROY—Just going back to special accounts: Mr McPhee, you mentioned earlier that you added to an answer that 25 special accounts were closed last year.

Mr McPhee—I corrected it subsequently and said the figure was 29.

Senator CONROY—Would any of those fall into that category of ones that had perhaps not been complying with all of the possible legal complexities?

Mr McPhee—We would not call those special accounts.

Senator CONROY—So these are things that departments had titled a special account?

Mr McPhee—I am corrected. Where it was not clear in some cases, we closed them to put the matter beyond doubt.

Senator CONROY—That is what I was wanting to try to get to. Some of these that fell into this shall we politely say a grey area you just thought it best to deal with by taking them out?

Mr McPhee—That is correct.

Senator CONROY—So none of the ones that are left would cause me to lose sleep? You, of course, would not.

Mr McPhee—We are pretty confident.

Senator CONROY—I just want to talk about page 15 of the audit report. ANAO indicate that they undertook a detailed examination and mention 19 special accounts administered by six agencies and found errors in the reported balance of seven of those accounts totalling some \$575 million. That is on page 52.

Mr McPhee—This was this issue I think we discussed.

Senator CONROY—I know this overlaps a little bit. ANAO indicate that a further two agencies examined their own accounts to assure themselves that they had been correctly reported. Of 268 accounts in 2002-03—I am just trying to work out whether that is with or without the 29 you have killed—what steps have you taken to ensure that there are no errors in the reported balances of those accounts? Do you believe that is your responsibility?

Mr McPhee—It is the agencies' responsibilities and our understanding is that, if they have not resolved the issues already, they are working with the Audit Office to resolve the matters.

Senator CONROY—No, this is the remaining ones. This is 268 remaining ones which were not looked at by the ANAO. They say they undertook detailed examination of 19, so I am talking about the remainder where they did not undertake detailed examination, and what I am asking is what steps have been put in place. Is DOFA looking at any steps to ensure that there are no errors in the reported balances of those remaining 268 that were not detailed examinations?

Mr McPhee—It would only be if any issues came to our notice because of our monitoring role.

Senator CONROY—I am just trying to get to the heart of that monitoring role. Let us talk about it. You have tightened it up substantially.

Mr McPhee—We have tightened it up, but we are not doing a particular exercise in light of this.

Senator CONROY—Seven of 19 plus another two amounts to nearly 50 per cent of them which had some problems out of a small sample that was looked at. I was just wondering whether or not you were giving them a bit of curry. Of the 19 that were looked at, seven had wrong balances and two went off and double-checked. That is nine out of 19. Nearly half of the ones that were operating that were given a detailed examination were in trouble. Are you looking at the other 268 to make sure that they are going to be reporting to you correctly?

Mr McPhee—No, we are not, but I think it is important to acknowledge that that is probably not a random sample the Audit Office chose. They probably chose it on the basis of particular complexities around the special accounts.

Senator CONROY—This is about the reporting of them, though; this is not about their validity, legal or otherwise.

Mr McPhee—No, I appreciate that.

Senator CONROY—This is about whether they actually could get up.

Mr McPhee—This is whether the legislation was properly being interpreted and the accounting around that consistent with the legislation, and I think the Audit Office chose some fairly significant special accounts within their sample, and that is understandable. But we are not taking any—

Senator CONROY—After this entire debacle you are prepared to take them at face value.

Mr McPhee—The entire debacle: there were a couple of special accounts which contributed to that very significant figure, and the rest were not as significant as clearly those leading ones.

Senator CONROY—Sure.

Dr Watt—In fact, when you look at the total, it is a very skewed distribution within that total.

Senator CONROY—I was not part of the process of selecting. I can only look at it and say that if that sort of percentage turned out to be a regular occurrence there are billions of dollars that they are getting wrong. If you look at that sort of figure for that number and then you extrapolate it out, that is billions of dollars. I appreciate you want to be trusting of your colleagues. I frankly would not be, given what they have done to you.

Dr Watt—There are two points—one being the argument you draw. What Mr McPhee and I are saying is that it is not easy just to extrapolate it out.

Senator CONROY—I appreciate that.

Dr Watt—Secondly, I do think that we have to come back to the point. These particular issues are the responsibilities of individual agencies. There is the question how much the Department of Finance and Administration can and should try to supplant or whatever the responsibilities of individual agencies, CEOs and their financial staff. Yes, we would agree that some of the treatment of special accounts and agencies highlighted in this report is poor. We would also note that any agency with a special account should, since this report was released, if they have not already gone through it with a fine toothcomb, now go through it with a fine toothcomb. There is a question of how much we can do agency's jobs for them before they stop doing it themselves.

Senator CONROY—I guess it is just that they have made such a shemozzle of it and they have left you guys holding the baby. We have had some lengthy and silly discussions where you have just been left with figures you cannot defend, you cannot account for, because they do not exist. I would have thought a bit of overzealousness in this particular instance to protect your own reputation might have been called for, given the way they have stuffed you around.

Dr Watt—To be fair, I do not think this report calls the reputation of the Department of Finance and Administration into account. I think it really is about what the title says: agency management of special accounts. We are responsible for the framework. We do have certain responsibilities about the maintenance of that framework and keeping up to date. We both acknowledge that we have done a lot of that in recent times, and we will keep doing that. We do have a monitoring role, we do have a quality assurance role, but at the end of the day we are not equipped—and I do not know if we could even if we were equipped—to do the agency job for them. This is very much about their job.

Mr McPhee—Where we do come across systemic issues we have sought to raise the awareness of agencies to those matters through the guidelines. The secretary wrote to his colleagues on the guidelines and we have issued a subsequent circular on drawing rights, which was again an issue that came out of this report. We do seek to be alert to common

issues but, as Dr Watt said, not to usurp agencies' CEO's responsibilities in this area. It would be a mistake, in fact, in some ways to take the direct responsibility away from them.

Senator CONROY—As I said, I probably was not looking at it as an ongoing permanent thing; it was more just to make sure that they cannot embarrass you any further—more an overzealous, 'Let's get this cleaned up, let's put it to bed, let's make sure that we are under control and then you can leave and, hopefully, they will not mess it up on you again.' That was really just the thrust of what I was saying. I am sure they would not appreciate it but, given the mess they have drawn you into, they deserve it.

Mr McPhee—One option Mr Culhane has just mentioned to me is that we can, through the CFO forum and the accounting advice that we issue, draw attention to the audit report and perhaps in the way you suggest just raise awareness on a one-off basis.

Senator CONROY—You have not been able to really convince me, given that you cannot guarantee 100 per cent turnout, that the CFO forum is quite working. Maybe a few whips and chains for you.

Mr McPhee—In that case, perhaps we could issue an accounting brief which could address the point that you are raising. We will send you a copy of it.

Senator CONROY—It was the department of finance that did decide to devolve responsibility in this area.

Mr McPhee—I think it was more than the department of finance, but Finance was certainly a contributor.

Senator CONROY—I do remember a particularly passionate former head of department who seemed to be driving, in the absence of a minister, a pretty tough position on it. I will not dwell on it. Have any further errors in reporting been identified since the audit report? Has anyone else coughed up, put up their hand to say, 'Whoops'?

Mr Culhane—No.

Mr McPhee—Not that we are aware of.

Senator CONROY—On page 16, the ANAO indicates that its investigation of four agencies revealed that in two agencies valid drawing rights required under the FMA Act had not been issued for transactions on 13 special accounts, and that \$618 million in payments had been made from, and debited against, the relevant special accounts by these two agencies. Given that there were a total of 72 agencies in 2002-03 with special accounts, what steps have been taken to ensure that other transactions have not been made without valid drawing rights?

Mr McPhee—As I mentioned, we have recently issued a circular on drawing rights, just to draw attention to this legislative control.

Senator CONROY—As I think you said earlier, the system was stable until 1998. This sort of thing never happened when it was under central control, when the soviet was in charge.

Mr McPhee—I am not quite so sure about that.

Senator CONROY—I am sure it was not of these endemic proportions. So you have issued a circular.

Mr McPhee—Yes.

Senator CONROY—Have any other breaches been identified since then over that?

Mr McPhee—No, not that we are aware of.

Senator CONROY—I note on page 71 of the audit report that \$12.5 million was debited from the property account, even though, unlike other DOFA accounts, no specific provisions exist for indirect costs to be debited from the account. Could you please explain the legal advice you received which supposedly justified that?

Mr Staun—Good evening, Senator.

Senator CONROY—Have you been getting Mr McPhee's memos?

Mr Staun—Yes, sir.

Senator CONROY—I have been hearing all about the CFO memo circulars.

Mr Staun—The ANAO quoted in its report the legal advice that we received on the property account under section 4.5. As the legal advice states, the position is not clear. As the lawyer states:

The strength of that argument will obviously depend to some extent on just how "indirect" the expenses are in relation to the purposes of the Account and its administration.

As we said in 4.6, we have advised the ANAO that we are of the view that the legal advice obtained from AGS supports that decision.

Senator CONROY—That seemed to be that there were no real powers for it. You actually do not have legal advice that said, 'No, it's fine.'

Mr Staun—Nor have we got legal advice that says, 'Yes, it's fine.' The legal advice is indeterminate. We are of the view that supports our position.

Senator CONROY—What, indeterminate legal advice supports your position?

Mr Staun—Yes.

Senator CONROY—That is a new one. Take me through what it is an indirect expense.

Mr Staun—There are three expenses that are charged against each business group within the Department of Finance and Administration. One is their own direct expense for which they are responsible, through entering into contracts with suppliers, employees et cetera. The second are internal service charges, which are costs which can be directly attributed, usually volume related, to each business group. And the third are overhead or indirect expenses, which are an allocation of the corporate overhead from obviously the corporate areas of the department, which is allocated across each group to give them an underlying financial position.

Senator CONROY—Whose legal advice was that you were quoting?

Mr Staun—The Australian Government Solicitor.

Senator CONROY—Did you get external legal advice?

Mr Staun—No.

Senator CONROY—So it was just the one opinion?

Mr Staun—Yes.

Senator CONROY—Which said, ‘I am not sure’?

Mr Staun—We have received legal advice from the AGS around these issues on several occasions. We continue to use the one solicitor.

Senator CONROY—And you did not think that, given that he was unable to give you any definitive position, it might be worth while getting external advice or anybody else’s advice?

Mr Staun—No.

Mr Mowbray-d’Arbela—I am not sure whether it is necessary to advise on the appropriation aspects of the special accounts, because that is a constitutional issue and that is tied to the Australian Government Solicitor.

Senator CONROY—There are constitutional lawyers in the country, though, aren’t there?

Mr Mowbray-d’Arbela—That may be the case, but the legal services directions under the Judiciary Act require that constitutional advice is obtained from the Australian Government Solicitor, and if any of these areas are deemed appropriations it might be an issue of statutory interpretation but it might easily fall into an issue of constitutional interpretation. So in that regard the AGS really is the better place to go to get comprehensive advice.

Senator CONROY—I was not saying you should not go there; I was just suggesting that, given it was inconclusive, it might have been an idea to consult externally. It did not have to be definitive. I appreciate the point you are making that you are tied in some way. Perhaps you could have got a second opinion, given the first one was grey.

Mr Mowbray-d’Arbela—It is not really open to us.

Senator CONROY—It does not have to be binding—you could just ask someone.

Mr Mowbray-d’Arbela—We would need to take it up with the Attorney-General’s Department, to even see if it were possible.

Senator CONROY—To get some legal advice.

Mr Mowbray-d’Arbela—To get some policy advice.

Senator CONROY—If you did not mention a particular expense as part of the designated purpose, does that mean it could be included? Is it an exclusionary process, rather than an inclusionary process?

Mr Staun—The determination clearly states—certainly in the case of COM cover and the BSTA—what expenditure can and cannot be included, and both of those are quite explicit about overhead expenses. The property group is less explicit and was the issue raised by the ANAO.

Senator CONROY—Which category did the \$12.5 million fall into—all of them?

Mr Staun—The majority—\$1.5 million—was internal service charges. The balance was the calculated share of overhead expenses.

Senator CONROY—I am not an expert in this area, by any means. You gave a brief explanation of overhead expenses. Could you expand on that?

Mr Staun—The direct expenses that the group incurs are easy to identify. Other things—for instance, PCs and laptops—clearly can be tracked back to individuals within groups. Therefore, one of the ways of getting good financial management within an organisation is to ensure that those charges go back to the group so that they are bearing the costs for which they are responsible. The problem comes with corporate overheads—how do you get behaviour which helps manage those costs? Because they are not directly linked to an activity of a group, they become everybody's responsibility and nobody's concern.

Senator CONROY—You apportion them.

Mr Staun—We apportion them to the groups. Then they realise the theory underneath it. The practice is that they not only have to cover their own direct expenses and indirect expenses; they also have to bear some of those corporate overhead costs. It is a very sound technique of financial management.

Senator CONROY—I am not being critical of the technique.

Dr Watt—Mr Staun, quite rightly as a CFO, emphasises the behavioural change it has on the group. I would emphasise that it is important to have the groups exercise, in turn, behavioural changes on those overheads. This places a bit of competitive tension to see the groups bear the proper costs of their activities. Also, the overheads get driven down, wherever possible.

Senator CONROY—Always a good thing.

Dr Watt—That is entirely correct.

Senator CONROY—This committee first raised issues around special accounts in about June 2002. That was the budget estimates that year.

Dr Watt—Our recollection is November 2002, but we have not checked the transcript. We will confirm that.

Senator CONROY—In November you decided to conduct a review.

Mr Hutson—The review was under way before it was raised at Senate estimates.

Senator CONROY—That is right, because I got the Bowen letter and had a chat about some of those issues.

Dr Watt—The document we never released about the outcomes of the budget framework? That would have been the November estimates, from memory. I will need to check that with Mr Bowen.

Senator CONROY—Is the government going to accept the recommendation to change the name of special accounts, Senator Minchin?

Senator Minchin—We are satisfied with the current terminology.

Senator CONROY—It would a lot simpler for everybody. It is not a big issue.

Senator Minchin—I am not convinced anything would be achieved by a name change.

Senator CONROY—I am told the audit report says 'budget estimates 2002', which would suggest that June was the first time they came up.

Dr Watt—We would be happy to confirm that. We are checking.

Mr Lewis—In relation to the cost of sales of the Sydney based airports: \$2.4 million—these are rounded numbers—to Caliburn; \$1.3 million for the Australian Government Solicitor; \$300,000 to Gavin Anderson and \$100,000 to AGS for litigation. There was litigation in relation to the sale. They are the major consultants. Those figures are still not final. We are seeking to resolve a few final claims but that is getting pretty close to what the full sale cost will be.

Senator CONROY—I appreciate that, once all the final figures have been tabulated, you will come back.

Senator FAULKNER—The committee is joined this evening by the Minister of State for Northern Ireland, the Rt Hon. Mr John Spellar. It is a great honour for this committee to have Mr Spellar with us.

[9.23 p.m.]

PRIME MINISTER AND CABINET PORTFOLIO

Consideration resumed from 16 February.

In Attendance

Office of the Official Secretary to the Governor-General

Mr Malcolm Hazell, Official Secretary to the Governor-General

Mr Kevin Davidson, Senior Adviser to the Governor-General

Ms Amanda O'Rourke, Director, Honours Secretariat

Mr Gary Bullivant, Corporate Manager

Ms Joanne Mitchell, Finance Manager

Office of the Official Secretary to the Governor-General

ACTING CHAIR (Senator Murray)—I call the meeting to order.

Senator FAULKNER—I was disappointed to see media coverage over the Christmas period highlighting—in the view of the media—the low level of name recognition of the Governor-General. You probably would have seen some of that coverage yourself.

Mr Hazell—Yes, I did. Like you, I was a bit surprised about it. It is quite curious, as the Governor-General has been pretty active since he took office just six months ago. The levels of activity have been, in comparative terms, significantly higher.

Senator FAULKNER—You might have seen the unfortunately entitled article 'Mr Nobody' in the *Daily Telegraph* of Monday, 22 December 2003. It reported the findings of Newspoll. I think you would appreciate that Newspoll is a very reputable quantitative polling organisation in this country; it has a very good reputation indeed. The poll said that two per cent of Australians could name the Governor-General and five per cent had a vague recollection of his surname. I wondered, from the point of view of your office, whether there had been any concerns about this. I appreciate the concerns about the article—I probably share them, as I said before—but, more importantly, has there been any attempt made to identify whether this is a problem? If so, how might this be addressed?

Mr Hazell—There are a couple of things that I would like to say about that. I think that article actually reported my own comment at the time. The questions that were asked and the conclusions that were drawn I do not think necessarily flow. Nevertheless, if there is a point made that the work of the Governor-General needs to be better publicised and better understood, that is a conclusion that we would agree with because we have endeavoured through our office to make sure, for example, that the media have information about the Governor-General's activities—they are all listed daily on our web site. Regrettably, most of the national dailies do not publish the vice-regal notes, so the public cannot see through their newspapers what is going on. That is a bit disappointing from that point of view. There is also an important point to make: I am sure the Governor-General would say that he is not about publicity for his own name's sake; he is about making sure that the role of his office is better understood and properly understood. Certainly, we are turning our minds to ways in which we might be able to do that.

Senator FAULKNER—I noticed in the *Gazette* a contract dated 16 January for research services by Graham World described as ‘market research and public opinion polling services’. I wondered if that was related to this particular issue. If not, perhaps you could explain to the committee what those services were.

Mr Hazell—It preceded this particular issue in the sense that we have contracted Graham World to provide communications advice to me. If I can be honest, the original description of that was probably not correct, and that has since been corrected. Graham World’s charter is to provide communications advice. He does that on a part-time basis. His remit includes making sure that the role and the functions of the Governor-General, as exhibited through his many different engagements, are better understood.

Senator FAULKNER—The ANZSCC description on this contract dated 16 January 2004 is ‘market research and public opinion polling services’. But you are saying that is not an accurate description?

Mr Hazell—To be honest, that was not the best way that we could have described it originally within the office. I would describe it differently, yes.

Senator FAULKNER—Does this mean that the services that Mr World is providing are not in the market research area?

Mr Hazell—Yes.

Senator FAULKNER—Or in the opinion polling area?

Mr Hazell—No, he is not tasked to provide us with opinion polls; he is tasked to provide me with communications advice. That is a fairly broad remit, but his task is not to provide opinion poll research or anything like that.

Senator FAULKNER—How did we get this description so wrong?

Mr Bullivant—In the office there is a process whereby our purchasing officer normally attaches these sorts of descriptions to the gazettal process. It was her misunderstanding of what the services were and the appropriate description of those. It came about, incorrectly, through picking up the wrong codes.

Senator FAULKNER—I think you said, Mr Hazell, that it has been corrected.

Mr Hazell—I may stand to be corrected on this myself in that I am not sure whether there is a formal vehicle to correct it. What I described to you is the correct description.

Senator FAULKNER—One of the problems with this is that the chance of it being raised at a Senate estimates committee is, to be frank, a bit of a long shot given the number of government contracts that we have. So I do not think it is good enough, to be honest with you, for this to be taken on a wing and a prayer that it might be raised at a committee hearing like this. This description, as I think you would appreciate, begs other questions. Would you accept that, Mr Hazell?

Mr Hazell—I am sure that is true. My point to you is that, if there was an error made—and it was certainly an inadvertent error—I am correcting the public record now.

Senator FAULKNER—It says ‘description of contract’ and, in another part of this Gazette Publishing System, it says ‘research services’. I think these are fairly specific descriptions.

Have you made any approaches at any stage to any market research companies or polling organisations?

Mr Hazell—No.

Senator FAULKNER—So you can definitely exclude that?

Mr Hazell—Absolutely.

Senator FAULKNER—And you can say that Mr World's consultancy did not involve such services?

Mr Hazell—I can.

Senator FAULKNER—For the record, can you explain what was involved in those services so we can be clear given that, at the moment, it is on the Gazette Publishing System and it is quite misleading.

Mr Hazell—I accept that and, as I have said, I have endeavoured quite openly and fearlessly to correct it. What was involved, in a very broad description, was to provide communication services to me as Official Secretary and communications advice. That is broadly to do with the understanding of the role and functions of the Governor-General and the office of the Governor-General to make sure that, for example, the Governor-General's speeches are sent to people that want them—that sort of stuff.

Senator FAULKNER—Is Mr World on a retainer for this? Is this a one-off?

Mr Hazell—Mr World has been retained by us on a part-time basis.

Senator FAULKNER—So it is ongoing.

Mr Hazell—Yes, on an ongoing basis.

Senator FAULKNER—It is not clear from the Gazette Publishing System. It is clear that this contract date is 16 January 2004. What period does that cover? The contract appears to have been written on 16 January 2004.

Mr Hazell—I am advised the contract is for a 12-month period.

Senator FAULKNER—Thank you for that. The *Daily Telegraph* article I referred to was repeated again in the *Courier-Mail* newspaper on the same date, under a more sympathetic headline I would have to say. In this case, the headline was 'Aussies don't know our G-G'. There was also an article late last year, written by Malcolm Farr from the gallery here: 'Is the Governor-General just good for opening fetes?' I suppose you saw that one too.

Mr Hazell—Yes.

Senator FAULKNER—In that article he described the Governor-General as a 'vice-regal odd-jobs man'. Do you think that is fair?

Mr Hazell—I do not take terribly much notice of how some of those sorts of people describe it. The facts are that the Governor-General has three broad roles: constitutional, ceremonial and community. As I said to you before, the facts are that the level of activity in each of those roles has increased. If that is not understood properly by the media, and perhaps through them the general public, I think that is regrettable. You would be aware from your

time as a minister that the Governor-General presides over Executive Council meetings. There are also the community activities of the Governor-General, which take up a lot of time—

Senator FAULKNER—How many Executive Council meetings are there in any given fortnight?

Mr Hazell—Executive Council meets regularly each fortnight. Since this Governor-General took office, there have been 13 of those meetings.

Senator FAULKNER—There have been 13 meetings. How long do they go for?

Mr Hazell—A few hours—a couple of hours.

Senator FAULKNER—When did this Governor-General take office?

Mr Hazell—On 11 August. But that is only one part of it.

Senator FAULKNER—I appreciate that. I just would not overblow it, frankly. I have had the pleasure of attending Executive Council meetings—

Mr Hazell—That is right.

Senator FAULKNER—so I know what they are like. I would not overblow that role of the Governor-General.

Mr Hazell—You would know then that the duty is not only the attendance at the meeting. There is also quite a lot of paperwork involved, and there is preparatory reading and material to be dealt with after the meeting.

Senator FAULKNER—Sure, but not by the Governor-General.

Mr Hazell—Absolutely.

Senator FAULKNER—Most of it is done by you and your officers.

Mr Hazell—The Governor-General reads the papers.

Senator FAULKNER—Of course. That is before the meeting. I am not being critical here, but I think we have to keep these things in perspective.

Mr Hazell—I am just anxious to get the facts on the record, too.

Senator FAULKNER—So am I. That is why I think we have to be realistic about the pressures that Executive Council meetings bring to bear.

Mr Hazell—As I said, that is only one part of it. There is a whole range of functions that the Governor-General attends and speeches that he delivers. As I said, that activity has increased significantly. If that is not reported or if the Governor-General is not given credit for that, I think that is a bit of a shame and shows a misunderstanding of the role of the Governor-General. If there is any lesson to learn out of that, I think we have to take that comment on board and endeavour to encourage people to understand that role better.

Senator FAULKNER—I basically accept that, and I think what you have said is not unreasonable. What I am concerned about here—and I am sure you would be too—is that you would not want a public perception to grow or the general mood in the community to be that the Governor-General is not very well known, not doing very much work, not particularly involved in the community. I am sure you would agree that that would be very unfortunate.

Mr Hazell—Yes.

Senator FAULKNER—That is why I am raising the issue.

Mr Hazell—I do agree. As I said, I implore people to consult those activities on the Governor-General's web site. They are there for everybody to see. I sometimes think it is curious that people do not look at them.

Senator FAULKNER—What is the current protocol in relation to the introduction of a new Governor-General to the Queen?

Mr Hazell—I think it has been customary for a Governor-General, when their name has been determined, to pay an introductory courtesy call on the Queen before taking up office officially.

Senator FAULKNER—That is as I understood it. I find these sorts of procedures either or a joke or offensive—one of the two—but I think you have fairly described it. It is like the Queen quality testing the contender.

CHAIR—I do not find it offensive, Senator Faulkner.

Senator FAULKNER—What is the idea, Senator Mason—the Queen has to make sure that the Governor-General knows which cutlery to use? Of course, you are an expert in these sorts of things.

CHAIR—It is a courtesy call. I believe that people should be courteous.

Senator FAULKNER—Why didn't it happen then on this occasion with this Governor-General?

CHAIR—You can ask.

Senator FAULKNER—No, I was asking you; you seem to be such an expert. I did not really need to ask Mr Hazell.

CHAIR—I am not an expert, but I believe in courtesy—which you know, Senator Faulkner, is one of my few good qualities.

Senator FAULKNER—This is something you and I have in common—we are both very courteous. I am also common.

Senator BRANDIS—You are not as alone there as you might think!

Senator FAULKNER—Was there a quality test done on Dr Hollingworth? You would know that would you, Senator Mason?

CHAIR—Sorry, Senator?

Senator FAULKNER—You have tuned out of the conversation now, have you?

CHAIR—I was thinking of something else.

Senator FAULKNER—Very wise. Mr Hazell, your description of the protocols is, as I understand it, the case. Has that happened with most other Governor-Generals in waiting?

Mr Hazell—As I understand it, yes.

Senator FAULKNER—But it did not happen with Major General Jeffery, did it?

Mr Hazell—No, because Major General Jeffery had already been a governor of Western Australia and had met the Queen—the Queen had stayed with him.

Senator FAULKNER—So he had passed muster already.

Mr Hazell—I do not think it was considered that there was the same need to do it at that time.

Senator FAULKNER—So if you had a previous vice-regal appointment, you do not have to be run around the track at Buckingham Palace a second time. Is that how it works?

Mr Hazell—I would not say that. I think that is one of the factors. The fact is that, as Governor-General designate, Major General Jeffery—in consultation, I am sure—thought that there would be better times to pay that courtesy call on the Queen. One of the additional factors that was taken into account there was that it would be better to do that in the context of doing other significant activities whilst abroad.

Senator FAULKNER—As I understand it, Major General Jeffery is in fact soon to go to the palace. Is that correct?

Mr Hazell—That is true.

Senator FAULKNER—Will that be the first occasion since he was proposed to be Governor-General that he has had—if this is the correct terminology—an audience with the Queen, or met the Queen?

Senator BRANDIS—It is an audience.

Senator FAULKNER—I always defer to you on these vice-regal matters, Senator Brandis; you are so expert on them.

Mr Hazell—That will be the first occasion that the Governor-General will have met the Queen as well as doing a number of other things, as I said before.

Senator FAULKNER—I do not doubt that. I am not being critical about him. You are being very defensive. If I decide to attack the Governor-General, which I think is extremely unlikely, you will be the first to know.

Mr Hazell—Thank you.

Senator FAULKNER—There is no need to be defensive about it.

Mr Hazell—I actually wanted to make a serious point, though. I think there is an important point to make here about that trip: this visit will also be the first state visit by the Governor-General to the immediate region, in terms of accepting the invitation from the President of Singapore to visit Singapore. I think that is a very important point to make as well.

Senator FAULKNER—Sure. When the Governor-General goes to London, will he be staying at Buckingham Palace?

Mr Hazell—No.

Senator FAULKNER—What is the normal protocol in relation to that?

Mr Hazell—The normal protocol, as far as I am aware, that you do not stay there. I am not aware of any other Governors-General staying there. I could be wrong.

Senator FAULKNER—When her Majesty the Queen comes to Canberra she stays at Yarralumla, doesn't she?

Mr Hazell—That is true.

Senator FAULKNER—You would think she would put our Governor-General up in Buckingham Palace. It is not as if they are short of rooms there.

Senator BRANDIS—Sir John Kerr stayed at Windsor Castle I believe, Mr Hazell.

Senator FAULKNER—He is a special case. A lot of things that happen at Windsor Castle would be too good for him. Senator Brandis was interrupting there. What are the protocols about the Governor-General staying at Buckingham Palace?

Mr Hazell—We are not staying at Buckingham Palace and that has not arisen.

Senator FAULKNER—Is that a royal 'we'?

Mr Hazell—In terms of the party.

Senator FAULKNER—I see, fair enough. I appreciate the information that you have given the committee about Mr World and his role. Mr Hazell, could you outline for the committee any other assistance that you have contracted obviously in this case from outside your own office in terms of support for the Governor-General, be it in media, public relations, speech writing and those other profile elements? Would you be able to list those consultancies or contracts since Major General Jeffery became Governor-General?

Mr Hazell—In addition to Graham World—in fact, before Graham was retained and for a little while immediately after he had been retained—we asked two other people to assist us with some speech writing capabilities.

Senator FAULKNER—Who were they?

Mr Hazell—One was a lady called Kate Wall and the other was a gentleman called David Hudleston.

Senator FAULKNER—Tell me first of all about Ms Wall. What was her role?

Mr Hazell—She is no longer with us, but she was employed for a short time to help in the preparation of some draft speeches.

Senator FAULKNER—This was on a contract basis?

Mr Hazell—Yes, that is right. She was employed by Sir William Deane some time ago and we knew of her. As I said, she was employed to help out. That is basically all I can tell you about her.

Senator FAULKNER—I imagine you could tell me the value of the contract.

Mr Hazell—The total cost, I am advised, is \$7,695.

Senator FAULKNER—What can you tell me about Mr Hudleston?

Mr Hazell—It was a similar arrangement. Again, he was employed just to assist in some draft speech writing activities.

Senator FAULKNER—I found Mr Hudleston's contract on the Gazette Publishing System. I was not successful in finding Ms Wall's—that does not mean it is not there; it just

means that I was not successful in finding it. I assume that Ms Wall's contract has been publicly listed on the Gazette Publishing System?

Mr Hazell—Can I ask my colleague to explain the details of that?

Senator FAULKNER—Sure.

Mr Bullivant—With Kate Wall, we did not have a formal contract, a purchase order, for the whole period. She was paid on an hourly basis, as she was allocated speeches and requested to do them. In no instance was the payment in excess of \$2,000, and as such it did not need to go on to the system.

Senator FAULKNER—The fact that I did not find it on the Gazette Publishing System is now explained: the payments were under the threshold limit. Is that right?

Mr Bullivant—That is correct, Senator.

Senator FAULKNER—Isn't there some regulation though that says that, if these payments when aggregated are above the threshold limit, they ought to be published?

Mr Bullivant—Not to my knowledge.

Senator FAULKNER—Fair enough. What was the period that Ms Wall was engaged?

Mr Hazell—I may need to stand corrected on this, but my recollection is that just before General Jeffery was appointed as Governor-General and on and off—very intermittently, I might say—up until a month ago. My colleague advises me to just before Christmas.

Senator FAULKNER—Mr Hudleston was engaged on 29 October 2003?

Mr Hazell—Yes, that is right.

Senator FAULKNER—Is there an end date to that contract or is that more a retainer, if you like, similar to Mr World?

Mr Hazell—It is on an as required basis. It is very much as required; it is not a frequent engagement.

Senator FAULKNER—What is Mr Hudleston's background?

Mr Hazell—He is a professional speech writer. He has had some considerable experience in doing this sort of activity. He was known to us.

Senator FAULKNER—How was he known to you?

Mr Hazell—He had written some speeches for Major General Jeffery when he was the Governor of Western Australia.

Senator FAULKNER—Does he have a media company or a public relations company?

Mr Hazell—I do not know quite what the nature of his company is, but I think he works on his own.

Senator FAULKNER—I did not find Ms Wall's name on the *Gazette*—and I think Mr Bullivant has been able to explain why, and I accept the explanation and appreciate it—and when I found Mr Hudleston's name I checked that through. Through the miracle of a Google search I found an article that Mr Hudleston had written in the publication *Freemason* in August 2003, but that would predate this contract, wouldn't it?

Mr Hazell—To be honest, I do not know what other activities he engages in. I have no idea of the extent to which he writes for other magazines.

Senator FAULKNER—You would be aware of—I was not, but found this on the web—the publication *Freemason* volume 35 of August 2003?

Mr Hazell—No, I am not aware of it.

Senator FAULKNER—It is a big promotion of the Governor-General—‘Meet the New Governor General’ by Worshipful Brother David Hudleston. That would be the same David Hudleston, wouldn’t it?

Mr Hazell—I have no idea whether he is a member of the Masonic Lodge.

Senator FAULKNER—I am not asking that. I assumed this might be part of the contract; I was not sure. You cannot help me?

Mr Hazell—I am sure it is not.

Senator FAULKNER—If you read this article, which is freely available on the Internet, written by Worshipful Brother David Hudleston entitled ‘Meet the new Governor General’, you will see at the end of the article it says Worshipful Brother David Hudleston assisted Major General Jeffery in researching and developing speeches during his term as Governor of WA.

Mr Hazell—That is the point I made earlier.

Senator FAULKNER—I think we are talking about the same person.

Mr Hazell—I gather so.

Senator FAULKNER—And then it follows on in the editor’s note:

The Editorial Committee wishes to thank W Bro Hudleston for permission to publish his interview with Major General Jeffery.

You do not know about this?

Mr Hazell—That was nothing that was instigated by my office.

Senator FAULKNER—There is no criticism in it. I am just trying to nail it down.

Mr Hazell—My point is, I do not know. I am trying to help, but I do not know.

Senator FAULKNER—I just feel you are defensive in some of your answers. I am just trying to establish what the situation is here. This article ‘Meet the new Governor General’ in the publication *Freemason* just goes through Major General Jeffery’s history in the Masonic Lodge and the like. It is a very positive article about him. But the odd thing I find here is you cannot tell me whether that was part of the contractual arrangement that you have written with Mr Hudleston.

Mr Hazell—I can tell you that it was not part of it, because I had no knowledge of it and I did not instigate it.

Senator FAULKNER—But anyway you were not aware of any of this background. Perhaps you can check these issues for us and just establish them. I do not claim to be, as members of this committee know, an absolute expert in the use of the Internet and the like, but

I can assure you that Mr Hudleston, described as Worshipful Brother Hudleston in this case, is obviously a contributor to the *Freemason* magazine. He may well be involved in other journalistic or writing pursuits, but you do not know.

Mr Hazell—That may well be the case because, as I said, when we have retained him, it has been on an intermittent basis and for a quite specific and short-term task. He obviously does other things with his time.

Senator FAULKNER—Sure, but with all these people who you are contracting support services for—Mr World, Ms Wall and Mr Hudleston—one assumes that you satisfy yourself that these people bring a level of experience, expertise and professionalism to the task, and I have got no doubt that they all do.

Mr Hazell—Absolutely.

Senator FAULKNER—All I am asking is that it seems in these cases you seem to be drawing up these contracts with these people, but you do not know what their background or experience is. Are you satisfied with what they have done? You may not know what they have done in the past, and that is what I am questioning about all these. I think Mr World is known to many of us around Parliament House as a very experienced and very professional person in the media. I assume it is the same Mr World—I do not know, I have not checked, I do not intend to. If it is the same Graham World, as I think many of us know around this table from government, opposition and minor parties, I am sure we would say he is a very professional journalist and a good choice.

One of your tasks, it seems to me with your responsibilities, is to assure yourself that, if you contract someone and taxpayers' money is being paid to these individuals, you satisfy yourself that they have got experience to bring to bear to provide these services to the Governor-General. I am sure you do not take that responsibility lightly, but when I ask you in the case of two of these people what their background is you cannot tell me.

Mr Hazell—I am sorry, but I do not think that is true. I do not know absolutely everything or every activity about some of these people, and it is probably a little unreasonable to expect me to know absolutely everything in that they do other things with their time. I am not going to know about that. I do know that the two people that we have discussed are reputable, are professional and produce quality output. That is what I am interested in.

Senator FAULKNER—I accept that and I know nothing to the contrary.

Mr Hazell—I think that is the point.

Senator FAULKNER—Yes, but in Ms Wall's case you have said she worked for former Governor-General Deane, and I assume that people have been very satisfied.

Mr Hazell—That is right.

Senator FAULKNER—Let us be clear on this and get it on the record. You have knowledge of Ms Wall's consultancy, and that makes a lot of sense. How did Mr Hudleston come to your attention?

Mr Hazell—As I said—and as you referred to in that article—he had an association with Major General Jeffery when he was Governor of Western Australia, so his product and his work were known and known favourably.

Senator FAULKNER—Are you able to say to me then that the Governor-General has been very satisfied with the work that Mr Hudleston has been able to do?

Mr Hazell—Yes, I am.

Senator FAULKNER—And that is the reason, is it, for him to be contracted in this way? It makes sense. Let us be honest, if the current Governor-General has found, in his previous incarnation as Governor of Western Australia, someone providing services who has been professional, helpful and has delivered the goods, if that is the situation, I just want to hear it. That is all.

Mr Hazell—As I understand it, that was the case.

Senator FAULKNER—That is good to hear, thank you. I have not got any other questions.

Mr Hazell—Mr Chairman, I would have liked to have said this at the beginning, but may I just say on behalf of the staff that we were very grateful to the committee that they so readily agreed to reschedule the time that we were due to come before this committee. I really did appreciate that. We had some timing difficulties, and I just wanted to put on the record our thanks for your willingness to do that. It was very much appreciated.

Senator FAULKNER—I am sure you will find, Mr Hazell, as we move along with the business of this committee, that this is far and away the most cooperative committee in the parliament.

Senator BRANDIS—Certainly the most entertaining whenever you are here, Senator Faulkner.

Senator FAULKNER—You are too kind, Senator Brandis.

CHAIR—Mr Hazell and officers, thank you for attending to help us this evening. That concludes the committee's examination of additional estimates for the financial year 2003-04. I remind all that the committee has set Wednesday, 31 March 2004 as the date for the submission of written answers to questions that have been taken on notice. On behalf of the committee, I would like to thank all officials appearing before the committee for their cooperation. I would also like to thank the committee secretariat, of course, Senate attendants and the office of DPS for their Hansard and broadcasting services.

Committee adjourned at 10.03 p.m.