

Migration Litigation Reform Bill 2005
Public Hearing 13 April 2005

Questions taken on notice

Department of Immigration and Multicultural and Indigenous Affairs

Question 1 (proof Hansard p. 40)

Senator LUDWIG—I think we have done this before. In fact, I have a vivid memory of it. In relation to statistics on issues, it has probably been long enough since either estimates or the last time I asked for us to revisit this area. How many judgments are we now talking about? I will put it in its frame to make it a bit easier, at least for me; I am sure you are very familiar with the statistics in this area. Could you give me the number of unrepresented litigants in the High Court in migration matters, a breakdown of the number of migration matters which are obviously represented, that percentage as a total in the High Court or in the Federal Court and those which are currently in the Federal Magistrates Court. I am happy for you to take those on notice, because I know it stretches across a range of areas.

Mr Walker—Yes, I will have to take those on notice.

Question 2 (proof Hansard p. 41)

Senator LUDWIG—I would be interested in the former issue as to whether or not there are matters which are raised by the court and the court decides not to strike out, where you have discovered that they are seeking to relitigate—you have raised it with the court and the court decides not to.

Mr Walker—We will take that on notice.

Question 3 (proof Hansard p. 46)

Senator LUDWIG—But can you see that that potentially could be the result? Lawyers and people out there in the community, community groups, would then generally say to people, ‘If you try to encourage, or in other words help, someone to do it without trying to assess the merits, because you are not legally qualified—which you should not do anyway, because you are not legally qualified—then you could be liable. So don’t do it.’ That would be the result, I imagine. It seems quite at odds with our whole obligation in this area—to me, anyway; maybe not to you. The immigration department might be more pleased about the result.

Are the migration lawyers and the Migration Institute of Australia aware of these issues? In other words, have you raised your concerns with the professional group about the litigation and the number of cases that have come before them and asked them to assist in ensuring that unmeritorious applications are not filed and pursued?

Mr Walker—I will have to take that on notice. It may well have been raised in the discussions the department has with the MARA. The MARA is the MIA in a different role. But I will take that on notice.

Question 4 (proof Hansard p. 48)

Senator LUDWIG—Of course one of the reports that are not available is the Penfold report. We know that. In the statistics can you also look at those that are decisions of the RRT or MRT which have to go through that tribunal irrespective of whether they are seeking a positive outcome from that tribunal because, of course, they are really interested in getting a 417 or a 351?

Mr Walker—We can certainly look at it.