



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION  
LEGISLATION COMMITTEE

**Reference: Workplace Relations Amendment (Paid Maternity Leave) Bill 2002**

FRIDAY, 9 AUGUST 2002

MELBOURNE

BY AUTHORITY OF THE SENATE

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**SENATE**  
**EMPLOYMENT, WORKPLACE RELATIONS, AND**  
**EDUCATION LEGISLATION COMMITTEE**

**Friday, 9 August 2002**

**Members:** Senator Tierney (*Chair*), Senator George Campbell (*Deputy Chair*), Senators Barnett, Carr, Johnston and Stott Despoja

**Substitute members:** Senator Crossin for Senator Carr

**Participating members:** Senators Abetz, Boswell, Calvert, Chapman, Cherry, Jacinta Collins, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Forshaw, Harradine, Harris, Hutchins, Knowles, Lightfoot, Ludwig, Mason, McGauran, Murphy, Nettle, Payne, Sherry and Watson

**Senators in attendance:** Senators Crossin, Stott Despoja and Tierney

**Terms of reference for the inquiry:**

Workplace Relations Amendment (Paid Maternity Leave) Bill 2002

**Committee met at 9.12 a.m.**

**SMITH, Mr Stephen Thomas, Director, National Industrial Relations, Australian Industry Group**

**CHAIR**—I declare open this public hearing of the Senate Employment, Workplace Relations and Education Legislation Committee. On 19 June 2002, the Senate referred to its Employment, Workplace Relations and Education Legislation Committee the Workplace Relations Amendment (Paid Maternity Leave) Bill 2002. This bill is a private senator's bill, moved by the leader of the Australian Democrats. It seeks to establish a system of government funded paid maternity leave for women in paid employment, and the criteria are contained in the bill.

Before we commence taking evidence today, I wish to state for the record that all witnesses appearing before the committee are protected by parliamentary privilege with respect to the evidence provided. Parliamentary privilege refers to special rights and immunities attached to the parliament or its members and others necessary for the discharge of the parliamentary function, without obstruction or fear of prosecution. Any act by any person which operates to the disadvantage of the witness on account of evidence given before the Senate or any of its committees is treated as a breach of privilege. I welcome all observers to this public hearing.

I would now like to welcome our first witness from the Australian Industry Group. The committee has before it submission No. 9. Are there any changes you wish to make?

**Mr Smith**—No, Senator.

**CHAIR**—The committee prefers all evidence to be given in public, although, at any time, if you wish to give any evidence, part of evidence or answers to any questions in camera, you may make the request. The committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

**Mr Smith**—The Australian Industry Group welcomes the referral of this bill to the Senate committee and the opportunity to make submissions on the bill. We believe that the public debate about paid maternity leave is very timely as the issue is of central importance to the Australian community. Future changes in the size, profile and distribution of our population are likely to have important implications for economic growth and living standards. If the current below-replacement fertility rate continues then Australia's long term prosperity and ability to meet future skill requirements will be compromised.

We believe that significant benefits will flow to the Australian community if a fiscally responsible, publicly funded, paid maternity leave scheme is introduced. But we are strongly opposed to the introduction of any paid maternity leave scheme which is to be funded by employers. The significant costs of such a scheme would place an excessive burden on industry which would most likely lead to lower employment levels and reduced competitiveness. That would impact on Australian businesses, both large and small. It would also be likely that an employer funded scheme would adversely impact upon employment opportunities for women.

We have developed a model for a paid maternity leave scheme. Our model incorporates a publicly funded scheme which would provide payments to working women for 12 weeks at the level of the minimum wage. Such a scheme is both socially desirable and economically achievable. We propose that funding for that scheme be made available by reviewing existing government payments to mothers and families associated with the birth of a child, in particular reviewing the baby bonus scheme. It should remain open to individual employers to reach agreement with their employees at the enterprise level to provide benefits in excess of those provided under a national scheme.

The Australian Democrats paid maternity leave bill incorporates a paid maternity leave scheme with many similarities to Ai group's model. However, there are some key differences and we have set out our views on the specific provisions of the bill in our submission. We are keen, though, for the policy debate around paid maternity leave to encompass all of the features of the current welfare, tax and workplace relations systems that may be limiting the participation of women in the work force. So, in conjunction with paid maternity leave, we believe that parties need to examine other support measures. In particular, the government should look at the issue of whether or not further child-care assistance should be provided. Child-care costs remain a major barrier to women returning to employment after having children.

In conclusion, we believe there is a strong case for the introduction of a publicly funded paid maternity leave scheme in Australia, but, as I have said, we are opposed to the introduction of any scheme which is funded by employers.

**CHAIR**—Thank you very much. Are there any questions?

**Senator STOTT DESPOJA**—First of all, thank you for your support for the Democrat model, albeit with some slight differences. In relation to one of those differences, you have advocated a 12-week proposal as opposed to 14 weeks. Can I ask why that difference?

**Mr Smith**—It really came back to a funding issue. As we understand it, in the public sector at the moment most employees receive a 12-week entitlement. For funding reasons it appeared to be quite logical to put the public sector where there is already the provision of those benefits to one side and to then introduce a scheme for other employees that provides a similar 12-week entitlement. If there were funding available for a 14-week entitlement we would not be opposed to that, but that is our rationale for the 12 weeks.

**Senator STOTT DESPOJA**—In your opening remarks and in the submission you talk about the potential fertility benefit. I am wondering how you see that operating. Is this a scheme that you think will encourage women to have children earlier, or to have more children? I do not mean to harp on about that connection because I am often very wary of it, but obviously it has been noted in a number of submissions so I am curious to hear your rationale.

**Mr Smith**—We do not think that it will provide the total solution. I do not think anyone would think that the provision of 12 or 14 weeks of paid maternity leave would be the total answer to this worldwide problem of a falling fertility rate amongst developed nations. But we think it would make a very important contribution as part of a broader range of policy initiatives.

That is why, in our submission, we make the point that we do not want the debate about this issue to centre on paid maternity leave. It would make an important contribution, but various other issues such as child care need to be considered. It is recognised that the government is making a very important contribution in that area at the moment. It is a matter of looking at the workplace relations system, the tax system and the social security system to make sure that as an overall community we are providing a framework to address the significant problem of a falling fertility rate that is below replacement level.

**Senator STOTT DESPOJA**—I agree with you that this has to be looked at in a much broader context. You have referred to some of the payments, the social security and welfare system, et cetera. You advocate the abolition of the baby bonus, for example. Can you elaborate on that for the benefit of the committee? Are you advocating that that should be abolished sooner or later? Is it something that you see being directly replaced by a maternity leave scheme? How soon would you envisage that taking place?

**Mr Smith**—We do have some concerns from an employer perspective about the baby bonus scheme because we believe that in the way that the scheme is structured there are some deficiencies from an employer's perspective. For example, the funding is handled through the tax system so it does not go to women at the time when they need that funding most. The way the scheme operates, it could be argued, could provide an incentive for people to remain out of the work force rather than go back to the work force. From an employer's point of view, we believe that that scheme should be abolished but that the significant funding of, eventually, some \$500 million that relates to the scheme could not only provide a paid maternity leave scheme that would be modelled on the structure that we have proposed but also would still leave a significant amount of extra funding. We are not suggesting that women who are not in work should not receive assistance. I know that has been a significant area of debate. We are suggesting that there should be a paid maternity leave scheme for working women, and that there certainly needs to be assistance for non-working women. There is assistance there in the form of the maternity allowance, the maternity immunisation allowance, the parental payments and family tax benefits A and B. Obviously, it needs to be looked at to see whether or not that is sufficient. Yes, we advocate that the baby bonus scheme be abolished sooner rather than later and replaced with a genuine paid maternity leave scheme.

**Senator STOTT DESPOJA**—I like the idea of your proposed 12-month review. I am curious about your thoughts on the payments system and whether payments should be made directly to employees or whether they should come through employers to employees. Do you think that the two-track system that you have obviously reflected upon is manageable?

**Mr Smith**—We are not sure, but we do think that it needs to be looked at carefully. If we had to pick one system or the other, then we would propose that the issue is best addressed through governments making direct payments to employees rather than through employers providing the payment and then being reimbursed by the government. But we do recognise that there will be circumstances where companies provide a certain level of payment regarding this issue and that it might suit those companies to provide the full pay, if that is what they want to do at the enterprise level, and then be reimbursed for part of that to the level of the minimum wage, for example, through the government. Probably some employers who perhaps are providing some benefits will not be concerned about the approach taken in the bill, but we believe that most employers would be concerned about an approach of having to provide the funding and then being reimbursed, even if that was handled quite early in the piece.

**Senator STOTT DESPOJA**—The Ai group has referred to the Westpac estimate that it costs between \$40,000 and \$60,000 to replace a female worker who does not return from leave or who leaves because she is having a child. Is that your understanding of what some of your affiliates would be paying or of what their estimates would be in terms of losing that productive worker?

**Mr Smith**—We are not sure about what other assessments there might be, but that figure does seem to be reasonable to us when you take into account the costs associated with losing a valued female employee—costs such as recruitment, selection and training. The loss of skills is the biggest issue. Not only are there those direct costs to the employer; there are also significant community costs—for example, the loss of the education that has been devoted by the community and so on. There are all sorts of associated issues of a community nature and an employer nature that suggest that, if there is a scheme that facilitates the early return to work of female employees—if that is what they want to do—then that is an important community issue.

**Senator STOTT DESPOJA**—Thank you.

**CHAIR**—If we go back into the history of this and the ILO convention in 1919 which put forward the idea of paid maternity leave, since that time no government of any political persuasion has done this, with the exception of the Whitlam government with the federal Public Service and some flow-ons to some state public servants. No government over time has legislated for this for the private sector, even though the idea was first up worldwide 80-odd years ago. Could you provide a perspective on why that might be?

**Mr Smith**—I think the issues have only been the subject of significant public debate in recent times. Pru Goward's paper has had an important contribution to make in generating this debate. There is a high level of community interest in this issue at this point in time. If you go back 12 months or two years it was not the subject of the same level of public debate. I think that is why there is now this call for the government to introduce such a scheme. We have not previously had the same analysis of and concerns expressed about the demographic trends that we have had in more recent times. Governments, community organisations, employer bodies and unions are all worried about the demographic trends continuing in the way that people believe they will.

**CHAIR**—Surely it was an issue 30 years ago when the Whitlam government brought it in for the Public Service. Declining fertility rates at that point—from the early sixties and early seventies—were quite alarming. You are saying it is a relatively recent issue; I would have thought it was a huge issue 30 years ago, and indeed triggered the Whitlam legislation.



**Mr Smith**—I do not disagree that it has been an issue for a long time. That is not to say that the issue should not be addressed now. The longer it goes on, the more difficult it will be to address at some stage.

**CHAIR**—I suppose when it came in in the early seventies the idea was that, if the public service did it, that would be a model for the private sector, but the private sector has not taken it up. Under the 13 years of the Hawke-Keating governments we went through seven accords but it never appeared in any of those. I am trying to get at why, in recent history, if we go back to the Hawke-Keating governments, it didn't happen then. I am asking for your perspective as someone who is head of an industry group.

**Mr Smith**—It is very difficult to say. It would have been an idea with significant merit regardless of when the initiative was introduced. But it is an issue that really does not lend itself to being dealt with through an employer funded arrangement, for example. In relation to some of the focuses that were within the accord and so on, I know that process had a social aspect to it as well, but, if this issue is to be addressed by employer funding, I think there is a significant problem with that. We are now seeing a situation where unions are pursuing claims in this area against employers. We are seeing a situation where there is talk of test cases in commissions and so on. Those mechanisms are not appropriately going to deal with this issue because I think it is widely recognised that a scheme that is funded by individual employers is highly likely to lead to discrimination against women of child-bearing age and as well it will incur all of the costs associated with potential reduced employment and so on. There has been a momentum about this issue that has now reached a level which has never been there before, and I think that is why other governments have not addressed it: the same level of momentum has not been behind the issue.

**CHAIR**—The solution to this, as you have put it to us this morning, is to bring in paid maternity leave which will be funded by the government. I wonder where that leaves women who also have children and who cannot find work or perhaps do not want to find work because they want to stay home. In terms of equity, how do we balance that up? We have a group that is probably the better off group in the community in that they have a job. They then get paid maternity leave under your scheme. How does that balance out in an equity fashion with other women, who also have costs through having children, even though they are not working?

**Mr Smith**—That is a very important issue that we have considered and debated. We do believe you need to have two different systems, two different schemes, if you like, or packages of measures to address the different groups. In our view, there needs to be a publicly funded paid maternity leave scheme that is designed in such a way as to allow women who want to return to the work force after a reasonable period of time to do so without suffering significant hardship. That scheme should be designed with that in mind. The Australian Democrats bill proposes that that be dealt with by the Workplace Relations Act, which already deals with issues of parental leave in an unpaid sense. So we think that scheme should focus on that issue. There are also needs of families in environments where women are not working, and indeed environments where a male may be the primary care giver, and that issue is dealt with appropriately, we believe, through the arrangements that are there for family assistance. We do have a whole series of government initiatives in place to deal with those issues. I mentioned before the maternity allowance, the maternity immunisation allowance, the parental allowances and the family tax benefits. If those mechanisms are seen not to be sufficient then we believe that those initiatives need to be considered. But we believe we do need a separate paid maternity leave scheme, publicly funded, for working women.

**CHAIR**—I suppose that comes to the nub of the confusion in policy debate over whether we are talking about a workplace relations issue or about a social welfare issue, particularly if we look at women as a whole who might be about to have children. I want to test this proposition with you. You put a two-sided approach to it which depends on whether women are working or not. Wouldn't it be better to approach it by saying—in the sense of when a woman is about to have a baby—that there are certain costs attached to that and governments should support that in a range of ways and just treat that sort of support, whatever level it is at or whatever type it is, across all women, whether they are in the work force or out of the work force, because they are unemployed or because they choose to be out of it? Wouldn't that be a tidier public policy approach to this?

**Mr Smith**—It could be. If there were sufficient funding available for it we would have no objection to a scheme that provides a 12-week payment at the level of the minimum wage for all women. But when you look at the costs associated with that sort of scheme it is very costly. You then have to try and have that scheme in operation with all of these other arrangements that are already in place to deal with the issue of assistance to families. We believe that it is quite easy from a policy point of view to think of it as two different types of arrangement. We are dealing with the needs of women, but women in different circumstances, and the objectives and the make-up of the different arrangements would be quite different, in our view, from one group to the other.

**CHAIR**—Under the Workplace Relations Act 1996, there is scope in workplace agreements for paid maternity leave or other sorts of leave. I would like your view on the SDA case—the Shop Distributive and Allied Employees Association case—in which the agreement was not for paid maternity leave but for a longer period of unpaid leave. The point there was that people were more concerned about job security in the sense that, if they took leave for a year to be with their children, the thing that was primarily in their minds was getting a job back after that time. So that was what they opted for. That was a flexible way of approaching it, according to that particular group of workers. Given that case, isn't it better to approach this through workplace agreements, depending on what the circumstances are of the workplace?

**Mr Smith**—We believe it is very appropriate that enterprises consider what arrangements they should introduce to assist women who have babies to match the needs of their working lives and their family responsibilities. We believe that issue is appropriately addressed at the enterprise level in discussions between employers and their employees. We would see this proposed scheme as very much a safety net. We do not support the idea of it having a means test applied to it because we think it provides a safety net level of funding up to the level of the minimum wage. But we would have no objection whatsoever to the idea of employers who can see the benefits of it either topping up that scheme to the actual rates of pay or extending the scheme or coming up with other schemes, if that is what they wish to do and if that is what is in the interests of their business. We have seen in the last few weeks, for example, Pacific Brands announce a major initiative in this area, and Qantas is another organisation. There are many other companies that have been convinced of the benefits that have introduced arrangements themselves, whether specific paid maternity leave arrangements or the scheme giving a longer period of unpaid leave that you were talking about, Senator Tierney. We think those issues are very appropriately considered at the enterprise level.

**Senator CROSSIN**—Thank you for your submission and for taking the time to appear before the committee today. I appreciate your support for paid maternity leave. Following on

from Senator Tierney's comments that arrangements for paid maternity leave should be best left at the enterprise level, statistics in the HREOC report show that, at this stage around the country, only 6.5 per cent of certified agreements and 30 per cent of AWAs have paid maternity leave provisions. Your submission suggests that in the past this has been a prohibitive cost for employers. Is that what you would put to us?

**Mr Smith**—It is a prohibitive cost. We have circumstances where some companies are only marginally profitable or, indeed, in some cases, not profitable at all. Even though other companies may have been convinced about the benefits to their enterprise of funding paid maternity leave arrangements, it is certainly the case that many employers—probably the overwhelming majority of them—could not afford to fund a paid maternity leave scheme if they were to have to provide it themselves through their own funding arrangements. That is why we believe this issue is appropriately addressed at the community level. But we would say that those figures are misleading. There are lots of companies that provide paid maternity leave benefits as a matter of company policy rather than through the arrangement being in their enterprise agreement. Certainly, in the smaller business sector, the level of provision is negligible.

**Senator CROSSIN**—In your preamble to your submission you say that you are opposed to the introduction of paid maternity leave being funded by employers. You go on to suggest that such a scheme would impact adversely upon employment opportunities for women. Can you expand on why you believe that would be the case if employers had to fund this scheme?

**Mr Smith**—I attended a conference recently that the Australian Industry Group ran where a union official was addressing that conference at our invitation. They were outlining the benefits of an employer funded scheme. One lady in the audience stood up, the HR manager of a relatively small company, and took that senior union official to task, saying, 'I am 28 years old and a HR manager in our organisation. I know in my own situation that people will not necessarily directly discriminate but I am concerned that if someone comes along for a job as a 28-year-old woman and somebody else comes along as a 28-year-old man that some employers will make the decision not to employ the woman if there was a paid maternity leave scheme in place that the employer was funding.' That was her concern, and I think that is a legitimate concern. It is a concern that is expressed in the HREOC report and it is also an issue that underpins the reason the ILO is not recommending an employer funded approach.

**Senator CROSSIN**—There is a suggestion in the ACTU's submission that there should be a contribution that the employer is expected to fund, whether it is in the form of a levy or making up the difference in the gap between, say, six and 12 weeks, based on different enterprises. Is that something you would support? If it is not totally funded by your employer organisations, should there be some contribution?

**Mr Smith**—No, we do not support the ACTU's approach. We believe that it should be a scheme that provides a safety net level of funding, funded by the community. The employer's contribution really is through a range of initiatives that might be introduced at the enterprise level. It could be that an individual employer might see the benefit of providing a level of funding that goes beyond the safety net, but we do not support an approach of employers being forced to pay a levy or provide a certain level of benefit. We think that would be highly counterproductive. It would be very costly, and building any additional costs into employment costs is a very negative outcome for the community, for employment levels and so on.

**Senator CROSSIN**—Has your organisation given any thought to how this scheme should apply to self-employed women or subcontractors who might be women who have a single business?

**Mr Smith**—The way our scheme is structured, we are proposing that it apply to employees. But, similar to the answer that I gave to Senator Tierney, if funding is available to provide benefits to other groups, then we certainly have no objection to that, but we have designed a model that we believe could be funded and should be funded for a group of persons.

**Senator CROSSIN**—Your submission to us suggests, and your member organisations certainly suggest, that you believe there are significant benefits to employers if a paid maternity leave scheme is put in place. Is that right?

**Mr Smith**—Yes. We do believe that that is the case, and that is the reason why more and more employers themselves are introducing paid maternity leave arrangements. We do not think that the introduction of this scheme is going to stop that. Quite contrary to that, it is likely to continue to focus employers' attention on it. Even though with the introduction of this scheme there is a significant benefit potentially for employers, there is a significant benefit to the community at large—that is, to the women that will benefit under the scheme and their families and the community generally. That is why we have a very strong view that this is a community issue that needs to be addressed by the community.

**Senator CROSSIN**—You suggest in your analysis when you look at the proposed legislation versus your position that, under the terms of the bill, employees would receive 14 weeks pay from their employer, plus a further 14 weeks pay from the national scheme. Is that something you would support, or do you believe it should be one or the other?

**Mr Smith**—This is one area where we have a strong view. In the way that the bill is currently drafted it does need to be amended because it would be very unfair to employers. As we read the bill, the way it seems to be drafted, it says at the moment that if an employer has introduced their own arrangements—say it is a 14-week arrangement under which the employer has agreed to provide payment at the full rate of pay at the enterprise level—it then not only gives that woman another payment for 14 weeks at the minimum wage but also proposes that the employer would have a penalty imposed upon them if they reduced their scheme at the enterprise level to take account of the fact that the government scheme has been introduced. We think employers should be encouraged to look at the arrangements in place at their workplace but that they certainly should not be penalised if they adjust those arrangements when this scheme is introduced.

**Senator CROSSIN**—What if they adjust them down?

**Mr Smith**—If they adjust them down, we think that is open to them. Why should employers be penalised because they have taken the initiative and introduced arrangements at the enterprise level? We think that in many cases—say the employer is providing a certain amount of benefit and then this scheme is introduced—employers would say, 'We will readjust what we are doing at the enterprise level.' If the scheme nationally provides a certain level of payment, it can be used to top up. If it provides a certain number of weeks, an employer might choose to extend that. But we do not think that you can force employers to do that or force them to have to maintain what they are doing at the moment just because they proactively did something before others did.

**Senator CROSSIN**—Do you think, though, there could be a situation where if the employer currently is offering, say, 14 weeks paid maternity leave and this scheme introduces,

say, 12 weeks, they would look at scaling back their 14 weeks to 12? Or would they say, 'We're not going to give you anything now because you can actually get 12 weeks funded by the government'? Wouldn't you have to have some mechanism in the legislation to ensure that employers did not do that?

**Mr Smith**—Say there are two companies in the same industry, right next door to each other, and one is providing a 12-week paid maternity leave payment at the level of the minimum wage and one is not. If, then, a publicly funded scheme comes in that provides 12 weeks at the minimum wage, why should the employer that has been incurring those costs for a year or two—or however long it might be—suddenly be disadvantaged because the community has now decided that this is an issue that it wishes to address? We believe that would be very unfair on that employer and it would lead to enormous difficulties when you got down to some practical examples of what you are actually asking those employers to do. That is an issue to be sorted out at the enterprise level, we believe.

**Senator CROSSIN**—Certainly, but you told me about the benefits you believe such a scheme has, and those employers who currently pick that up must be realising those benefits now. Doesn't it come down to whether or not there is a commitment from certain employers to fund it themselves profitability-affordability as opposed to just walking away and saying, 'The government's going to do it now. I don't have to worry about this anymore'?

**Mr Smith**—Many of them will not be able to walk away because arrangements in some cases will be in enterprise agreements, awards and so on. Others will not want to walk away. They will use that level of funding to provide other benefits. We do not think you can logically come up with an arrangement where you are going to penalise not only through the structure of the scheme but also by imposing a specific penalty through a court on a company that adjusts its scheme when a publicly funded arrangement comes into place. We think that is totally unworkable and very unfair.

**Senator CROSSIN**—You also suggested that this should be treated as normal wages for the purposes of superannuation and tax. There is a proposal there that there be the case; not perhaps for superannuation. But do you believe that any scheme introduced by the government should be deemed to be taxable income?

**Mr Smith**—It comes back to a funding issue, in some respects, and the logical way that that issue can be dealt with. Overseas—for example, in New Zealand—we understand the payments are subject to tax. It may be very difficult to design a scheme that is not handled in that way. We have not gone into that level of detail. We think there are others that will be able to analyse that issue far better than our resources would allow us to. We cannot really provide an educated comment on that issue. But, at the moment, given the way we have structured our model, we are not suggesting that it should not be taxed.

**Senator CROSSIN**—My colleague Senator Tierney asked you whether or not you were surprised or had any comments about this scheme not being introduced perhaps when Gough Whitlam was Prime Minister or even in the Hawke-Keating years. Are you equally surprised that the Howard government have held off since 1996 and that this has not appeared on their agenda either in the last six years?

**Mr Smith**—No, I think the answer that I gave applies equally to all governments. This issue has become an issue of significant public policy debate within the last six or 12 months. It has, as Senator Tierney said, been an issue of debate for the last 30 years. As to the level of debate now, I do not think anyone could argue that we have ever had that level of debate before. Every day you pick up the paper and there are articles about this issue in it. I do not

think any party or any government could be criticised for not doing anything up until now, but I think now that we have got to this stage there is significant merit in doing something now.

**CHAIR**—Thank you for appearing today, Mr Smith.

[9.55 a.m.]

**BRICK, Mrs Lisa, Member, Victorian Branch, Women's Action Alliance**

**SMIT, Mrs Pauline Mary, National Secretary, Women's Action Alliance**

**CHAIR**—I welcome representatives from the Women's Action Alliance. The committee has before it submission No. 9. Are there any alterations or changes you wish to make?

**Mrs Smit**—No.

**CHAIR**—The committee prefers all evidence to be given in public, but if at any time you wish to give any evidence, part of evidence or answers to any questions in camera, you may make a request. The committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

**Mrs Brick**—We would like to say that we are very pleased that Senator Stott Despoja has brought this out into the open for public debate and discussion. Firstly, I would like to outline the points or aspects of the bill that the Women's Action Alliance feels are very positive. The concept of taxpayer funded assistance to mothers and families at the time of the birth is good and is something that we would support. A taxpayer funded payment avoids women experiencing possible discrimination associated with an employer funded payment; therefore, it protects women's employment prospects.

The payment provides a benefit that would enable Australia to meet its standards set by the United Nations Convention on the Elimination of all forms of Discrimination Against Women and the International Labour Organisation recommendations, as set out in the explanatory notes. It protects employers' interests by requiring 12 months continuous service; it meets employers' needs to keep their skilled female workers, as the costs of retraining are very high. It stops double dipping by government employees who are paid maternity leave but who are also eligible for the maternity allowance. There is no return to work required at the end of 12 months, if that is the wish of the mother. It offers a good rate—a minimum wage. It is directed to the mother, and we support that for the reasons Senator Stott Despoja outlined in her second reading speech.

It is good to see acknowledged in the explanatory notes that a wider application may be desired and that there will be some brief discussion of how it might be achieved, which we support. We see in the press that during the winter recess the government is undertaking modelling of the system in the bill, and we would like to check with the committee if this is actually correct. There are, however, some issues within the bill that we are concerned with, which Pauline would like to tell you about.

**Mrs Smit**—We approached this like you do when your child comes home from school and you ask: 'What were the good things about today and what were the bad?' We ask: 'What were the good things about the bill and what were the not so good?' Although it is described as a universal model, we feel it is not that at all. It is an exclusive model—in fact, it excludes most women with young children. I have some statistics here. They are in our submission, but I have brought a copy for each member of the committee who is present today.

Of course, as presented, it is a workplace entitlement and we think it should be broader than that. Senator Stott Despoja used this statistic: 72 per cent of women between 20 and 45 years of age are in paid work. We do not deny that that is probably the case but the statistics we are presenting show that, if you focus on women with very young children, that is a long

way off the mark. It is 45 per cent, according to the ABS statistics. Also, many of those women who would not be included would be amongst our neediest women. We are referring there to seasonal workers and many casual workers who do not maintain consistent employment and, of course, the unwaged. We feel that the model in the bill discriminates on the basis of a woman's choice about her work role when her children are very young, and that makes it hard for us to support. There would be no benefit to most women who have had more than one child, because only 24 per cent of women with two children and only 14 per cent of those with three or more children return to paid work. We got those statistics out of the Sex Discrimination Commissioner's report, so we trust they are reliable.

We also feel that it is an inequitable model inasmuch as it gives a greater benefit to those who earn the minimum wage or above and a lesser rate to those who earn less. We would question whether that is an equitable payment. Most paid maternity leave does, of course, give greater benefit to higher income earners, but this model actually seems to give quite preferential treatment while some very needy women are excluded. It seems to bark at the statement in the explanatory memorandum that says there is a pressing question of how to provide the benefit more equitably. We would suggest that this model is not going to achieve that.

On administrative complexity, we think there are two features. There is the maternity advance. Why pay it to the employer to siphon it through to the woman? Why not just give it to the woman? We see that not only as an added administrative layer but also as an impost on the employer for no good purpose. It creates an opportunity for the money to go astray. What if the employer does not pass it on or siphons it off elsewhere? Of course, there is another matter in that it creates administrative complexity for the payment not to be a flat rate to everyone. If you are going to have those who are on minimum wage or above and those who are below, we would say that you are almost creating a little haves and have-nots situation.

I think we mentioned in Lisa's list as a positive the fact that the model requires 12 months continuous service, but that is from the point of view that it protects the employer; we also see that as a negative because it excludes too many women. Some of those women are the needy ones I have already referred to—the seasonals, the casuals, the unwaged et cetera.

Lisa referred to two international treaties that Australia is a signatory to that it does help us to come into line with. We would like to point to one that it may actually cause us to contravene, and that is the United Nations Declaration on the Rights of the Child. We specifically refer to the section which says that 'a child of tender years shall not, save in exceptional circumstances, be separated from his mother'. We feel this may have the capacity to put pressure on a woman to leave her child in care and return to work before she feels ready. If that is a situation which requires her to leave her child for extended periods of time, we feel that could actually almost contravene that provision of the Declaration on the Rights of the Child. Of course, the fact that it requires the mother to be in paid work prior to the birth is a problem simply because it omits all of those who are not.

One feature of the model that we found a bit curious was that it seems to discriminate against government employees. We have referred to the fact that we do not think government employees should receive, as they currently do, both paid maternity leave and the current maternity immunisation allowance because we see that as double dipping into the public purse. However, the bill allows employees in private industry who get paid maternity leave to retain that, so it seems that the government employees might feel a bit hard done by. Our model, as we will explain to you later, would give them a choice.



Some government employees who do qualify for paid maternity leave would get very little out of it. Say there is a mother with a couple of little children who goes out and cleans government offices in Canberra for two hours every Friday night. If she has done that for 12 months, presumably she would qualify, but how much allowance would she get? She may be much better off applying for the maternity allowance. How politically possible is 14 weeks the minimum wage? The Women's Action Alliance has been around for a long time lobbying in the political area. We know that politics is the art of the possible, and we think that it is far more likely to happen if you set the allowance a bit lower as an initial thing—certainly with a view to extending it later on.

I know that nowhere in the bill or the explanatory memorandum or your speech, Senator, was there reference to the birthrate, so I presume you do not think that it is going to have much impact or that that is not a motive in introducing the bill. But we would just like to point out that it always seems to us that these issues come to prominence because of some social problem we are dealing with. Euthanasia seems to have come to prominence because we are dealing with an ageing society. The health and maintenance costs are already becoming a problem. This seems to be coming to prominence because of the problems we anticipate with the falling birthrate.

I would just point out that a new women's group called motherInc. put an electronic poll on their web site prior to the submissions being due in to the Sex Discrimination Commissioner. They got 1,000 responses, which is pretty hefty considering that they are new group and not that many people would know that their web site was there. Out of those, only 20 per cent said that the lack of paid maternity leave would be a factor in making them decide not to have another child. Although it is a small piece of evidence, it does support the view that many women are now enunciating that paid maternity leave is not going to play that role.

**Mrs Brick**—As you would have seen in our submission, we are making some recommendations, which I will quickly go through. One is that the funds for the maternity allowance, immunisation allowance and the baby bonus—we see the baby bonus as a highly inequitable payment and we do not actually support that one, but at least no-one is actually excluded from it—be pooled to make a new, inclusive maternity payment, which may or may not be means tested, payable to each woman on the birth of each baby and irrespective of the mother's paid work force status. We think that, in the cause of social justice, it should probably carry a means test, but there is no means test on paid maternity leave for government or other employees. So, if you want to be equitable, there would be no need to have one on this payment either.

We also recommend that the current statutory 12 months unpaid maternity leave be extended to 24 months, with a view to eventually extending it to 36 months. We say this in the light of recent scientific evidence which shows the critical nature of the first three years of a child's life and the need for bonding and close-focusing, caring relationships with their parents or an important person to promote satisfactory learning and development. I am referring to a report commissioned by the government in Ontario, Canada, called the *Early years study: final report 1999*, which detailed extensive study in all fields on the early development of children from in utero to the first 10 years of life. We trust that the committee will see merit in implementing our recommendations, and we would like to answer any questions.

**Senator STOTT DESPOJA**—Thank you for your involvement in this debate. I know that my job today is not to rebut, but I am also very happy at another time to talk about some of the specifics you have raised in relation to the bill. There is one thing I wanted to put on the

record, just to reassure you. I got a sense from your submission that I had not made clear in either my second reading speech or the bill the fact that I do regard the work of mothering as work, and I value it very highly. I just wanted to clear that up, because I got the sense from your submission that you may be concerned about that.

**Mrs Smit**—We are actually very aware of the fact that the Democrats have had excellent policy for years on unpaid work, its measurement and inclusion. We do respect the position that the Democrats have adopted over a long period of time.

**Senator STOTT DESPOJA**—Thank you for that. Also, on the issue of fertility, you are right that I have not brought that up as a motive, because I think that you are spot-on when you talk about the momentum for these debates being generated for a whole range of reasons—social, economic and whatever they may be. That is a link that I have talked about in other forums, but in relation to this bill I wanted to keep it within the context of a workplace entitlement—which, of course, is subject to some of your criticisms, and I accept that.

I want to start by talking about the payment rate. You referred to the fact that it may be difficult for a government to adopt a scheme that is at the level of the minimum wage. In your recommendations, you talk about the ideals, the compromise and the minimum. Although you see Newstart as the art of the possible, don't you think that that is too low? I am hoping that, if there is a scheme that is introduced—in whatever form—we can go for the compromise that you have outlined, and that is what I have put in the bill: the equivalent of the minimum wage. Can you outline whether you really think it would make a fundamental difference to this debate if we were talking in terms of Newstart? I am not sure to whom I should address the question.

**Mrs Smit**—Yes, we do, because, for a start, it is a significant increase on what we get now in our maternity allowance. In fact, historically, that maternity allowance was first brought in by the Keating government. It was during the International Year of the Family that the National Council for the International Year of the Family—and particularly Don Edgar, Jenni George and Bettina Cass at the top of the council—did the negotiations with the government and, to their credit, the Keating government agreed to bring in this maternity allowance. I think the negotiations were that it would be at the rate of 12 weeks of the basic rate of the pension. When budget time came, though, unfortunately Mr Keating said, 'Sorry, girls, we can only afford six weeks.' Budgetary constraints do have to be respected at times, but he did express an intention that, in the future, it would be raised to 12 weeks. That has never happened, and we think that that should happen.

We should perhaps bear in mind that the unemployed are expected to live on Newstart, so it is presumably seen to be a basic living allowance. Of course, in many families it would be coming in as a second income to the family where there is a primary earner, a spouse. For some families it would not, but it is presumably considered by the government to be a basic allowance that you can live on. However, that is not what we have written down in our submission. We have referred to Newstart, but we actually think that those funds that the government is currently committing to the maternity allowance, and planning to commit over the number of years ahead to the baby bonus, are already committed. So let us divvy them up and see what we get.

**Senator STOTT DESPOJA**—You mentioned 12 to 14 weeks. Is the rationale a similar one, or is there a reason behind it? You seem to consider it an option. When I first proposed this, I came up with the 12-week option, and now I have looked at the ILO convention—

**Mrs Smit**—We have had a chat in preparation for coming here and we have made two submissions: one to your committee and one to the Sex Discrimination Commissioner. But if the ILO Convention 103 or whatever says 14 weeks, okay, let us go for it. Let us fit in with those international standards if we can. Australia should lead the world. We are one of the wealthiest countries in the world, and we should be looking after our mothers.

**Senator STOTT DESPOJA**—In relation to advocating a longer period of leave and payment, could you elaborate on that for the committee? How much longer would you see as ideal or a compromise or something that could be achieved?

**Mrs Brick**—Essentially the decision of the length of leave is up to the mother. The mother is the one who decides when she is able to go back to work and that she feels happy in her relationship with her child that her child will cope with that. In terms of extending the leave to three years, a lot of growth happens between nought and three years. A three-year-old is far more independent than a 14-week-old child or even a 12-month-old child, so we are just broadening the options that women have. A lot of key development occurs in those first three years. If a mother wants to be fully involved with all of that and then still be able to go back into the paid work force, she should have that option.

**Mrs Smit**—We would like to record our congratulations to the shop assistants union—I heard that discussed here this morning—for negotiating with Coles Myer and the associated companies BI-LO and Liquorland, I understand, who are now going to extend the unpaid period to 18 months. That is a step in the right direction, and we congratulate them.

**Senator STOTT DESPOJA**—I think that gets to the nub of it for me, that there are some businesses, including some who appear here today, who are doing the right thing. But we have to recognise that most women who have access to paid maternity leave tend to be in higher income positions in big businesses, and you have got a lot of women at the lower end of the payment scale—in small businesses, for example—who are missing out. Do you not see this scheme, or a comparable scheme, as one way of at least beginning to address that imbalance in the workplace context?

**Mrs Smit**—Yes, of course it would be moving in the right direction, but why introduce something that still leaves other women out? Why not go the whole hog and say that all women are workers? I was bristling during the previous speaker's presentation to hear the term 'nonworking mothers'. We are talking about mothers with tiny babies. You wait, Senator, you will find out—I hope you will find out—that it is damn hard work. Senator Crossin would know.

**Senator CROSSIN**—Absolutely.

**Mrs Smit**—You are working, and we get very angry about this old hat discriminatory language that refers to mothers of very young children as nonworking. Clean your mouths out. Nonearning we will happily accept, not in paid work we will happily accept. Say what you mean, but do you mean nonworking? If so, you have got another think coming; we think you should have another think about it.

**Senator STOTT DESPOJA**—I might hold off there. I am just going to look at some of the statistics you have re-provided us with.

**CHAIR**—Thank you very much for your submission. One of the things that brought me into politics was that at the start of the Keating-Hawke government in 1983 I had six children—

**Mrs Smit**—How many have you got now, Senator?

**CHAIR**—Still got six, still there. They are all a bit older.

**Mrs Smit**—You are well above average.

**CHAIR**—They say that the cost of raising a child is about a quarter of a million dollars—

**Mrs Smit**—That is a load of poppycock.

**CHAIR**—So I figure I am about \$1.5 million behind at this stage.

**Mrs Smit**—How could poor people ever have children?

**CHAIR**—But the thing that disturbed me at that time, through the 1980s, was that I saw a range of tax measures and other support measures for families disappear over that time—the family allowance, which was bolstered by the Fraser government, lost value over time due to high inflation. With six children I really felt where the shoe pinched. That was one of the reasons I came into politics. In that broad context of support, we have a bill here that is very narrow in its focus in terms of supporting families. I would like your view, particularly in the light of the HREOC paper, which you might have looked at and which looks at this issue more broadly, as to how we might better support families in this situation. What should be the approach, rather than perhaps a narrow bill that just looks at one aspect?

**Mrs Smit**—There is a wide gap in the family payments already. There is what we would view a pretty inadequate maternity payment. We were not all that happy at the time the government turned part of the maternity payment into a preventative health measure, by withholding some of it until you had your child immunised. But we did not oppose that because we did acknowledge the purpose of it. I understand that it has worked.

**CHAIR**—The immunisation rates have gone up.

**Mrs Smit**—Yes. We are not suggesting it should be altered. If they brought in a maternity payment of the type that we are recommending, an inclusive one, and they still withheld part of it until the child was immunised, we would not oppose that, as much as we see it as a different issue entirely. As far as family tax benefit part A and part B go, we have recommended to government that the family tax benefit part B—I get them confused all the time: A is for the children and B is for the mother—should not cut out when the youngest child turns five, as it currently does. If your wife had six children, Senator, she probably was not rushing back to work just because the youngest child went to school.

**CHAIR**—No, certainly not.

**Mrs Smit**—There is just as much shopping, washing, gardening, cleaning, bed making and what have you to do. Just because the youngest child has gone off to school does not mean to say that all your housework suddenly disappears, particularly with larger families.

**CHAIR**—I noticed that.

**Senator CROSSIN**—And it does not happen when you become a senator, either!

**Mrs Smit**—Exactly. We think that is a problem. The other problem, which has been there for quite a long time, has to do with the woman who goes back to a little bit of part-time work but who does not use paid child care. Because she is not using paid child care, she does not get any benefit from the child-care allowance but, because she goes back to some regular part-time work, there is a fairly stringent means test on the family tax benefit part B, and she loses it once she is earning. That can be the bus driver husband married to a shop cleaner who is doing some regular work on Friday nights and Saturday mornings, or security at the airport, or something of that nature—fairly low paid work. Those people tend to be left out in the

cold. They are not on a low enough income to qualify for parenting payment and some of the other benefits.

We are pleased to read in the press that the government is looking at the whole matter and reviewing it. We would like to see a simplified system. We held a seminar in our national office recently about family payments because we used to feel that we had a good handle on them. There are now so many payment options and so many means tests applied in different parts of family tax benefit parts A and B that we have just lost touch. It is hard to be a good lobbyist if you do not know what you are talking about, so we called Centrelink in and asked them to take us through them. My brain might be getting a bit old. To be quite honest, I have been led through them and I have said yes, I understand them, but I am still finding them difficult to come to terms with. If that is the case for someone who has had a focus on them for many long years and who has tried to keep up, how does the new young mum, who is perhaps a factory worker, deal with all that?

When I had my first child, the family allowance application form was given to you by the nurse in hospital. You filled it in, and your husband posted it off. It was about two sides of one sheet. Have you seen the application forms now for family tax benefit parts A and B? They are booklets. There must be a better way. We acknowledge the difficulty because, if you are going to means test and phase out in an attempt to avoid your poverty traps, your effective marginal tax rates, of course it does make it all more administratively complex and you do need to ask a lot more questions of the applicant. I am glad I am not in government having to make these decisions; they are complicated and hard to understand.

**CHAIR**—The government has brought in a range of welfare and taxation measures to support families since 1996. As we have said, that is still under review, particularly as a result of HREOC reports. It brings me to this question: given that that report has had a look at all of this, and given that the government is assessing all of that at the moment and will work out a response and perhaps vary the system to provide better support, wouldn't it be better to continue that process at this stage rather than suddenly, in the middle of all of that, drop in a narrowly focused bill that just supports one group of women and not the other?

**Mrs Smit**—Yes. We are opposed to the model that Senator Stott Despoja has in her bill. I think we have made that clear. We do want it broadened but, whether the workplace relations bill is the appropriate place to do that, it is certainly the appropriate place to extend the period of unpaid leave. That amendment could be made to the workplace relations bill. Is it an appropriate place to create an equitable and inclusive maternity payment that goes to all women? Our only exclusion, as we have said, would be on the basis of the means test, and we are not even sure that we want that. If your focus is on the social justice aspect of it then you would means test it, and I think we do support that, but if your focus is on keeping it equitable and inclusive, then, in view of the fact that the taxpayer funded Commonwealth employees paid maternity leave is not means tested, then nor should anyone else's be—if it is government funded.

**CHAIR**—Were you here to hear Mr Smith's evidence on behalf of the Australian Industry Group?

**Mrs Smit**—We heard some of it.

**CHAIR**—He proposed a perhaps two-phase model which would bring in paid maternity leave supported by the government, and then for everyone else you would have a social welfare approach funded by government in some way matching ours. Is it your view that that really is the best way to go, or are we better off treating all women the same, regardless of

whether they are in work, unemployed or do not want to work in the paid work force, recognising that having children is a very expensive exercise and supporting that regardless of the situations of women?

**Mrs Smit**—We are definitely in favour of all women, all families, the only proviso being that it may be means tested. Several people in the Women's Action Alliance read all of Ms Goward's report—twice. I read it once and I went back and read it before we wrote our submission, and we did carefully consider the various options that she described of not only delivering a maternity payment but also how to fund it through maybe a Medicare-style fund or a dollar per employer per week levy on employers et cetera. We are not specifically opposed to any of those. It is just that we do think that small employers need to be protected. So, if you exempt employers who have less than 50 employees or something of that nature, that may be adequate.

I have a young woman very close to me who has just got a new job, and she is planning to stay there for 12 months and then have her family because she will get then her 12-months unpaid leave, and I think her employer will offer her six weeks paid leave. I do not know if her employer knows but she knows that she is certainly intending to have a family before too long and is hanging out for 12 months to qualify. That is any woman's right, I suppose, once these provisions are there for them. We definitely do not want a narrow provision: we want something broad and inclusive.

**CHAIR**—The trade union model is different again. They say the average wage should be supported centrally by the government and that there should then be top-ups from business. Do you have a view on that in terms of equity and perhaps even its effect on the viability of business, and particularly small business, if you put a loading such as this on to business?

**Mrs Smit**—My husband and I have a small business. We are manufacturers of transformers and power supplies out in the eastern suburbs of Melbourne. We have I think 21 employees at the moment. I have been a feminist for a very long time; in fact at my mother's knee I guess I became a feminist. If it was a compulsory employer funded scheme which did not exempt small business, even I would be looking very carefully at the age and the sex of applicants for jobs in our business. You have your good times and your bad times in business. We have had some bad times recently, and every penny counts, believe me. In fact, sometimes I have my husband on the phone to me saying, 'I don't know where we are going to get the pay from. Have you got any money?' But we have always met our pay.

**CHAIR**—If the model proposed by the ACTU actually got adopted—we have already discussed the effects of that on small business—what do you think the effects would be on the prospects of women getting employment if employers knew that they had some obligation they must meet?

**Mrs Smit**—You could make discrimination against women illegal. You do not have to make it illegal; it is illegal in employment. But that does not stop it from happening. Lots of things are illegal, but they still happen.

**Mrs Brick**—Given time, though, and, essentially, if we are looking at a reduced working population, discrimination like that would become unnecessary because employers would be looking for workers. It will not really matter whether they are male or female.

**CHAIR**—If an employer is faced with, say, two equal applicants—one male and one female—and he now has this impost only with female employees, obviously not with males, do you think that will affect the likelihood of women being employed?

**Mrs Brick**—It could damage some career prospects, yes, if they had an employer that was so minded.

**Senator CROSSIN**—Can you give me a definitive statement as to whether or not the Women's Action Alliance actually supports the introduction of paid maternity leave?

**Mrs Smit**—Yes, we do, depending on the model. If it is an inclusive model we enthusiastically support it because we believe, as we said in our submission, that it is a worthy thing to do to support families financially at a time of increased cost and reduced income. Also, we believe that such a measure would recognise the contribution that women make to the country by giving birth to a new citizen, children being a national asset. So we do enthusiastically support the concept.

**Senator CROSSIN**—I do not think that anyone disagrees with your argument that all women, whether they are inside or outside the paid work force, should now be assisted when they choose to start their family. This is probably a good time for me to announce that I had a nurse of a new five-week-old member of my family here in Melbourne last night—my niece's little girl Charlie. Certainly she and her partner are a young couple, and everybody relates to the arguments that you are putting forward. Is there perhaps not an argument for saying, 'For those women in the work force who want to maintain a career and have a family, let's look at access to paid maternity leave for them; but, on the other hand, for those women not in the paid work force who choose to stay at home until they have completed their family, or pretty much so, let's realign the maternity allowance and the immunisation allowance, which is another category that we need to deal with?' Could we not just do one and then the other?

**Mrs Smit**—Who is to go to the end of the queue? Who are we going to do first? Women who are full-time mothers get a bit sick of being told, 'We will attend to you later. Go to the end of the queue. Come back later, because we have to fix up these people first.' We would prefer, if anybody is to be put at the top of the queue, that it is the poor. Let us look at the needs of the neediest. I suppose you could argue that any woman who is in the position where she must go back to work, if she is forced to, 12 or 14 weeks after having a baby, is an extremely needy woman. If she is choosing to, that is an entirely different matter. We quail every time we hear Ms Goward say, as she has said many times in the media in recent times, 'We should at least be offering mothers and babies 14 weeks together after birth.' At least she qualifies it and says 'at least'. But we are a bit worried about the constant repetition of this 14-week figure because we think it has the potential to start creating in women's minds the impression that that is what they can expect—14 weeks with their baby.

**Senator CROSSIN**—You have to acknowledge, though, that couples are delaying having families because there is only access to a maternity allowance, as little as it is, or some sort of family assistance, but it is not the amount of income they need in order to have even that break from employment to allow them to have a family?

**Mrs Smit**—If we are looking at the working poor we should be focusing on their needs. If we are looking at couples who are expecting to build a house like their parents now have, having extended it twice over the course of their married life—I really do believe that is the case, that our young do have very high expectations of lifestyles because they have got used to having two very healthy incomes and it is very hard to surrender one, and I sympathise with them—they are not the ones I would like to focus on first. I would like to focus on those who really have very little option, who struggle just to put the bread on the table.

We also commented in our submission—and I do think it is true—that a lot of young women seem to be now getting the impression that, if they step out of paid work for a number

of years to care for their children, they will never get back in or have a career. That is not right. We see evidence around us of many women—and we quote some who are members of the federal parliament who have had a large number of children; I think one has had eight and a couple of others have had four or five—who have had periods out and who have had high achieving careers thereafter. If we are giving young women the impression that if they take time out to spend with their children they will never be able to have careers then we are lying to them. It is not the fact.

**Senator CROSSIN**—Do you acknowledge, though, that it is harder in today's work force not so much to have a career—although, in some respects it is—but that, if you take 12 months leave from the work force, a whole series of technologies or skills can pass you by in that time? That is one of the significant arguments, isn't it, that women in a sense become deskilled from the work force while they are trying to improve their family skills?

There is also a recognition these days that younger women want to maintain their careers so are putting their career aspirations ahead of having children, which is why we have got such a declining birthrate. You raise the issue that the second reading speech of this bill does not address our declining fertility rate. There is evidence, particularly from countries like Sweden, that access to paid maternity leave encourages families to have their second child, which is the crucial child in maintaining any sort of population rates. Is there not an acknowledgment perhaps that a woman's choice these days is to focus on career and children, as opposed to, 'Well, I'll have children, and if I have a career at the same time that is all well and good'? Isn't it the fact that the reverse is happening these days?

**Mrs Smit**—If we extended our period of unpaid leave to two years, which is our specific recommendation, no-one is going to force the woman to stay out that long. She can come back at 14 weeks. I think she can come back before six weeks now. Didn't we used to have a compulsory period where you could not employ a woman within six weeks of the birth? We got rid of that. She can come back the day after, as far as I know, if that is her choice. This provision for women would not force them to choose to be out, but it does protect them against job loss if they choose to stay out longer—if they choose to stay out for two years and, ideally, in the long run, three.

In relation to the whole business of retraining and losing your skills—yes, that is so. Women at home with a baby or even two babies work hard, but they do have other opportunities to maintain their skills. For instance, I was a physiotherapist in a former life, and my journal kept coming when I was having my children and I kept reading. I went out to dinner—it was actually lunch in the park, more than anything else, when the children were little because we could not afford dinner—with my practising physiotherapy friends. I simply talked to them about their work. In fact, I listened to them talk about it more than I would have wished; I would have liked to talk about babies at that stage in my life. However, there are ways of keeping up which do not involve being in the workplace. I would suggest that the retraining required would be a fairly brief period—perhaps in two or three months you will have caught up.

**Senator CROSSIN**—You said earlier that Australia should be leading the world on this issue. Is it still some disappointment to you that we are in fact one of only two countries in the world that has not introduced some sort of paid maternity leave?

**Mrs Smit**—No, it is not. We do not follow the popular argument of 'everyone is doing it'. Because something is popular it does not make it right. I would like to look at what provision other countries make for their women who chose not to go back to work after their period of



unpaid leave to see if they are being treated justly and inclusively. If they were not, I would not want to adopt their system. I think we should stand alone and do what we believe is just.

**Senator CROSSIN**—The HREOC report does not extend that far. Their analysis does not look at that; it just looks at who is providing it, how much and who funds it.

**Mrs Smit**—That is true, but if you told me we were the only country in the world that does not provide it, it would not worry me at all. We might be the only country in the world treating our citizens justly. Australia should be an independent nation making its own decisions. Yet I have some sympathy for the Prime Minister's view about this: just because the United Nations says, 'You do this,' we have to jump. But at the same time I believe in the United Nations. It is a hugely important thing and I am a believer in Australia being a signatory to conventions which try to bring justice to the world, especially to countries where it is not practised very well.

**Senator STOTT DESPOJA**—I have one last question. In relation to the statistics—and you have accused me of being fast and loose in my use of statistics—

**Mrs Smit**—We did say that.

**Senator STOTT DESPOJA**—I acknowledge the ABS statistics that you have given us today and in your submission. I am also conscious of the fact that the government has given us statistics that demonstrate that 65 per cent of women aged 15 to 44—child rearing age—are in the work force. I just want to get back to this idea of the working poor, and particularly women on low incomes because that is what primarily I am seeking to do with this bill in relation to working women. Are you not concerned that there is such a high proportion of families who are now dependent on women's earnings, whether it is a single female parent or in a different family model? Given that high percentage of women who are participating in the work force, are you concerned that they are not getting a fair deal in relation to paid maternity leave? You have alluded to my having children; I am a high income earner who can go to the President of the Senate and ask for paid leave and I will be given it. What concerns me, firstly, is that those women you are talking about do not have that access. Does this bill not seek to redress that imbalance? Secondly, because of the high proportion of women participating in the work force, and therefore that high dependence of some families on women's income, aren't you worried that they are going back to work very early, as you have described—that they are going back within a very short period of time—when perhaps for physical and other reasons it would be beneficial not to do so? Do you not see some merit in this proposed legislation because of those two fundamental factors?

**Mrs Smit**—We see a lot of merit in the bill. That was Lisa's task at the beginning—to point to where we see the merit lies. We think there is a better and more inclusive model. As far as those women are concerned, some of them would get more out of the model that we are presenting to you than the one that is in your bill because those women would be earning less than the minimum wage and would only get whatever their earnings were. This is a huge amount of funds that the government plans to put into the baby bonus.

**Senator STOTT DESPOJA**—More than I have advocated in relation to this legislation.

**Mrs Smit**—Yes. So we do have that at our disposal, without asking the government to commit more funds. I have not done the sums as to what that payment would be; I probably should have done so, in order to present them to you. Perhaps we can still do so. As has been noted in the explanatory memorandum, it will depend on the take-up rate. It will depend on whether the measure will stimulate the birth rate. If you have got more babies, you have got more payments. We would think that if you provided women with a substantial payment and

whatever that will yield, rolling the current maternity immunisation allowance and the baby bonus together, they will be able to relax for a period of time and enjoy their babies. That is what we would like to see for all Australian women.

**CHAIR**—Mrs Smit, you have been quoting from a document. Do you wish to table that document?

**Mrs Smit**—I have only got my submission here. Can I offer you a copy of our most recent newsletter?

**CHAIR**—Thank you, and thank you for appearing today.

**Proceedings suspended from 10.41 a.m. to 11.00 a.m.**

**BURROW, Ms Sharan, President, Australian Council of Trade Unions**

**BOWTELL, Ms Cath, Industrial Officer, Australian Council of Trade Unions**

**CHAIR**—I welcome the representatives of the Australian Council of Trade Unions. The committee has before it submission No. 18. Are there any changes you wish to make to it?

**Ms Bowtell**—No.

**CHAIR**—The committee prefers all evidence to be given in public but if at any time you wish to give evidence, part of evidence or answers to any questions in camera, you can make the request. The committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

**Ms Burrow**—The ACTU welcomes the bill and congratulates Senator Stott Despoja on her initiative. There is no doubt that this is a serious issue for Australia's working women. Australia is long overdue in meeting its international obligations to both the mother and the child. These are well spelt out in article 11.2(b) of CEDAW and the ILO Convention 183 on maternity protection. We fall far behind our international sisters in other OECD countries, with the exception of the United States, in regard to paid maternity leave, and considerably behind many of our Asian neighbours. It is time to provide women with the dignity and respect of recognising that the majority of women in their key child-bearing years are in the workplace—seven out of 10—and that, for a period of time, the pattern of women's work will be disrupted by the choice to have children.

The labour market has failed to deliver paid maternity leave. We are now at the point where there is active and systemic discrimination against 70 per cent of Australia's working women. Less than 30 per cent receive paid maternity leave, and it is time we set that to rights. It is about equity and it is about income security, and it is incumbent on government to address systemic discrimination. Paid maternity leave recognises that men can become parents without loss of earnings but women cannot. Paid maternity leave is partly about women's economic security, independence and fulfilment, but it also addresses certain of the gender pay inequity issues. We have a responsibility to promote sharing the care of children. An indirect effect of Australia's current regime of unpaid maternity leave means increased hours of work for fathers of young children. This initiative would relieve the pressure on the male parent in regard to hours worked. So there are strong economic arguments as well as equity and social arguments.

Maintaining maternal labour market attachment increases total employment. It delivers a longer-term return on investment in education and training and it secures greater investment in retirement incomes for women. Women's income is critical to maintaining family standards of living. In the confusion around the debate between working and non-working women, I do not think that it is well understood that up to 40 per cent of family earnings are now contributed by women. The economic security argument is critical because many women are forced back to work quite soon after the birth of a child due to the imperative to maintain economic stability.

There is some support for the notion that improvements in parental leave have been associated with upswings in fertility. We do not believe that the Treasurer's comments today should be seen as the nub of the debate. It is certainly true, in our view, when you look at the research done in our own ranks—most recently the APESMA survey—that women are choosing not to have children when they otherwise might for a range of economic reasons. In

that sense, paid maternity leave would certainly support the choice, which in turn would support healthy underpinnings of the fertility rate. But we have never argued that this is a sole measure which would generate an increase in fertility. I think it is merely grasping at straws to oppose the entitlement to paid maternity leave that we see in the Treasurer's arguments today. Paid maternity leave is not the whole answer. The ACTU and the unions have said that this is a core building block and that we require other family friendly measures to make it possible for women and their partners to move through the phases from childbirth to caring for young children, the transition back to work and then managing work and family. However, it is an initial and significant building block which, as I said, is long overdue.

It is also affordable. The model we put forward, which in part coalesces with the specifics of the scheme put forward by Senator Stott Despoja, shows that it is absolutely within the government's current budgetary parameters. The baby bonus scheme costs up to \$500 million. Over time it could be reallocated and up to \$150 million saved on the basis of providing 14 weeks of paid maternity leave at minimum rates. That would be a minimum entitlement for working women and would go a long way towards providing income security when you recognise that it would pick up 47 per cent of Australia's women with regard to full income replacement. We would like to see an employer levy over and above that. Our latest calculations show that it would actually cost less than 90 cents a week if you exempt small business—89 cents, to be exact, per employee per week—and would generate full income replacement at average weekly earnings for 87 per cent of Australia's women. It would pick up the ILO Convention standard of at least two-thirds of a woman's income for well over 95 per cent of Australia's women. That probably indicates just how low paid Australian women are, but nonetheless it is a basis for providing income security.

The ACTU has always said that we should not get into the debate between working women and non-working women. We support a dual track system. It is absolutely a working woman's entitlement to be paid maternity leave. But the government has a responsibility, we believe, to support women who do not work so we have advocated a dual track system which would involve a review and a reshaping of family payments. At the top end there are women who are entitled to \$6,000 in family payments, and we would like to see that kind of equivalence guaranteed. We do not want to see, though, the rights of working women continued to be opposed by obfuscation of that debate. We have to be very clear that this is about income security, it is a work related entitlement. I urge that the Commonwealth take this responsibility on as soon as possible. I will leave my comments at that, but ask Cath Bowtell to make a few comments about the specifics of the scheme proposed in the current bill.

**Ms Bowtell**—You have our submission before you, but I will take you through some of the details of our response to the bill. In relation to the duration of leave, we support 14 weeks as a minimum entitlement. We have pointed you to some evidence that extended leave is what parents are seeking. It can also have positive benefits for maternal and child health through the encouragement of ongoing breastfeeding rates and maternal recovery, particularly in light of the growth in caesarean deliveries and older aged mothers. In particular, we also urge that the committee consider the option of half payment at double time, which gives families more flexibility in how they manage that leave and the capacity to take longer periods of time with some income support.

In relation to the rate of payment, as Sharan has said, we welcome the proposal to have a Commonwealth contribution of \$431 benchmarked to the national living wage payment. But, as Sharan has outlined, we feel that that does not go far enough in terms of meeting ILO Convention 183 and does not go far enough in terms of the income replacement and income

security that working women require. In couple families with no dependants, the woman's income makes up 40 per cent of the household income. A 40 per cent drop in household income when the first child is born is a significant drop. But even in families where there are already dependants, the woman's earnings makes up 30 per cent of the household income. Even for the second and subsequent child, a 30 per cent drop in income is a significant drop. So a closer approximation to 100 per cent replacement is something we would urge.

In relation to the basis for calculating earnings, we support the bill's proposal that multiple job holding be considered the basis for calculation and that you could accumulate across a variety of jobs. Women are more likely than men to be multiple job holders, and the growth of multiple job holding amongst Australian women is evidenced in the ABS statistics. We think that the 12-month averaging may be too long and that you might be better to look at 13 weeks or 26 weeks in terms of the averaging period. In relation to who should be eligible to take the leave, the ACTU supports the bill's proposal that the leave be primarily available to mothers and that, by exemption, the other partner would be able to take the leave if the mother was unable to care for the child. But we do stress the point that maternity leave is about child and maternal health, post-partum recovery, breastfeeding and so on. Therefore, the primary eligibility should vest with the mother.

We have pointed out to you in our submission our concerns about the coverage and scope of the legislation in relation to Commonwealth and state public sector workers and the variable provisions available within the states. These provisions range from no across-the-board entitlement in Western Australia through to 12 weeks in Tasmania, Victoria, the Commonwealth, the ACT and the Northern Territory. In that circumstance, to introduce 14 weeks for private sector workers would create an alternative problem for those public sector workers, so we think you have to go back and revisit that scope and coverage to make sure that the Commonwealth scheme is available to all working women who are not currently covered by superior legislation.

In relation to casual employees, we have presented some evidence on the extent of casual job holding amongst Australia's working women, and we argue very strongly that the arguments that usually attach to excluding casuals from employment rights relate to that worker's relationship with their employer; they do not relate to a relationship with government. Therefore, to exclude casuals from a taxpayer funded payment does not make any sense. It makes sense, perhaps, in the employment relationship but it does not necessarily make sense in a taxpayer funded regime. The same can be said for exclusion based on duration of service, where you have to have the 12-month qualifying period. It is inequitable that a woman cannot change jobs during a pregnancy for fear of losing the right to maternity leave if it is taxpayer funded—it is like, 'I'm pregnant now; there is no escape. I have to stay here until I've had my leave and returned to work,' which hampers women's careers and job mobility.

Sharan has mentioned our views on the relationship with family payments. At the moment, women who receive paid maternity leave also receive, if they are eligible under the means testing, Commonwealth government payments such as the maternity allowance and immunisation allowance and are eligible, of course, for family tax benefits if they reach the means test. If family payments were to be reshaped to be a much more adequate income replacement, then we would support the dual track proposal where women have to elect to receive either the Commonwealth funded family payments proposal or the Commonwealth funded maternity leave. But while the maternity and immunisation allowance remain at their current level, there seems to be no reason for excluding women from accessing those as well;

they primarily deal with the costs of having a child rather than income replacement—they serve a different purpose to income replacement. We are happy to take questions.

**Senator STOTT DESPOJA**—First of all, congratulations to the ACTU for the constructive role that you have played in this debate and for your constructive criticisms of the legislation. I will begin by getting to the nub of the difference between our proposals. I understand the concept of the employer levy; it is obviously one that I have not adopted in the legislation. Do you believe there is a compromise position—that is, a government funded scheme comparable to the one proposed in the bill? Obviously the payment rate we have advocated is the minimum wage, and then we would rely on, or at least encourage at this first stage, enterprise bargaining top-ups. Is that something you can see as a first step, assuming that your idea is the ideal? Is there a compromise position that does not necessarily see the first step as including an employer levy? Is it something that we can encourage?

**Ms Burrow**—We have chosen to go down the path of proposing the employer levy for two reasons. The first is that it is our experience now that the systemic discrimination of the labour market failing to deliver equitably for women will continue to be the case, despite how successful we might be in some sectors with bargaining for a top-up or an over base-rate payment. The second is that we believe it is cheaper for employers overall than bargaining for the current environment where paid maternity leave is paid by a number of private sector as well as public sector employers. If you consider that just this week Qantas, Esprit and Pacific Brands have provided paid maternity leave, then they would be better off supporting our employer levy in the interests of equity than continuing to pay the current scheme. Your proposal, of course, would see the base rate provided anyway.

**Senator STOTT DESPOJA**—Yes.

**Ms Burrow**—We would rather this was adopted by the government, but I suppose the truth of the matter is that, whatever the outcome, we will seek to provide 100 per cent income replacement. I guess employers are on notice. We have tried to make it possible with this levy to exempt small business, but it would not be possible to exempt small business if there was not less than a dollar a week but a levy per employer per week on larger businesses. So you would put at risk that small business lobby who says that small businesses cannot afford it. To be frank, for many small businesses you are talking \$5, \$10 or \$15 a week. If they cannot afford that, then they probably should not be trading. Nevertheless, we have accepted the small business lobby argument.

In response, it is obviously our preference that it is an equitable scheme for employers with the exemption of small business. That would provide the maximum benefit to women. But if that is not the case and the government does not choose to implement the scheme as we see it, then we will not walk away from our bargaining responsibilities.

**Ms Bowtell**—I would like to add two things to that. The first is that the OECD data shows very clearly that it is low educated women who miss out on business provided, family friendly initiatives. So, if you rely on bargaining, you must understand that it is women in the non-unionised sector and women in low skilled jobs who are not going to get access to anything over and above the wage. That may not be a problem because those women may well receive close to full support through the Commonwealth scheme, but it is low educated women who you are building a systemic bias against by not having the top-up.

The other point is that we do believe that there is a role for employers in funding paid maternity leave and they really should not be let off the hook. They do benefit from a future labour force. They benefit from future consumers and they have a role in providing some of

the funding towards that. So a levy enables you to make sure that employers properly contribute their fair share. It is a very minimal share towards the cost of the scheme.

**Senator STOTT DESPOJA**—Do not get me wrong, I do not doubt the merit of those arguments in much the same way that of course my ideal and personal preference would be average weekly earnings, and this is obviously put forward as a compromise model.

**Ms Bowtell**—Our preference would be 100 per cent of earnings, so this is a compromise.

**Senator STOTT DESPOJA**—Indeed. You have picked up on a couple of aspects of the bill with which I have been grappling as well—the key issue of the public sector and the Public Service. I do not believe that anyone would want to replicate imbalance or discriminate against the public sector. Are you advocating that they would be similarly covered under this scheme? You talk about letting employers off the hook. Isn't there an argument that we are going to be letting some state governments off the hook if this payment is going to be made to women in the public sector and thus passing the buck, if you like? The Commonwealth would be responsible for picking up the tab, thus letting state governments off the hook. So, on this issue, I am not implacably committed to the provisions in the bill. My concern is that I think there is a role similarly for the states. You quite rightly outlined the varying provisions on a state by state basis, and that is not really good enough. What do you see as the solution?

**Ms Bowtell**—There are two issues there. The first is that we would not want to see the states let off the hook. We actually believe that state governments as employers should do better than the minimum. So, if the Commonwealth were to provide the \$431 per week, we would still be bargaining with those state governments to provide full income replacement to add the extra two weeks in those states and territories where it is 12 weeks paid leave and to increase the number of weeks in those other states and to broaden the scope. No, we do not want to let the state governments off the hook, but it would be inequitable for the Commonwealth to fund the private sector and leave out those state government employees. There are obviously mechanisms available to the Commonwealth in the states grants process if it felt that it was giving a windfall, in particular, to states that were already providing paid maternity leave.

In the same way, we would be encouraging private sector employers who receive a windfall through their employees becoming eligible for paid maternity leave to use that money to provide other family friendly policies or to increase the level of payment—in most cases, it is only two or six weeks anyway. In the same way, you would encourage the states to reach best practice rather than minima.

**Ms Burrow**—The current variation of eligibility in the public sector is quite diverse. While the standard is seen as the Commonwealth standard of 12 weeks, the reality is that, while there is pressure on the government in Western Australia to provide it, the public service general agreement sets core public sector employment rights—and that provides for no paid leave. In some states we still have sections of the work force with only two weeks. We would also say, of course, that these are the building blocks to creating a more civilised workplace in terms of family friendly arrangements for the 21st century. It is 2002—women work—and we say that we have to now reshape the workplace to recognise that partnership and the dual roles women hold. So we would be urging state governments, where they might get some advantage in terms of money, to do several things.

Here in Victoria you have just seen a commitment to payroll tax deductions for businesses that provide paid maternity leave. Now it might be that they are extended to other family friendly provisions. So you could encourage states to give back the money in that way and set

the leading example for good workplace practice or you could indeed ask them directly to pay for other initiatives.

It seems to us that the easiest way to deal with this is to say that there is a minimum Commonwealth entitlement and it is affordable—it is actually something that would save the government money if they reshape their baby bonus scheme. Let us then say to states, though, quite clearly, ‘We don’t expect that you’re not going to have to pull your weight,’ and work out with them what the relationship is in regard to family friendly workplaces and their responsibility.

**Senator STOTT DESPOJA**—In relation to the states, is there any concerted union action—lobbying state governments, for example—to improve their practices in relation to paid maternity leave in the public sector?

**Ms Burrow**—Yes, in every state and in every sector where there is not 12 weeks. Currently there is activity in Western Australia, where there has been an in-principle commitment for the government to reform its provision; in South Australia, it is a bargaining piece; and in Queensland, it is a bargaining piece. There is also a call from the ACTU and the unions to all state governments to endorse ILO Convention 183 and to recognise that that would require them to increase their own provisions, if there is no Commonwealth scheme to 14 weeks, and to put pressure on the Commonwealth to ratify convention 183 and also to recognise that, in ratifying it, that requires an international standard of 14 weeks of paid maternity leave. So we are putting as much pressure as we can on governments, both in this regard and in terms of other family friendly measures.

**Senator STOTT DESPOJA**—What about the response from those state governments or, indeed, the Commonwealth? I am not sure if you are dealing with the Prime Minister, with his work and family friendly agenda, or perhaps with Senator Vanstone, representing the interests of women. I am wondering what the feedback has been. I will not ask you to rate the various state governments, but feel free to do so. I would be curious to know who is actually working in this area and who is improving.

**Ms Burrow**—We formally asked the state Labor governments, who are little more predisposed to discuss these matters with us, to raise the issue at a recent meeting of ministers responsible for women’s affairs in Darwin. It is fair to say that Senator Vanstone opposed the discussion even of ILO Convention 183 and, if you saw the communique, it was in fact a very weak outcome from that discussion.

The state Labor governments are under no illusion that we expect that they will deliver some improvements in their current position and, as I said, you can certainly claim that the Western Australian government is listening, albeit from a very low base. The Victorian government is not only listening but has taken the first step to providing payroll tax deductions more broadly, and it is committed to releasing a work-life discussion paper for parents in the state, in November I think. There are discussions between the Trades and Labour Council and the Queensland government. I know that the issue of support for paid maternity leave is before the New South Wales cabinet. I am not aware of any concrete discussions in the ACT. I am going to Darwin in two weeks time and hope to speak to government officials about this issue, having raised it with the Chief Minister of the Northern Territory previously. I have forgotten Tasmania.

**Senator STOTT DESPOJA**—And my home state of South Australia?

**Ms Bowtell**—In South Australia, teachers recently bargained six weeks and the state public sector increased from two to four weeks, so the public sector unions are working and making



incremental improvements in this scheme across the state. I think South Australia demonstrates, in fact, the problem of not having a national consistent scheme: unions are going piecemeal to the government and getting differential outcomes from the same employer effectively. So there will be improvements in South Australia, but it may take some time. In the meantime, you will have a cohort of women who will go through with differential outcomes depending on where in the state public sector they work.

**Ms Burrow**—And Tasmania has made some gains in the last bargaining round as well.

**Senator STOTT DESPOJA**—Thank you for that. I just have one more question for now. You referred to unfair exclusions. Would you like to elaborate on those for the committee. Could you talk specifically about what the unfair exclusions in relation to unpaid maternity leave are—those that entrench discrimination? What should we be seeking to avoid?

**Ms Bowtell**—I mentioned the two we are really concerned about in my opening statement. The first is the 12-month qualifying period, which, as I say, discriminates against women who have recently entered the work force or who wish to change jobs. Those women may well have a very long labour market history but if they seek to change jobs not long after becoming pregnant or even before becoming pregnant they are discriminated against because of the 12 months. As we say in our submission, that exclusion may make some sense when you are expecting the employer to contribute to the cost, because the employer wants to know who they are paying for and encouraging and what their retention rate is et cetera, but where you have a taxpayer funded proposition that argument makes no sense at all.

The other exclusion relates primarily to casual employees. The extension of unpaid parental leave to long-term casuals would pick up a large number of the women that we are concerned about. Nonetheless, there are still women who will fall outside that scope, and we have some anecdotal evidence that employers have changed rostering arrangements and so on in some sectors to seek to avoid their obligations under the unpaid parental leave provisions. That is not widespread as far as we know, but wherever you draw a boundary there are opportunities to move people from one side of the boundary to the other in order to exclude them from an entitlement. Again, the incentive is perhaps not there for employers to do that when it is taxpayer funded, but nonetheless we have concerns about that.

Perhaps you would also need to look at women who are on workers compensation payments or long-term leave. We have listed in our submission a host of women who might well fall outside the net of eligibility unless it were revised. It is one of the reasons we also look at a dual track system, so that the safety net of income support is there if you are on the periphery of the labour market. If you are in and out of the labour market, under that system you can elect which circumstance best suits you at the time of the birth of the child.

**Ms Burrow**—We have seen comments from the Prime Minister that he is more predisposed to looking at a payment for every woman with a child under a certain age—I think four was the age reported in the press just recently. We have no objection to reshaping the family benefits scheme, although we would urge him to think more broadly about basing that on a more modern approach than the single income breadwinner model, so that it does not discriminate against women participating in the work force for blocks of time. But that will not solve the problem of a paid maternity leave entitlement—and I use those words deliberately—because it is recognised internationally as a work related entitlement. I can only encourage employers to support your scheme, and indeed the HREOC inquiry, in regard to a minimum payment, because should there be such an overall payment then ultimately it will impose responsibilities on us to continue to bargain for an appropriate work related

entitlement. To the extent that small business and others argue disadvantage, that will be the outcome.

**Senator CROSSIN**—Could I have some further comments about that? Ms Burrow, you talk about it being a work related entitlement. Some submissions put to us suggest that it is a social issues related component that the government should be looking at. In the eyes of the ACTU, is it clearly work related? Is it clearly one rather than the other?

**Ms Burrow**—It is absolutely a work related entitlement. It is like annual leave, leave for Army Reserve, jury leave or sick leave. It is related to the fact that you necessarily take a period of time off work to have a child. It is acceptance—and other nations have accepted this—that it is the 21st century and women work and they make the choice to go to work, either through individual aspiration or because of economic necessity, and it is acceptance that that economic security is an entitlement that now has to be respected. While we would clearly like to get to the 18 weeks that is proposed in an alternative ILO convention, we recognise that the minimum of 14 weeks is that period of time recommended by health authorities for the recovery of mother and child, the necessary establishment of breastfeeding, appropriate bonding and the like. So we see it very much as a work related entitlement that reflects the realities and the international standards established around women and work.

In our own submission to HREOC we propose a dual track environment because we recognise that women who choose not to work have rights as well; that that is what the family payments benefit has been about; and that, if it is not adequate, then it should be reviewed. We do not seek to suggest that women who choose not to work should not be supported; that would not be our position and it would be wrongly characterised if people tried to portray it as such. But when seven out of 10 women of key child-bearing years are working—and every family, should they choose to have a child, has a right to do so—we think it is time we reflected a modern society and put what is absolutely a work related entitlement in place.

**Senator CROSSIN**—Regarding the scheme that you are proposing, if an employer is currently funding paid maternity leave and meets the standard of at least 12 or 14 weeks, are you suggesting there should be no change to that arrangement for that employer? Would they be exempt from paying your levy, for example?

**Ms Burrow**—They would probably be better off paying our levy because it would save them money, but we believe that they should have the choice. They could be exempt from paying the levy or they could choose to pay the levy and negotiate with their unions about whether any savings might be generated into other family friendly practices or into an extension of paid maternity leave. Just two weeks ago, at the women's summit, we had a presentation from a company called Autoliv here in Victoria. It is overwhelmingly a family friendly company that supports women in all sorts of endeavours and wants to extend family related leave. Potentially, that would provide them with the opportunity to do so.

**Senator CROSSIN**—We had evidence this morning from the Australian Industry Group. Their position is that there should be no employer funded component of this whatsoever. They went so far as to suggest that employers may want to change their current benefits if such a scheme comes into place. Say you have one company that currently offers paid maternity leave—whether they struggle to do it or can afford it; perhaps they can and perhaps they cannot—and another company next door that does not offer paid maternity leave. It was put to us this morning that, if a fully government funded scheme came into place, you could, quite rightly, expect that in the next bargaining period the company offering the paid maternity

leave would say that it was off the table: 'We are not offering it anymore because our people can go for the tax funded government scheme.' What is your reaction to that position?

**Ms Burrow**—I think you can imagine what our response would be. I am disappointed that that is the narrow view of the Australian Industry Group. I think their members have no doubt that, if there is not 100 per cent income replacement available through a government scheme—that is, if there is an employer levy over and above the minimum entitlements that we have all recommended—we will continue to bargain in this area. I suspect that no union would settle a bargaining agreement without making sure that current benefits were maintained and, if necessary, reshaped because of a government contribution. So I would be fairly confident that companies which sought to do that would find it a fairly difficult bargaining environment.

**Ms Bowtell**—It would also depend on how the payment was made. If the government contribution was paid to the employer, it would be a windfall to that employer; they would continue to pay whatever the agreed paid maternity leave was, some of it coming from the return from the taxpayer and some of it coming out of their normal funds. We would not have a problem with that. We do not say that the enterprise agreements that provide for paid maternity leave have to fund it through a particular source from the employer. So, if the scheme were that the employer received a payment from the government and then passed it on by way of leave, it would be of no interest to us; it would be a windfall for employers. But very few employers are paying 14 weeks at 100 per cent income replacement. The average payment is six weeks; many are paying two weeks. So, in that context, we would be saying, 'This is fabulous; you can now afford to improve the scheme that you offer.'

**Senator CROSSIN**—Are you suggesting that, where employers in private industry are paying 12 weeks—and I accept that there are very few of them—they could stop finding those funds out of their company's revenue and simply take a government funded offer? Or would you say, 'That industry or business is paying paid maternity leave; they are paying 12 weeks and funding it out of their own business. They are out of this loop now because they are doing it fine'?

**Ms Bowtell**—It is not that difficult to write legislation that says, 'You are entitled to this leave if you have no other legislative entitlement to it.' It is very hard to say, 'You are entitled provided you have no other legislation, enterprise agreement, company policy, contract of employment or whatever.' I think that would be a very difficult piece of legislation to write and enforce. Given the small number of companies paying at 100 per cent for 14 weeks, I think it is better if the government accepts that that may be a windfall for those companies. Certainly, from the unions' point of view, we would be saying that that money should not go back into consolidated revenue but should be used to improve other things so that that employer can continue to be an employer of choice. Those companies that have made the decision to introduce paid maternity leave have done so because they see the business case for being an employer of choice, attracting and retaining highly skilled women. They see the business case for retention, and they see that there are benefits in terms of reduced absenteeism and so on. So, if they are sensible employers, they will divert the funds into other initiatives which support the retention of women in the work force and have ongoing and obvious economic and societal benefits.

**Ms Burrow**—I think it is a problem we would be delighted to have.

**Senator CROSSIN**—I understand that. Perhaps that is why I am asking you questions. Have you done any research which has shown that, when countries have introduced paid

maternity leave and it has been fully funded by the government, businesses have then said, 'That is taken care of by the government. We don't have to worry about that anymore. We are not prepared to entertain any discussions about paid maternity leave, which is on your bargaining list, because our workers can get it through a government scheme'?

**Ms Burrow**—There are several issues. The first is that you are talking about a government entitlement. Where it has been bargained for and signed off in an enterprise agreement—and, as Cath said, there are so few in the private sector that they are not worth considering in too serious a way—the employer would have to sit at the table with the unions and renegotiate. It is as simple as that. Then the choices would be clear. I was being flippant, but it is a problem we would like to have, because it would allow us to put on the table for debate other avenues for family friendly initiatives.

**Ms Bowtell**—In terms of the international research—I am just flicking through this document but I cannot put my finger on it entirely—the UK government, in its regulatory impact statement, did look at the costs and benefits to employers of increasing its statutory maternity pay. Many UK employers pay over and above the 18 weeks. By increasing it to 26 weeks, they have done an assessment of what the impact on employers will be of the government picking up a further component of the payment. I have not got to the exact page here to tell you what the answer is.

**Senator CROSSIN**—What position do you take in respect of women who are self-employed?

**Ms Burrow**—We would accept that they should be included. If a self-employed woman can find a way to manage her business, presumably at some cost in terms of replacement staff, while she is taking necessary maternity leave, it would not be our view that she should be excluded.

**Senator CROSSIN**—I am going to play devil's advocate for a minute. If you are suggesting that there should be a bar created for small businesses with less than, say, 20 employees, to pick a number which is popular at the moment, then they would be exempt from having to pay your levy. On the other hand, I can think of a certain minister who might well say, 'But you didn't want this bar created in relation to other aspects of industrial relations law.'

**Ms Burrow**—We are at all times pragmatic where it is not a matter of rights. On other issues where we have opposed changes in relation to small business, it has been a matter of employment rights. We do not think people should be treated differentially. In all matters of government revenue, if you can find ways where there is a public acceptance of the need to support either business or individuals, that is the basis on which taxpayers' money is legislated through public policy provision. So we see it very much as being about the right. We ask, 'Is the right covered off?' Yes. In our view, the right of women in small business to income replacement is the basis of that. How it is paid for is an issue that, if we as a society are prepared to support small business, is not a matter of fundamental objection for us.

I might add that we are being extraordinarily pragmatic. In our judgement, the Prime Minister is not going to impose a scheme on small business; he has said so. So we look at costings that would accommodate the view of the government of the day. I simply point out that there is a level of hysteria from small business when, if you take a business of, say, 20 employees, you are talking about \$20 a week at most. If that is such an impediment to small business, they are in a very precarious financial situation. But we have accepted that their lobby has got support from the Prime Minister; our scheme and our costings have been duly

calculated on that basis. We would urge any scheme to be subject to review, and presumably that will be one of the matters under review after a period of time.

**Senator CROSSIN**—What sort of campaign has the ACTU embarked upon amongst its own members to create an increased awareness of this need?

**Ms Burrow**—You will find overwhelming support from unions. As Cath pointed out, there is no question that unions who cover women in low paid enterprises are really struggling to get paid maternity leave successfully dealt with in a bargaining environment. We have acknowledged that the labour market has failed to deliver, and so we have turned our minds to how it might be possible to manage, in the light of models from other nations, an end to this discriminatory practice.

**Senator STOTT DESPOJA**—How would you propose that superannuation be treated during this time?

**Ms Bowtell**—With all other forms of paid leave, superannuation continues to be paid during the period of payment. There are other issues that go to the period where there is no payment, in terms of possibilities to enhance women's retirement incomes at very low cost. But for the period of paid leave, superannuation is paid. If that is the only contribution from business, it is a very small one.

[11.46 a.m.]

**SANDERSON, Ms Libby, National Operations Manager, Esprit/Red Earth**

**CHAIR**—Welcome. The committee prefers all evidence to be given in public, but if at any time you wish to give any evidence, part of evidence or answers to any questions in camera you can make the request. The committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

**Ms Sanderson**—Firstly, I will give an overview of Esprit/Red Earth's family friendly policy, just to go through what we do. I will give you some background about to why we implemented the policy and I will talk about any challenges we have faced, of which there have not been many, and the positives that we feel the policy has contributed to our business.

Esprit offers up to 12 weeks paid maternity leave for all full-time colleagues of more than two years service. These colleagues must intend to return to the same or a similar position on their return to work. Eight weeks of this leave is paid maternity leave and, if a colleague has accrued up to four weeks sick leave, they may take this as paid leave also. This sick leave is only available to colleagues who are actually accessing the paid leave and returning to work. Initially, on the introduction of the policy, colleagues were paid the eight weeks leave on the commencement of maternity leave and the other four weeks on their return to work, as an incentive to actually return to work. After an instance of a colleague accessing leave, not returning and not paying back moneys accepted, the policy was revised. Now a colleague is paid the four weeks initially on commencing leave, and that is actually the sick leave component. The other eight weeks are staggered over the first two months that she returns to work.

Esprit also offer a flexible return to work policy for colleagues who wish to return to work within six months of maternity leave. Such a colleague would then have another 120 days owing of maternity leave to use. For example, a colleague might return to work for two days a week after five months, increasing this to three days a week after seven months and then to four days a week after 10 months from the start of leave. She would then be able to work four days a week for a further two years following the end of the initial 12-month maternity leave. This policy allows our colleagues the flexibility of working part time, thus finding a balance between family and work in their child's early years. It also allows the company to have their valuable colleagues back in the business sooner. Other aspects of our family friendly policy include flexible weekly working hours to fit in with family responsibilities, car lease payment assistance during maternity leave, utilising sick leave for family emergencies and the flexibility to be able to work from home when the need arises. Obviously, all of these opportunities need to be discussed with that colleague's manager and negotiated.

The background to Esprit introducing this family friendly policy is that we strive to be a progressive company. In the retail sector it is often difficult to recruit and retain people who want a career in retail. For a company that employs 90 per cent women, we felt that paid maternity leave was an obvious initiative.

In early 2001, we surveyed groups of colleagues around the country on what sorts of lifestyle benefits they would like to have as employees of our company. Maternity leave came up as the No. 1 choice. But at the end of the day at Esprit we feel that paid maternity leave is not really a lifestyle benefit; it is a right. We have only had it in place for a year and we have not come across many challenges so far. I suppose the best-case scenario would be for us to

be able to offer the initial first eight weeks maternity leave when that colleague actually goes on leave and not the other way around. We would like to be able to do that. I suppose we are being conservative to begin with. That was the reason why the policy was changed. Having to change the timing of the payments is really the only challenge we have come across so far.

The benefits of the policy obviously outweigh the challenges. So far, 12 colleagues have taken advantage of the policy and 10 have returned to work. It is obviously difficult to measure what the outcome would have been if we had not implemented a family friendly policy such as this, but I do have some comments I would like to read to you from colleagues that have taken advantage of the policy:

Having paid leave enables you to spend more time at home in the early days. Now I am back at work, I am more focussed and happy than if I had had to return earlier for financial reasons. I have a stronger loyalty for the company, I love being able to stagger my return to work, I love working in an environment that respects the life you have outside of work. You get paid four weeks a year to sit under a palm tree and read a book, but nothing for doing life's most important job—having a baby. Esprit have really made a difference.

We know that, by encouraging our colleagues to return to work and by having flexible hours when they return, we will retain more of our valued employees. We have estimated that the policy will cost us approximately \$50,000 a year. Based on a 2002 Australian Institute of Management survey, the cost of replacing a middle manager on approximately \$50,000 amounts to around \$120,000 to the business. So both paid maternity leave and flexible return to work arrangements are a tremendous incentive to encourage colleagues to return to work. We feel they work hand in hand. We have also had an extremely positive response to this policy when interviewing candidates for positions.

**CHAIR**—Thank you. We are at a bit of a disadvantage because we do not have a written submission from you, so can I ask what is the size of your company's work force?

**Ms Sanderson**—We have about 1,300 employees Australia-wide.

**CHAIR**—What percentage of those are women?

**Ms Sanderson**—Ninety per cent.

**CHAIR**—So we are looking at about 1,200 women. You mentioned that 12 have taken this up. Obviously, there is only a certain percentage of the cohort who are having babies at any one time, so is that all the people who were having children at that time?

**Ms Sanderson**—Yes.

**CHAIR**—So the take-up rate is 100 per cent. Was an option to take a longer period of unpaid leave given, or is that part of the package?

**Ms Sanderson**—It is no longer than 12 months unpaid leave.

**CHAIR**—That is a specific condition then? They can take unpaid leave and come back to a guaranteed job?

**Ms Sanderson**—Yes. You do not have to access that paid leave if you do not want to.

**CHAIR**—Beyond that, though, there is no guarantee of a job?

**Ms Sanderson**—No.

**CHAIR**—Was that done as part of an AWA, an Australian Workplace Agreement?

**Ms Sanderson**—No, I do not think so.

**CHAIR**—It was not negotiated. The company just decided it would do this?

**Ms Sanderson**—Yes.

**CHAIR**—And you did this on the basis, I assume, of improving worker satisfaction—and in response to a survey?

**Ms Sanderson**—It is something that had been tabled over a few years leading up to the implementation of the policy. We found it was becoming more and more difficult to find good people to work in our business, people who wanted to stay in the business and have a career. It was also difficult to retain people—it is a very competitive industry. We wanted to be an employer of choice. We wanted to have something that set us apart from our competitors.

**CHAIR**—Being in the fashion business, which is a tricky, fast-moving business—

**Ms Sanderson**—Fickle.

**CHAIR**—a fickle business, key personnel are absolutely essential, and 90 per cent are women in this case. So, in your business, keeping key personnel was a motivation for doing this?

**Ms Sanderson**—Yes.

**CHAIR**—Part of the broader debate here is really whether these things should happen at the workplace or whether they should happen on an industry basis or even with national legislation to say that all women who go on leave should be paid this. There is then a debate about whether that should be paid for by the employers or paid totally by the government or some sort of mix. Seeing that is at the heart of the debate for this bill, would you care to express an opinion on that broader debate?

**Ms Sanderson**—As I said in my statement, I feel, and the company feels, that it is a right of women to have paid maternity leave. I also think that, as a company that actually does it now anyway, if the government did introduce some sort of benefit for women in that way, we would use that to top up our existing policy rather than replace it and would extend on some of the family friendly practices that we have already implemented.

**CHAIR**—But if the system came in as proposed in the bill it would be funded by the government, so where would that leave your situation?

**Ms Sanderson**—At Esprit we would still want to be an employer of choice, so we would probably want to still have something that would draw us apart from our competitors and make us more attractive to work for. I would hope that that would be something that we would look at doing.

**CHAIR**—So your options there I suppose would be to provide extra—

**Ms Sanderson**—If the option was there for us to do extra, we would look at doing extra in some capacity.

**CHAIR**—You could extend the time perhaps, or do something like that.

**Ms Sanderson**—Sure.

**CHAIR**—Has there been a request from people to extend that 12-month period?

**Ms Sanderson**—We have not had any requests.

**CHAIR**—No requests at all for extension?



**Ms Sanderson**—No. I suppose being the size we are, if 12 to 20 people take maternity leave a year, we would look at an individual request for that and negotiate where we could. We like to be flexible in those sorts of situations.

**CHAIR**—You might allow that, particularly if it were a key person?

**Ms Sanderson**—Yes, and if they had had a long history with the company too.

**CHAIR**—Thank you very much.

**Senator STOTT DESPOJA**—Ms Sanderson, I think you have probably pre-empted a number of my questions, but I will seek clarification on a couple. First of all, you obviously pride yourselves on being a company of choice, and you mentioned that you had had feedback or it had resonated that you had good company practices in relation to paid maternity leave. Is that correct? I just wanted to clarify that comment.

**Ms Sanderson**—Are you asking about the feedback since we have introduced the policy?

**Senator STOTT DESPOJA**—From other parts of the industry and also from applicants for jobs.

**Ms Sanderson**—We have definitely had feedback from applicants for jobs. It is met with a great deal of surprise when it is mentioned in an interview scenario, because it is such a rare thing. You can see women really react positively in those sorts of scenarios when you are discussing it. They are taken aback because it is unexpected, which is a bit sad, actually.

**Senator STOTT DESPOJA**—Indeed. The bill is based on the principle of additionality, so obviously if a government funded scheme of 14 weeks was introduced we would hope that companies like yours that already had a scheme in place would seek to use those funds for top up provisions or longer periods of time and other family friendly practices. You have confirmed for us now that that is something you think Esprit would certainly consider.

**Ms Sanderson**—Yes.

**Senator STOTT DESPOJA**—Research tells us that when companies introduce these kinds of arrangements, particularly family friendly practices, sometimes employees need the encouragement of their employer or senior staff in order to use these practices and not feel that they should not be using that right. Can you give us some examples of how your company has encouraged or made it clear to your staff that it is reasonable to take up these entitlements?

**Ms Sanderson**—I suppose I could talk from my perspective: I am on maternity leave at the moment. I am returning in September and I will be staggering my return to work. As national operations manager I suppose I am actually actively doing it myself, which is a great example.

**Senator STOTT DESPOJA**—Are there 12 or 13 of you? You said there were 12 women taking maternity leave.

**Ms Sanderson**—I am 12, I suppose. We are very big on not making this policy just lip-service. I suppose being a mum myself now and being national operations manager it is integral that I actually encourage our employees not to feel guilty about doing this. It is part of our policy and I definitely encourage it. You can actually see that people who have that balance between family and work are more productive at work.

**Senator STOTT DESPOJA**—You have already pre-empted my question about how much it would cost to replace people. By way of a general reflection, given that you are a senior

person in the industry and given the amount of time that you have seen that workplaces have taken to implement such a scheme, how long do you think it would take for the rest of the retail sector, for example, if there were no government initiative or funded scheme of whatever model, to implement such a scheme?

**Ms Sanderson**—A long time, I think. Judging from people I know in the industry and from other competitors, there is very much an attitude of, ‘Oh wow, you’re doing that. We’re never going to do it.’ It is very much in the too-hard basket—too expensive and all those sorts of things. That is the general attitude I get.

**Senator STOTT DESPOJA**—Congratulations, and thank you for appearing today.

**Senator CROSSIN**—I think you have probably covered most of the bases here. In order to reiterate, was the introduction of this measure for women part of an enterprise bargaining agreement or was it simply a policy? How did that come to be formulated? Did it generate from the general work force? Were women asking about this?

**Ms Sanderson**—Yes, it did, probably more from middle management than from colleagues working on the shop floor. I was pretty instrumental in it, being of an age where I was wanting to have a family. I suppose it made me think a bit more about it. We did have another senior manager in the business who has since left, and she has always been very passionate about this. There was a group of women, middle management to senior management, who put their heads together and talked about it over a period of time and who wanted to get it happening. We are very passionate about it.

**Senator CROSSIN**—So you would be able to say to us today quite clearly that you believe you have seen some significant benefits as a result of the introduction of this?

**Ms Sanderson**—Absolutely.

**Senator CROSSIN**—Have there been lots of industries knocking on your door saying, ‘Tell us about it. Tell us how beneficial it is and how do we do it?’

**Ms Sanderson**—No, not really. I have not been in the business for a few months now, so there could have been something over the past seven or eight months since I have been on leave. We have had interest, obviously, from the media and that sort of thing, but we have not had any interest from other companies.

**Senator CROSSIN**—The Australian Chamber of Commerce and Industry, for example, is not talking to you about how successful it has been?

**Ms Sanderson**—Not that I know of. They could have, but I am not sure.

**Senator CROSSIN**—You have been pretty much a leading light out there on your own. I do not have anything else. I think it has probably all been covered. Thanks for appearing before us today and congratulations.

**CHAIR**—Thank you very much.

**Proceedings suspended from 12.02 p.m. to 12.59 p.m.**

**ANGELIS, Mr Jim, Chief Executive Officer, Cover Force**

**CLARKE, Ms Tania, National Officer, Australian Manufacturing Workers Union**

**DONNELLAN, Ms Anne, National Women's Committee Coordinator and Assistant National Secretary, Technical, Supervisory and Administrative Division, Australian Manufacturing Workers Union**

**CHAIR**—I would now like to welcome representatives from the Australian Manufacturing Workers Union. Is there anything you want to add about the capacity in which you appear here today?

**Ms Donnellan**—I am also the convenor of the AMWU national women's committee.

**Mr Angelis**—Cover Force are the administrators of NEST, the National Entitlements Security Trust.

**CHAIR**—The committee has before it submission No. 8. Are there any changes you wish to make to the submission?

**Ms Donnellan**—No, not to the submission.

**CHAIR**—The committee prefers all evidence to be given in public but if at any time you wish to give any evidence, part of evidence or answers to any questions in camera, you may make that request. The committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

**Ms Donnellan**—We will aim to keep our presentations within the allocated time frame. We rely upon the submission of the ACTU and would like to add the following. From our submission, you will discover that there is indeed a serious problem that exists in relation to the lack of paid maternity leave entitlements in manufacturing. Only five per cent of agreements contain a clause and, even then, these vary depending upon the level of employer interest and the bargaining strength of our workers. Enterprise bargaining has failed women. Not only is the incidence of paid maternity leave low but access is arbitrary, and the level of entitlement and other rules differ from workplace to workplace.

We have endeavoured to provide the committee with as much evidence as we could access in relation to women and manufacturing, but I ask you to note that the main focus of our submission has been to provide the committee with the union's position on the proposed bill and what we view as a viable scheme to be put in place. It is the AMWU's view that the real issue goes beyond whether there should be a paid maternity leave national scheme to what it should look like and how the scheme would operate involving government and employers. We support the bill and the concept of a nationally funded scheme that will ensure that all working women, including casual workers, have access to paid maternity leave at pre-leave earnings for a minimum of 14 weeks, despite their bargaining strength. Such a scheme, we say, is long overdue.

We recognise that the concept of paid maternity leave does have widespread support. It is vital that a scheme is put in place that recognises women's valuable contribution to society and ensures that women can balance their work and family responsibilities and care not only for their child but also for their own health. From our position, a fundamental aspect of the scheme must be that paid maternity leave is recognised as a work related entitlement. Equal access for all is an important goal. Enterprise bargaining has failed to give women equal

access to paid maternity leave. It has also failed to deliver a fair and equitable industry standard in manufacturing, with only 60 of the AMWU's 1,500 agreements containing a clause for paid maternity leave.

The best way forward, in the AMWU's view, is for the bill to be adopted on the condition that an ACTU proposal of an employee levy complements it to provide an adequate paid maternity leave entitlement, that the leave be recognised as an employee entitlement and, further, that the employer levy be put into a trust fund, such as NEST. The NEST model is a low cost option for employers, and small business clearly will benefit as they are exempt from the model. Employers, we say, must pay. Employers clearly benefit from women's participation in the work force, and we say that recognition must be given to maternity leave as paid leave consistent with other forms of leave as they exist across industry. In proposing NEST, the AMWU is indicating to the community that this issue is a high priority for the AMWU. A great deal of thinking has gone into how the scheme would operate, including costings. A representative of Cover Force is here today, so I will ask Jim Angelis to cover the remainder of our presentation.

**Mr Angelis**—I would like to begin by saying that we support the proposed paid maternity leave legislation that is being put forward and that we further support the proposed top-up scheme by the ACTU and the AMWU. We see this as a perfect situation where NEST—the National Entitlements Security Trust—can be applied. I will give you some background into how NEST would work in relation to this top-up levy. The background of NEST is that it was originally established with six unions from a national level sitting on the board. It had considerable political resistance on the employer side, but it is set up to have a balanced and equal board of employers and unions. It also has an independent chairperson, currently the Hon. Justice Marcus Einfeld. More recently, we are in the process of putting employers on the board to represent the employer side of NEST and to overcome some of the politics that it has been subject to in the past.

Having said that, NEST is a trust that has been set up to protect employee entitlements. We see paid maternity leave as an employee entitlement and as such having perfect application for it to go into NEST. Because situations such as paid maternity leave or a levy imposed upon paid maternity leave have a specific purpose, within the NEST trust deed there is also application to set up what we call member trusts. We think that this is the most appropriate way to deal with this issue of a paid maternity leave levy. A member trust allows for a separate board of management to be set up under the NEST umbrella. That allows people from, say, the union movement, the employer groups and possibly government to sit on a board that represents that specific area of entitlement protection and as such have governance over that. The umbrella trust—the main trust—would still retain policy in relation to how funds are invested.

There are certain strict parameters as to how funds are invested in NEST. Obviously, because we are protecting entitlements, we place a lot of emphasis on the secure investment of those funds. We do not invest in shares or derivatives; we only invest in either asset backed or capital guaranteed type investments. That is set in stone in relation to the NEST trust. Also the member trust can leverage off the existing administration systems that are already in place. There would be very little in the way of establishment to consider; there would be absolutely no cost to establishment because all these things are part of the administration process that currently exists. There will be separate reporting and separate governance. It is a situation that will leverage off an existing arrangement and we think it is most appropriate.

Further to our original submission, we have also prepared some financial modelling as to how we see such a levy working, and I would like to table that today. Our calculations are based on assumptions and information that we have received from submissions from the AMWU, the ACTU and the Democrats as well, and also from the Australian Bureau of Statistics. We estimate that the cost of such a levy, if it were imposed on only employers who have more than 20 employees, would constitute an amount of around 89c per week. It is quite economical. I know there have been some arguments today that it will be a cost impost on employers, but I think we can demonstrate that that is not the case. I am happy to take questions.

**Senator STOTT DESPOJA**—I would like to start with the industry trust fund. Mr Angelis, in relation to the fact that a lot of women move between sectors and therefore need portability of benefits, is that not an argument against an industry based trust fund? What would be your response to that?

**Mr Angelis**—We did not see this particular application as an industry type situation; we saw it as a broad based levy across all employers, with the money being pooled in one pot and then claims being made against the trust for all women in the workplace. I totally agree with you: if you were to set it up under the industry based arrangement, it would not quite work. That is why the member trust arrangement is the best proposal—still keeping the infrastructure, the systems. There has been a lot of money spent on the administration systems of NEST. They are the latest and greatest of systems. They are Internet based, which allows for high levels of transparency. So the trustee board that is set up to manage the process of this levy will have access to where the funds are, what the investment returns are and what claims are being paid. All of that information will be transparent and available 24 hours a day, seven days a week via secure pass-code protection.

**Ms Donnellan**—Just to supplement that, it is our view that NEST would be an appropriate vehicle by which the employer levy could be managed across the board.

**Senator STOTT DESPOJA**—Ms Donnellan, in your submission you suggest that average weekly earnings is the preferred payment level. I have already put on record my preference that that would be ideal, and you probably understand the rationale behind the bill, that I have gone for minimum earnings. Do you acknowledge that the suggested average weekly earnings might be higher than some women's actual earnings?

**Ms Donnellan**—I think that is covered in our submission, Senator. We acknowledge that within the manufacturing sector there are a number of women employees who would fall into the category of being low-paid employees. We recognise that some of those employees, dependent upon the nature of their employment—whether they are engaged as casual or part time, for example, or where they fit within the award or enterprise agreement structure—would be in receipt of weekly earnings that are less than average weekly earnings. So that structure of the manufacturing sector is recognised by the AMWU. However, we are taking a position that not only recognises the position of low-paid women in our sector but also takes into account the need for an adequate scheme that provides an entitlement of benefit to all women in the work force—no matter where they fit within the pay structure within the work force.

**Mr Angelis**—Can I just add to that. In our submission that we are tabling, we have calculated that it is average weekly earnings up to a maximum of your pre-earned income, so that is how it has been calculated.

**Senator STOTT DESPOJA**—As you pointed out both in your submission and in your comments today, only 60 certified agreements out of approximately 1,500 have provision for paid maternity leave. I do not think that is because you are anything less than energetic bargainers—in fact, I am sure the AIG would have said that—but why is it so hard? What is the issue? What are the impediments to ensuring that maternity leave is enshrined in these bargaining agreements?

**Ms Donnellan**—I think there are a number of reasons why we do experience impediments to actually achieving a claim, such as paid maternity leave. Clearly, there is an issue of employer resistance. We do experience resistance from employers to have regard to the claim for paid maternity leave, recognising that through the process of enterprise bargaining employers basically receive a range of claims from the employees, from our members, that go to a range of issues—paid maternity leave is one of those issues.

With enterprise bargaining, there is clearly a focus on issues that relate to matters pertaining to the employees, our members, and to the employer at the enterprise level. One of the deficiencies is that such a focus at the enterprise level has not assisted in achieving or improving on industry standards, such as paid maternity leave. We also need to have regard to the fact that there is a low participation of women in the work force within the manufacturing sector. It is very much a male-dominated sector. Through the process of enterprise negotiations, there is often a conflict between the issues that are viewed as a priority by the employer and the issues that are viewed as a priority by our members and also, at times, there is conflict between the membership in terms of what are the priority issues to pursue in negotiations. Clearly wages is a key issue, but when you look at dealing with wages, work organisation issues, classification structure issues, job security and employee entitlements, such as paid maternity leave, those are the mix of matters that are being negotiated through enterprise bargaining.

It must also be recognised that, while 10 per cent of our members are women, only about six per cent of AMWU delegates are women. The low participation of women in the sector does inhibit issues such as paid maternity leave from gaining prominence. The structure of the work force, the resistance of employers and the system of enterprise bargaining as we now know it provide impediments to the achievement of the claim through enterprise bargaining. So we say that there need to be other mechanisms to meet the industry standard because it has not been achieved through the enterprise bargaining system over the past 10 years.

**Ms Clarke**—I would like to add to that. We have given an example of Amdel Laboratories where employees recently achieved a claim of four weeks. Even there, where you had strong support at the workplace during enterprise bargaining negotiations for the paid maternity leave claim, it was seen by the members as a victory because in the context of the whole agreement they saw it as a compromise position. But if you look at it in terms of a standard of 14 weeks it is quite low. There, 50 per cent of the work force were women, you had a female delegate, and all the factors were in their favour, but they still came out with only four weeks.

**CHAIR**—Mr Angelis, would the levy you are suggesting cover all businesses?

**Mr Angelis**—All businesses having more than 20 employees—so it exempts the small employer.

**CHAIR**—Have you done a calculation of how many businesses that would be?

**Mr Angelis**—We are going to leave all those calculations with you. We have included all our assumptions. We state that there is not an abundance of data available—and that was also evident from some of the other submissions that we saw. Based on these figures we have said

that there would be 39,600 participating employees and if that were to be the case there would be a total of 3,553,800 employees to collect a levy from. We estimated that claims, on a worst case scenario, would amount to 106,300 claims per annum—and that excludes government employees because they already have cover—and that the average claim for a top-up would be \$1,542.80. That is based on average weekly earnings for all women, including part-time workers, being \$541.20.

**CHAIR**—We heard evidence earlier today from Esprit, which employs about 1,500 women. Under your system that firm would call on the fund. What about businesses that employ more than 20? A building business, for example, may not employ any women or, if it did, they would be a very small percentage of the work force. Is there any allowance in your levy scheme for the fact that the structure of the work force—the number of males to females—would vary?

**Mr Angelis**—One of the reasons that we believe this levy should be imposed on all businesses is that in the long term all businesses benefit from looking after women who have babies. If you were to selectively impose the levy it would create a disincentive for employers to employ women. That overcomes the issue of creating a disincentive for employers.

**CHAIR**—But it creates another problem for the employer who, because of the nature of the industry—laying tiles on roofs or whatever it is—has a predominantly male work force. Wouldn't those businesses be a little resentful about having to pay a levy which their members would not get any direct benefit from?

**Mr Angelis**—We do not think so because of the low cost of the levy itself and the community responsibility that it offers as well in paying the levy. I think employers who view this as a community issue will probably say that it is a low cost. Small business is exempt from this proposal, and I think they would see it as beneficial for its overall community benefit.

**CHAIR**—Even though you say it is low cost, one of the great complaints we get from business in relation to governments of all shades and levels is that they keep imposing more and more cost burdens, paperwork and collection on them. You are proposing yet another one. Wouldn't yet another levy receive some resistance in the business community?

**Mr Angelis**—I imagine it will receive some resistance but our personal view is that it is a way forward, it is progressive and it will get us back in line with what many other countries in the world are doing. Our research shows, apart from America, that there are very few countries that do not actually look after women when they are having children.

**CHAIR**—Would your charges be on a pro rata basis? For example, a firm employing 200 people would pay 10 times as much as a firm employing 20. Does it work that way?

**Mr Angelis**—A total sample of employees is taken and then the calculation is made so that you are not overcharging and creating too many surpluses in the fund and so you are not undercharging and having a solvency problem with the fund as well. You are spreading it equally across the whole of industry on an employee basis, so it is a payment per employee.

**CHAIR**—Your calculation is that there are 75,600 businesses with 20-plus employees?

**Mr Angelis**—No, it was 39,600 businesses.

**CHAIR**—How would you collect that money? Would you collect it annually or quarterly?

**Mr Angelis**—We think quarterly would probably be the best way to collect the money, and we already have systems in place that collect payments from employers for other entitlements.

**CHAIR**—If it is pro rata, what would be the cost per employee of this levy?

**Mr Angelis**—It would be calculated on the time they serve with that employer on a pro rata basis for the previous three-month period. It would be paid in arrears, and they would calculate for a specific employee what period of employment they had with the employer, and the systems are set up to cater for that.

**CHAIR**—Could you provide us with an example of how much companies employing 20 people would pay a year into this levy?

**Mr Angelis**—If the 20 people worked for the full year, they would pay 89c times 12 per employee, times 20 for the total bill. My maths is not that quick.

**CHAIR**—We are looking at about \$8, or some figure like that. What proportion of the \$8 is administrative cost?

**Mr Angelis**—NEST is structured in a way that we want to protect the capital contributions of the trust at all costs, so administration fees will come out of a share of investment returns created from the fund, from investment returns. So from the capital contributions we are saying to employees, ‘You will not need to pay any additional costs over and above your contributions.’

**CHAIR**—Do you think trying to collect 39,600 lots of \$8 is a bit daunting? It is a little bill, and employers might just say, ‘I won’t worry about that.’ Wouldn’t the compliance costs be pretty high in trying to collect such a small amount?

**Mr Angelis**—Compliance is an issue that needs further discussion as to how we ensure the integrity of compliance, but, as far as collecting the contributions, these systems are already in place. They happen with industry superannuation. There are many industries’ redundancy trusts that do exactly the same thing, and they collect on a monthly basis. Going to a quarterly basis relieves the administrative burden as well, but these systems are in place. NEST already has this type of arrangement in industry at the moment and the systems are built to cater for high volumes of employers and employees.

**CHAIR**—Given the size of the levy, wouldn’t it be better to just make it an annual charge?

**Mr Angelis**—The problem with an annual charge is that you will probably increase the non-compliance factor. You need to have at least a quarterly payment because from some employers it will be very difficult to collect a levy for an employee that was terminated, say, 11 months ago. They may conveniently forget to pay for that particular employee. The more regular the payments are, the better you can deal with compliance.

**CHAIR**—Given it is such a small amount, if you did it quarterly wouldn’t the administrative cost to the business be incredibly high? What does it cost to write out a cheque nowadays and mail it off? I think it is about \$4, isn’t it?

**Mr Angelis**—We have systems where the whole payment and the whole contribution process can be done online and paid in by direct debit.

**CHAIR**—I know a lot of businesses are geared up for that, but a hell of a lot are not. Particularly for smaller businesses who are struggling to keep their head above water, this is yet another charge that is a small amount of money and about 50 per cent of the value of it has to be paid out in the costs of cheques, labour time, stamps and envelopes.

**Mr Angelis**—You are excluding the employers that have less than 20 employees. You have 39,600 employers, so it is not a high volume. Most of them would have Internet access and capacity to utilise the Internet for a convenient form of payment.



**CHAIR**—You would hope so. The cost burden on the business as a percentage of the total levy is very high if you try and do it manually.

**Senator CROSSIN**—Is your proposal an employer levy that would be the total cost of this scheme, or does it fit in line with the ACTU, which is suggesting that employers should fund the difference between the federal minimum wage and the women's preleave income?

**Mr Angelis**—It is a levy calculated to fund the ACTU's proposal of topping up the difference between the proposed government scheme—

**Senator CROSSIN**—And the women's preleave salary?

**Mr Angelis**—and pre-award wages, yes.

**Senator CROSSIN**—How would employers access this levy? When they have a woman that is going off on paid maternity leave, how would that work administratively?

**Mr Angelis**—The way we see it working is that an employer will lodge a claim on behalf of their employee; then the trust will pay the employee directly and undertake all the statutory requirements—the payment of group tax and the issuing of a group certificate—for that component of the payment.

**Senator CROSSIN**—So an employee would get a payment from the government—the government funded part of the scheme—and a payment from this trust as well?

**Mr Angelis**—That is correct. In terms of administration for employers, they would lodge a claim form on behalf of their employee, to verify that it is a bona fide claim, and then the trust would make a payment to the employee.

**Senator CROSSIN**—Is there a proposal that this would be deemed to be taxable income?

**Mr Angelis**—It will be taxable income. It will be treated in the same way as any other payment from an employer under the PAYE system.

**Senator CROSSIN**—How would such legislation cater for self-employed women?

**Mr Angelis**—Self-employed women having more than 20 employees would be contributors to the trust regardless, because they would fall under the umbrella.

**Senator CROSSIN**—By and large they would be exempt. Ms Donnellan or Ms Clarke, do you believe that the paid maternity leave provisions should extend to women who are self-employed?

**Ms Donnellan**—Our submission primarily focuses on women who are recognised as employees, who earn wages, as opposed to those women who are engaged in their own employment. Our focus in terms of representing our membership has been on employees. When discussing the concept of paid maternity leave or other forms of allowances for all women who are not in employment, there clearly needs to be a mechanism that takes into account the arrangements for all women whether they are paid or unpaid. However, our focus in terms of making submissions to this committee has been on our membership who are engaged as employees.

**Senator CROSSIN**—Your submission says to us that there are about 250,000 women working in the manufacturing industry. Your evidence is that, as Senator Stott Despoja said, only about 60 agreements contain paid maternity leave. What is happening in the manufacturing industry at the moment when women fall pregnant, if there is no access to paid maternity leave in their workplace? What are some of the options available there?

**Ms Donnellan**—Basically, the main option available under our awards is the option to take unpaid leave for up to 52 weeks. Clearly, that is one option. As we indicated in our submission, we have a range of agreements with a range of leave entitlements—three weeks to six weeks is basically the norm. But, for the majority of women workers in our industry, there is no paid leave. We see that the current system clearly provides for inequitable outcomes, where some women—depending on their employer and their negotiations—achieve leave, while others do not have any access to paid leave.

**Senator CROSSIN**—Are women actually resigning from their jobs, where there is no access to unpaid leave?

**Ms Donnellan**—I do not have any clear evidence to give you, but I would imagine that there is a range of options that they take. One is to resign; another is to take the unpaid leave available to them under the awards and then return to their workplace, either to a full-time position or to a part-time position. Those options are available, but I would also imagine that, for a number of women, the only option they would see would be resignation. However, I believe that, given the awards we now have in place, the most likely option in the first instance is accessing those award entitlements for unpaid leave.

**Senator CROSSIN**—How do you see state and territory governments fitting into your scheme?

**Ms Donnellan**—We note that there is differential provision for paid maternity leave amongst the public sector. It is our view that all employees have access to paid maternity leave. We would see that those public sector employees should not be exempt. We also recognise that the current provisions within the public sector are not 14 weeks; they are usually 12 weeks or less. So we would see that the scheme we are promoting—which is 14 weeks at average weekly earnings, based upon the levy—would be applicable. We do not have the details of the mechanics and application of that applicability, apart from the information that has been provided to you by Coverforce. But, clearly, we would not want to exclude public sector employees, where the provisions they have for paid maternity leave are not as great as those in the scheme we are proposing. We believe that the scheme should be universal.

**Senator CROSSIN**—So your proposal is for around 89c or 90c per employee per week, at current costings?

**Mr Angelis**—Yes, that is correct.

**Senator CROSSIN**—So, if I cast my mind to the university sector, say, where a university might have up to 1,000 employees, they would be paying an additional \$1,000 a week, which is \$52,000 a year. That sector, which is predominantly funded publicly, would probably say to us, ‘How are we going to find that sort of money?’ What is your response to that?

**Mr Angelis**—Are you talking about a public sector university or a private university?

**Senator CROSSIN**—I am talking about the university sector, which relies predominantly on public funds that are not increasing. I suppose they would need to have a look and see whether \$52,000 a year was more or less than what they are paying out in maternity leave. Sharon Burrows suggested to us this morning that in the case of Esprit it is probably cheaper for them to pay the 90c a week than to pay their current paid maternity leave. Have you done any costings to see whether this might actually be cheaper for businesses and industry than their current paid maternity leave options?

**Mr Angelis**—That may be a special case, but in the vast majority of cases it would be far cheaper for an employer to pay this levy. It works a bit like insurance—you have a central collection and various sectors benefit because there is a spread of the cost.

**Ms Donnellan**—The focus of our figures clearly has been on the manufacturing sector, which is our sector. I recognise the point that you are making: we are putting up a universal position. There are examples, particularly in the public sector, where there are current provisions for paid maternity leave. There are also examples within our own sector—granted, there are fewer provisions—such as six weeks paid maternity leave. How would those provisions that currently exist, particularly where they have been negotiated through an enterprise agreement, sit with a universal scheme that is reliant upon a levy? I can answer that more easily in terms of manufacturing. Our ideal position would be to say that, where enterprise agreements have achieved an outcome that has been generally negotiated and agreed, we would not want to see that outcome reduced if a national scheme of the type that we are promoting were introduced. We would want to see that the agreements in place were recognised as valid and recognised in such a way as to enable the parties to look at how the minimum of 14 weeks—and we see 14 weeks as the minimum in comparison to international standards—could be extended in the workplace. So it is building upon the standard.

**Senator CROSSIN**—Let us take that example. We have two scenarios here. Let us say you do have a workplace that currently has 14 weeks paid maternity leave. Are they totally exempt from paying into your levy, or do they also have to pay into your levy but when someone goes on maternity leave they get that money back to spend on other workplace initiatives?

**Ms Donnellan**—We do not have 14 weeks, but—

**Senator CROSSIN**—That is a worst-case scenario.

**Ms Donnellan**—I can respond to your question in terms of the reality of manufacturing. We would not want that benefit to be reduced in any way. It may be negotiated that that benefit is utilised in another way within that workplace, or that benefit could be used to extend the period of leave from 14 weeks to 20 or 28 weeks or to up the payment that is applicable for an individual taking that leave. That would be our preferred method for dealing with that scenario, recognising that it is not a common scenario in manufacturing. But we would also need to be pragmatic, because our clear interest is in having a scheme that provides for a universal entitlement that all women can access. Those matters will need to be addressed.

**Senator CROSSIN**—So in some industries in your area, where currently six weeks paid leave might be usual, employers pay this levy. There is, in a sense, a six-week credit there. You are saying they can either use it to give their employees 20 weeks or use that six weeks worth of money to do what?

**Ms Donnellan**—That could be subject to negotiation. Again, that is an entitlement that has been achieved through enterprise bargaining. How that entitlement could then be utilised by the parties at the workplace could be subject to a negotiating process. One option is to extend; one option is to up the payment, if it is a different level of payment from the 14 weeks achievable in a national scheme. There could be other ways that that money or that amount could be recognised as a different form of entitlement in the workplace. Those are all options that can be discussed through the appropriate form of bargaining, whether it is industry or enterprise.

**Mr Angelis**—I think you need to be careful about exempting anyone from a levy, if you are going to introduce a levy, because you would get a situation where employers with a

predominantly male work force would say that they provide 14 weeks maternity leave—because they know they will never have to pay out on it—to exempt themselves from the levy. I think it is better that it works in reverse—you propose the levy, and it is the prerogative of those who want to negotiate other things within their agreements to do so.

**Senator STOTT DESPOJA**—I was originally going to ask a question similar to Senator Crossin's. I recognise where your proposal and mine differ, and I can understand where you are coming from in relation to a contribution from employers. The core issue for me now in relation to the bill—and it is a question I put to the ACTU as well—is whether there is a compromise position of, for example, agreeing to legislation comparable to this that has a national government paid scheme with an encouragement of enterprise bargaining as a top up from employers and a review of the employer levy proposal in, say, two years? I am not misrepresenting your position—I know exactly your preferred position—but is that something that we could look at that might get us to the next step? If you cannot get your proposal, is that something that you would consider we keep on the drawing board, with a mandated review that examines that provision?

**Ms Donnellan**—I recognise the basis for your question. A compromise position at this stage would be a very difficult one for the AMWU to accept. Our submission and our support for the bill are premised upon the employee levy being integral to a national scheme. I say that, recognising that Australia is behind other countries with respect to paid maternity leave. We believe the safety net scheme as proposed in the bill would be insufficient unless it was supplemented by a levy that would increase the benefit to women. However, we do recognise that achievement in this area is incremental. We also recognise that the 14 weeks at average weekly earnings is a minimum standard, and that is a compromise. We recognise that reference to the federal minimum wage is also a compromise. Our position is that it is not appropriate to compromise further, as we are coming from a low starting point. However, if such a bill was adopted, clearly we would work within that framework and continue to pursue our claims for improved paid maternity leave through the mechanisms available to us—through bargaining at the enterprise level and through industry bargaining. That is the best response that I can give.

**Senator STOTT DESPOJA**—I appreciate that, given that it is such a hypothetical situation, because I cannot see Senator Vanstone rushing to debate my bill at this stage—but stranger things have happened.

**CHAIR**—Mr Angelis, I have one last question. I take it that this levy, when it is collected, is available to all women in the work force?

**Mr Angelis**—That is correct.

**CHAIR**—So all employees who are in a businesses of less than 20 people can access this fund?

**Mr Angelis**—That is correct. That is how it has been calculated.

**CHAIR**—And we have about a million of these small businesses in the country?

**Mr Angelis**—We do.

**CHAIR**—So they do not pay any levy but the other 39,000 businesses do. Let us go back to our example of the builder employing 20 people. At 89c per employee per week, he is paying about \$900 a year, which he might consider an impost. It has become a bigger impost, because he is now subsidising a whole range of other businesses, in effect—people he is not

employing. So you have this cross subsidy element in it. Do you see any difficulty with that or any equity issue?

**Mr Angelis**—There are difficulties, but we set up our proposal in accordance with what was proposed; all other submissions here today saw that as the preferred position. But it is not impossible to have a levy that goes across all businesses—that would not be any impost on administration systems; there would just be a greater volume.

**CHAIR**—It would be massive: you would blow it out from 39,000 to over a million, and small businesses then may not have these computing systems that you mention.

**Mr Angelis**—But there are good arguments to exclude employers of fewer than 21 employees. Firstly, it is topical today to exclude small business from these types of things and, secondly, you get greater compliance from those employers that have more than 20 employees. If the numbers were crunched on the larger employers, you would probably have a far greater compliance scheme that would be working.

**CHAIR**—I would be the last one to suggest any more imposts on small business, but I see this problem: the others would resent cross-subsidisation of other businesses, particularly if they were male-dominated businesses like building and those sorts of things.

**Senator STOTT DESPOJA**—Chair, what makes you think that women do not lay tiles?

**CHAIR**—I am sure they do, but as a percentage of the work force I am sure it is very small. As there are no more questions, I thank the witnesses for appearing here today.

[1.46 p.m.]

**RYAN, Mr John, Executive Officer, Australian Catholic Commission for Employment Relations**

**SPRING, Miss Megan, Research Officer, Australian Catholic Commission for Employment Relations**

**CHAIR**—I welcome the witnesses from the Australian Catholic Commission for Employment Relations. The committee has before it your submission, No. 32. Are there any changes that you wish to make to your submission?

**Mr Ryan**—No.

**CHAIR**—The committee prefers all evidence be given in public, but if at any time you wish to give any evidence, part of evidence or answers to any questions in camera you can make the request. The committee will consider the request, but such evidence may subsequently be made public by order of the Senate. I now invite you to make a brief opening statement.

**Mr Ryan**—In these brief opening remarks we simply reiterate the main points and principles made in our written submission to the Senate inquiry. The ACCER supports the provision of financial assistance to families by government as a vital part of its social policy and responsibilities—that is, the health and welfare of mothers and newborn children should be supported; women should not be disadvantaged in their employment through their intrinsic role in child-bearing; the economic security of families should be supported throughout their lives; and society should assist women and men to manage their work and parental responsibilities so that the needs of children and families may be met.

In this context, the introduction of paid maternity leave may be one way, but not necessarily the only way, in which this support may be provided. From one perspective, the provision of maternity leave payments to only those women engaged in particular types of employment may be unnecessarily narrow in application. It does not appear to recognise the needs of women who are truly casual employees, independent contractors or owner-operators. Furthermore, it does not appear to recognise those women who have chosen to stay at home to care for their children on a full-time basis.

At another level of perspective, the provision of maternity leave payments does not appear to necessarily provide families with flexibility of determining who will be the primary care giver of a child. Accordingly, the ACCER respectfully submits that the debate about paid maternity leave, whilst commendable in itself, should move beyond the parameters of providing payments connected to leave for women in employment to being about our society providing effective support—financial and/or otherwise—to women and families, irrespective of their employment status. In this way, it might be possible to put in place long-term public policy that is effectively targeted.

In line with this approach, it is suggested that a comprehensive analysis and reappraisal of the effectiveness of current and proposed family assistance payments be undertaken. In suggesting such an examination, the ACCER does not wish to unnecessarily complicate or prolong this debate. However, we suggest that this would allow a complete investigation into the totality and potential diversity of options that may provide the greatest and most beneficial assistance to women and families. Again, thank you for inviting us to appear today.

**CHAIR**—I would like to start by asking if we could focus on the effect of this bill on equity issues. If women fall broadly into three categories—working in the workplace, being unemployed and choosing to be homemakers—what is your view on the effects of this bill, if it were passed, on equity issues relating to those three groups?

**Mr Ryan**—Just a small point, Senator: I am not sure about the three categories necessarily being rigid, because—

**CHAIR**—I am sure they will move over time.

**Mr Ryan**—From our research, we noticed that there are women who may wish to be employed but cannot be for whatever reason, and there are women who move in and out of the work force. That is where we are concerned about the equity arrangements.

**CHAIR**—However you want to divide it, it is a question of equity issues relating to those who are in paid employment versus others. Let us put it that way.

**Mr Ryan**—Sorry; I am not—

**CHAIR**—The bill focuses on women who are employed in the paid work force who take maternity leave. The bill focuses just on that group. So what I am asking about is equity issues relating to that group compared to other women. Let us put it that way.

**Mr Ryan**—In looking at that, our understanding of the bill is that it applies only to certain women in paid employment positions, not all women in paid employment.

**CHAIR**—Then comment on that as well.

**Mr Ryan**—When we were looking at that, that raised the equity issues for us. Looking at full-time employment versus part time, we note that it picks up casual employees who have 12 months continuous service with one employer—not necessarily with more than one employer. Then we have noted, as we all heard, the greater preponderance of truly casual work in the last few years. It did not seem to pick up those women, so that raises equity issues for us there. In our consultation within the church, people said, ‘What about women who are moving in and out of the work force, who stay at home and so forth?’

**CHAIR**—Would you like to comment further on that aspect?

**Mr Ryan**—I suppose then, from our teachings about work and society, we started to look at it as a social equity issue in terms of how we assist women and therefore families in dealing with these issues of childbirth more generally.

**CHAIR**—I suppose one of the fundamental questions that we have been dealing with today is: if such an arrangement came in, who would actually pay for it? There are different views from witnesses and also from members of the committee on who should pay. I suppose we have had three viewpoints put to us today. One is that the employer should pay; another one is that the taxpayer should pay. Another hybrid model was the suggestion of a combination, where you might have some central funding from government and then a levy applied. Do you have a view on who should actually pay for it if such an arrangement as this came in?

**Mr Ryan**—Our view is that the government should provide that financial assistance. Within the church, we have some church employers who currently provide paid maternity leave—or paid parental leave, in some cases. That is particularly in the education sector. It happens to a lesser extent in the health sector, and very rarely in the welfare sector and in our parish administration area. In talking as best we can with our church employers, we find there

are many employers in the church who would like to introduce paid maternity leave or parental leave, but they find that they cannot fund that.

We also looked at the issue of possible discrimination—and we have heard more recently about it—if employers were to be required to pay for it. We have heard it reported in the press and elsewhere that employers might possibly discriminate against women whom they perceive to be of child-bearing age. It is of concern to us that that could be contemplated and, furthermore, that that could happen.

**CHAIR**—The Australian Industry Group put a view to us this morning that they thought that, if such a bill came in, paid maternity leave should be paid for through the tax system. Then they put the view that, for everyone else, all other women, you would do that in some way through a benefits system. I put to you: do we need a bill like this? Would it perhaps be better to treat women equally, in the sense that they are about to have children, there are costs involved in that and there might be some support for that—there is support in the current welfare system—and look at the way in which that support is applied, the type of support and the amount of support? Perhaps we should debate it that way rather than bring in a special bill that just applies narrowly to one section of women who are having children.

**Mr Ryan**—Our view is that we should look more broadly, although I do note that the Democrats—and Senator Stott Despoja is here and she can validate her own comments—also touched on those broader equity issues in the second reading speech and explanatory memorandum. This has to start somewhere. We also had the Human Rights and Equal Opportunity Commission inquiry. That started from a base of looking at paid maternity leave as an employment issue, but I think the thinking now is expanding to look at this as a broader social issue. I would agree that we should look at it as a broad social issue. Maybe, within that, it could be labelled paid maternity leave for women in employment and something else for other groups of women in society. At least then we would look at the overall position. I agree with you there, Senator.

**CHAIR**—Given that this bill is before the Senate—and you have referred to the HREOC report—is this all a bit premature in terms of that broader debate? Do you think we would be better waiting until we get the outcomes of the HREOC report and the way in which government deals with that? Some elements of this might come in. It would be better to do it as a total package, surely, than just doing one bill now.

**Mr Ryan**—Again, in our opening remarks we said that we believe in looking at the total package. I do not say that the bill is premature. Again, it had to start from somewhere. Even our thinking has expanded over the last few years in this area. The church has its teachings about the family and its position in society, and the church has traditionally looked at this issue from a work and family perspective. Our own thinking has come to look at it from a work and life perspective, in finding that balance and looking at how to assist all employees in the workplace to find that balance. I think we learn as we go. This is an evolving area.

**Senator CROSSIN**—Mr Ryan, we had evidence this morning that, if you took 10 families, seven out of 10 women in those families are actually in the workplace. So, quite clearly, there are more women in the workplace affected by this sort of legislation than women who choose to have a career at home and stay at home with their children. In that instance, we also had submissions that people saw this as a worker's right, as an entitlement, rather than as a social issue. You are putting to us that you believe this is more a social issue. Why is that?

**Mr Ryan**—From our perspective, the core of it is that sense of supporting families. That is a social issue for us. People just do not have children because they are in an employment



status position. We see that interaction between working life and the broader society. That does not deny, necessarily, that you can have paid maternity leave in the workplace.

**Senator CROSSIN**—I am having trouble understanding where you are coming from. This bill, of course, would affect those women who are single mothers. As I see it, this bill might also emphasise that this is more about women, as a single entity, having a choice between a career and when they have a family and that the social issues you are talking about are certainly there but are not perhaps the main issue driving the need for a bill such as this in society.

**Mr Ryan**—Do we necessarily see these days that everyone has a choice about being employed?

**Senator CROSSIN**—We do not necessarily see that women have a choice about when they can or cannot have their children, and that there may well be single women that this bill affects.

**Mr Ryan**—That may well be. We are trying to look at it in a more comprehensive light so that we deal with the equity issues and do what we can for those who are in an employed status and those who are in an unemployed status.

**Senator CROSSIN**—Have you given any thought as to whether or not those women who choose to stay at home full time with their children should have access to some sort of fortnightly payment—not paid maternity leave because they are not coming out of the work force—or whether there should be a repackaging of the family benefit, maternity allowance or the immunisation allowance for them?

**Mr Ryan**—We have not gone into that detail. We are suggesting that we look at those things to see whether they are applicable or can be repackaged so that we can provide a more comprehensive form of assistance to everyone.

**Senator CROSSIN**—You are saying to us that, if you are going to look at paid maternity leave, that is all well and good—

**Mr Ryan**—Have a look at the lot.

**Senator CROSSIN**—but also have a look at what else is happening. Is that right?

**Mr Ryan**—That is so that we put in place long-term public policy. That is where we are coming from in terms of the social issue. There is an opportunity here. I personally believe that it is on the agenda. But instead of people looking at one part of it, let us look at the totality of it—at the interdynamics between work and society and people moving in and out of work—and make sure that we can look after more people rather than fewer people.

**Senator STOTT DESPOJA**—Thank you for being part of this debate. It is a worthwhile one, regardless of where there may be differences. I think we have a few things in common in relation to this debate. I am not going to enter into rebuttal but permit me, if you will, to say a couple of things. Firstly, I agree with you about the need for review of payments. But can I put to you, because this is my fundamental concern, that the government spends \$18 billion each year on assisting families in one way or the other—parenting payments, family allowance et cetera. This proposal would constitute two per cent of that funding. While the other proposals require examination and while it would be better to do a comprehensive, total review, this bill seeks to redress an imbalance that exists: we have a section of the work force—a group of women, particularly in the private sector—who do not have coverage.

While I appreciate the idea that comes through in your submission of prolonging the debate until after there is a more comprehensive review, we have received some extraordinary submissions, including one I was looking at from Lyn Collins, a woman from South Australia. Because of a lack of access to paid maternity leave, she has gone back to work two weeks after having a caesarean birth. I have no doubt that you share the concern. But my main concern in relation to this debate is that I do not think that a comprehensive review is going to happen in a short period of time, whereas I do believe that we can get comprehensive and effective legislation up in a relatively short period of time that addresses those women who currently are not being looked after.

**Mr Ryan**—That is why I emphasised in my opening remarks that we do not wish to prolong the debate. Our preferred position would be to have a comprehensive look. Obviously we are in favour of paid maternity leave as one of a number of different mechanisms to assist. We are very cautious about putting forward that it should be X dollars for Y weeks, because it is not necessarily our money. We do not have enough confidence in the area at this moment to be able to say that it should look like this. That is why we are cautious about saying, ‘Yes, it should be 12 or 14 weeks at this rate of pay.’ We want to look at what is achievable. Maybe the sights are being set too low or too high. That is our approach.

**Senator STOTT DESPOJA**—That is exactly why we have committees such as this. Now that I have heard the arguments, there are little aspects of the bill that I would now seek to change. You mentioned one of the exclusions that you consider inappropriate—that is, women who are casual employees of less than 12 months. That is currently a provision for access to unpaid maternity leave. I wanted to check for the record that you were aware that that provision already exists.

**Mr Ryan**—Certainly. We participated in that test case.

**Senator STOTT DESPOJA**—I just did not want you to think it was a Stott Despoja precedent.

**Mr Ryan**—No.

**Senator STOTT DESPOJA**—Again, that is an area that I have no doubt will be examined further as a consequence of these deliberations.

**Mr Ryan**—That is an area of concern to us in terms of the increasing casualisation of the work force, which seems to impact on women more than men at this stage, and we draw that to the attention of the committee.

**Senator STOTT DESPOJA**—You have pre-empted a number of my questions. There is one that I am concerned about in regard to your comments, both verbally and in your submission, and that is the fact that perhaps we should leave it up to men and women to decide who takes leave, and you have indicated a degree of flexibility there. Perhaps you think it does not have to be enshrined for a period of time, but is that because you do not recognise that there is a particular physical and biological issue for women in relation to childbirth and thus maternity leave? Most of the research indicates that there is a period of time, 14 weeks by the ILO standard, that is recommended for women to recover from the physical aspect of childbirth.

**Mr Ryan**—I recognise that, and I think you touch on it in your bill to a limited extent by saying that in certain circumstances maternity leave could extend to either parent. I suppose we were taking it further and looking at the issues of men taking some responsibility for the raising of families.

**Senator STOTT DESPOJA**—Hear hear! Thank you for that. I think most of my other questions have been addressed in your remarks. So stay tuned, I think there is a lot more in this debate; thank you for being a part of it.

**CHAIR**—Thank you for appearing before the committee today.

**Proceedings suspended from 2.08 p.m. to 2.27 p.m.**

**MUEHLENBERG, Mr William John, National Vice President, Australian Family Association**

**CHAIR**—The committee has before it submission No. 6. Are there any changes you wish to make?

**Mr Muehlenberg**—No, it is reflective of what we will share today.

**CHAIR**—I invite you to make a brief opening statement.

**Mr Muehlenberg**—Thank you for inviting us. There is not a lot that we can add today. As you know from our submission, our comments are in some ways perhaps a tad outside your inquiry. We do believe that children are quite important and parents are important—mothers especially—and anything governments can do to assist in the parenting and wellbeing of children is something we support. As we said in our submission, the very short answer that the AFA group would give on the feasibility of a proposal for paid maternity leave is simply to say, ‘Yes and no.’ There are good and bad aspects to it but if we were to go down that path—and a case could be made for it—we would like to see it broadened out so that all mothers, who all have needs, including financial needs, would somehow be included in any such proposal. That is our main concern.

As it stands now, the proposal is probably an important step in the right direction—helpful for mums in the paid workplace—but it perhaps does not really deal with some of the bigger, more important issues of parenting in general and the wellbeing of children. If you pressed us by asking, ‘Do you want such a scheme—yes or no?’ we would have to give a qualified answer. Let us assume for the moment that mums who stay at home will not get any benefit. You would ask, ‘What about those who are in the workplace and who would probably benefit from this?’ We would say, ‘Yes, it is true. Any time that a mother can have with their child is very important.’ Child development experts, of course, know this and have known it for years. We would argue that 14 weeks is very good indeed. Of course the needs of the child do not end after 14 weeks.

Many of the experts in this area have said that probably the first year, especially in mother-child relationships but certainly in parent-child relationships, is crucial. Many have even argued that up to the first three years are very important and that what bonding, attachments and development take place with mum during the early period will manifest in either good or bad qualities—that is, the more mother-child attachment there is, the better it seems the child does down the road, generally speaking. Of course, there are exceptions and it does not always work that way but, generally speaking, the research does seem to indicate that the more time with mum, the better for the first year at least.

Again, 12 or 14 weeks is helpful but, as we said in the submission, there is a sense that it is almost a bribe to mothers. The idea is: ‘You can have a few weeks or a few months off with your child but on the condition that you go straight back to the workplace and that Junior is therefore looked after in other ways’—presumably in formal day care. So, while it is good for the first 12 weeks, it starts going downhill for the child after that, and we are concerned about the rest of the child’s development in that early period. These are our two concerns: firstly, it is good for the first few weeks but not so good afterwards and, secondly, what about the rest of the mothers, who certainly need the same help as anybody else—and, you could argue, doubly so; they are obviously forgoing an income to stay home if they think it is in the child’s best interest. At the same time, families with a stay-at-home mum will be asked to partially subsidise families where the mother is in the paid workplace, so it is a double benefit for the

paid workplace mother and a kind of double jeopardy for the mother who chooses to stay at home. For those reasons, we give a tentative ‘yes’ and tentative ‘no’, but we can perhaps flesh that out in the duration of the afternoon.

**CHAIR**—Thank you very much. Could you explain a little further what you mean by the double jeopardy for the mother who stays at home?

**Mr Muehlenberg**—Obviously, on the one hand, the double benefit is that women in the work force are getting paid for work, plus they are going to get this benefit as well which, if nothing else, will equal the pay that they are getting. But the woman who chooses to stay at home is, obviously, forgoing income in the first place, but she is being asked, along with her family, to subsidise those women who are in the paid work force. It seems to me almost a double whammy on them; they are forgoing income that they could have and are also being asked to subsidise those who are in the paid work force.

**CHAIR**—In terms of social policy, what are you suggesting for the women who are in the home?

**Mr Muehlenberg**—That is the million dollar question. Obviously, there have been different proposals. Groups like the Family Association have thrown around several proposals over the years. One has been the homemakers allowance. You probably know of the various schemes proposed, such as income splitting, family unit taxation—different systems by which all mothers are recognised. For example, I believe the payment to mums in places like Norway applies to all mothers, not just those in the paid work force. I would suggest something to help, whether it is simply a childcare benefit or a tax rebate scheme. Barry Maley from the Centre for Independent Studies in Sydney has proposed something like that. There is any number of financial schemes by which we can help struggling families. That is the premise from which we work. There are an awful lot of struggling families, and survey after survey seems to indicate that most mums with young children prefer, if possible, to be at home, but they find—for reasons of economic conscription—that they are being forced into the paid work force. You simply have to pay the bills; you have to pay the mortgage.

Some of the thinking in the US right now—where I come from originally—is that most people probably need a 60-hour work week to survive. By that, they mean that 40 hours is not quite enough for most families to survive on. Two incomes, or 80 hours, is probably more than is needed, so probably a 60-hour week is adequate—30-30 between mum and dad, or 40 hours for one and 20 hours for the other. But it seems like for many families the one income is not enough. As a result, it is making people do things that they may prefer not to do, specifically women who feel they are compelled to go into the paid work force to earn the income to make ends meet while, when they do have young children, they actually prefer to be at home, according to most of the surveys. Something, it seems, needs to be done. What should be done is not an easy question. I am glad that at least in this debate we can raise some of the issues and, even though it may fall slightly outside of your interests, it may be something that will continue to be discussed.

**CHAIR**—Regarding the government’s position on this, a HREOC report has come down and we are considering that in its broadest context. The whole issue of paid maternity leave is all part of that debate. I wonder if this bill is a little premature in the sense that perhaps we should look at the whole thing more broadly. What is your view on that?

**Mr Muehlenberg**—As you can imagine, we would agree with that. This is certainly an important component of the issue, but now is a good time to look at the wider range of issues. As you know, there are a lot of related issues—falling fertility rates is something all Western

governments at the moment are getting quite worried about. This deals with that in part, although I notice today that Peter Costello said that paid maternity leave may not impact that much, and he is probably right. If I understand correctly, places like Norway, which have half a year up to a full year paid maternity leave, still have a fertility rate similar to ours. In other words, both countries have a fertility rate which is under the replacement level of 2.2.

I guess we are arguing the same thing. Something like this may not in itself solve a lot of the related problems—and certainly falling fertility rates is one of the big problems—but it might be part of the overall package. In many ways some of this is outside the hands of politicians. I always like to see that some problems are bigger than political or economic problems. There are social and cultural components at play as well, some of which politicians can deal with. Certainly, anything governments can do to ease the burden that many families feel, especially the compulsion many women feel about going into the paid work force when they would rather spend time with their young children, we will certainly support. This is part of it but it has a narrow range and we would like to see that range broaden.

**CHAIR**—I did mention the HREOC report. Do you have any comment on any of the matters raised in that report?

**Mr Muehlenberg**—I do have that back at my office. From what I recall of it, having read it three or four weeks ago, it is pretty much the same idea. The principles again are primarily addressed to the working woman. I think it is fair to say that in many ways they can be disadvantaged at work and if we can address some of those problems that is fine. Again, we wish it had been more broad. Something that HREOC and others do in this regard—the proposals they give—may not always be in the best interests. For example, there is often a kind androgynous approach to the problems. That is, if women are getting short changed in the workplace let us try to even things out—maybe get men home as much as women or get men to do as much work at home as women and so on. There is something to be said for that but we would say that it does not go all that far. For example, it seems that there are some things nature has made a bit easier for women, and breastfeeding is an obvious example. No matter how many men may stay home while the woman is in the paid work force, there are some things women can do better. Obviously you can use bottles but the studies show that there is a lot of benefit to breastfeeding, so we will not go into that. HREOC reflects a more androgynous approach to solving these problems or at least keeping them within the confines of the workplace. We would like to see it broadened out.

**Senator CROSSIN**—Can you tell me a bit about your association—how many members you have and how you came to be constituted?

**Mr Muehlenberg**—The Family Association has been around for a bit over 20 years. It was formed at roughly the same time as the Institute of Family Studies, around 1979. We have offices in every state. We are a lobbying group dealing with this and other legislation. We put out newsletters and journals and things like that covering a range of family concerns. We are basically an independent self-funded—subscriber funded—outfit. We have about 2,500 on the mailing list at the moment. We are not a huge group.

The reason for its formation was that all kinds of different groups were finding lobby groups to represent their interests, especially at a political level. In many ways families were being overlooked. Of course, to an extent, families are in many ways the bedrock of society and it was probably thought for a long time that you probably did not need a lobby group to look after the interests of families, but given all the changes to families and lifestyles over the

last few decades, a case could be made that families need to be represented as much as any other group. I guess that is the rationale for our existence.

**Senator CROSSIN**—We have heard evidence that in family situations seven out of 10 women are in the work force. We have heard evidence today that in the metal industry, for example, 250,000 women are employed in that industry; out of 1,500 workplace agreements, only 60 permit access to paid maternity leave, and even then the best provision is usually around six weeks leave. Would you not think that there is perhaps a case for this to be on the agenda and for governments to at least push to have something happen about access to better rights for women workers?

**Mr Muehlenberg**—As I said at the beginning of my remarks, in many ways we are ambivalent. On the one hand, a ‘yes’ answer would do. There are a lot of problems, and given the larger rates of female workplace participation, obviously these issues have to be addressed. Partly, our response also would be that we know that many women in the workplace, especially mothers, are part-time workers. That needs to be factored in. If I have not included some of the surveys on this matter in my original submission, perhaps I can leave a second paper which includes a few of these. I think the child-care supplement that I included with my submission lists some of these surveys.

If those surveys are accurate, especially in regard to mothers in the workplace, many of them are there not so much because they necessarily want to be there, or at least perhaps not at that time, but because they feel compelled to be there to meet the bills and help to pay for the family. But they really prefer, according to the surveys, in the early months, if not years, to be at home with the children. So simply stating that there are a lot of women in general or mothers in particular in the paid workplace does not necessarily tell us why they are there or if they necessarily always want to be there at a particular time. If the surveys are right, a lot of them—

**Senator CROSSIN**—Are these surveys that your association has conducted?

**Mr Muehlenberg**—No. These are from organisations such as the Institute of Family Studies; the University of Melbourne did one recently. Some of those are mentioned in the child-care supplement paper, and there are a few more mentioned in this document, if I may leave it with you. A number of independent, quite objective and quite reputable surveys have been conducted, and the figures often show that 70 or 80 per cent of mothers feel that they would rather be at home, at least in the first few months, maybe even in the first year.

**Senator CROSSIN**—That is a reason to try to accelerate paid maternity leave provisions, isn't it?

**Mr Muehlenberg**—Again, as we say, to an extent we are happy with the whole idea. It is a step in the right direction.

**Senator CROSSIN**—In your opening statement I got the impression that you thought that if the 14 weeks paid maternity leave aspect was achieved, then that is it, but in most workplaces there is unpaid maternity leave. In fact, it is regulated now in the Workplace Relations Act. I wanted to re-emphasise that this is not about 14 weeks and then going back to work; the bill is suggesting that, out of a 52-week leave option that is usually available, at least 14 weeks of that period should be paid leave. Is there any recognition by your association that there is quite clear evidence that women are either choosing not to have any family at all these days or are opting to have their family well in their 30s; hence there is a declining fertility rate? Perhaps this is not about women perceiving that their role in life is to have kids and they might have a job as a bit of an extra; this is about women choosing to have

a career and wanting to be able to have a family that fits around that career as opposed to having kids that fit around their jobs. Do you understand the emphasis that I am trying to put on it?

**Mr Muehlenberg**—Yes, that is fair enough—that is part of the directions and trends that we are experiencing. Many are putting off marriage, family and children until later in life. Again, there are different reasons for that. As you say, many simply want to follow a career path and hope that they can fit in the family path as well later on. However, as a number of women are finding, sometimes it does not work that way. We would say that part of the answer is that, while we have a number of trends and directions, it is partly true to say that social trends are not irreversible. That is, we may have a direction in this way at the moment but, as you know, there has been—perhaps the word is ‘backlash’—a little bit of concern about the trends. There was an interesting piece in the *Age* about two weeks ago by Virginia Haussegger, who said that she pretty much followed that line of thought: do the career and have the kids later. She became quite bitter when she found out that, when ‘later’ came, she was not able to have kids. She was quite angry that she was perhaps sold a line there and that, perhaps, this idea that women can have it all is not always that easy or clear-cut. As you can imagine, that article produced a lot of letters back and forth, but there have been quite a few pieces like that both here and overseas.

Sylvia Ann Hewlett created quite a stir in America with her book *Baby Hunger*, which basically argued the same thing: a lot of women had tried to pursue the line, ‘I’ll do my career first and then I’ll try to fit in the family’ for the last several decades and had then discovered—for many, to their great horror—that a family was not possible. Either they had let the biological clock tick for too long or they had overdepended on IVF and ART—assisted reproductive technologies—and did not know, or were not aware, that the later in life you go the less success you have. The success rate of IVF is not very good to begin with, but ART and IVF do not really help a lot of older women. So, in a sense, there is a bit of a backlash, both here and overseas, to the whole concept of ‘Do your career first and then work on the family later’ and this line that women can have it all. Some women at least—not all—are finding that for them it has been very difficult indeed; they feel that maybe they were given somewhat wrong advice and that perhaps we need to rethink. Since these are all new trends, while we feel our way we are all kind of moving along together and not quite knowing where all these trends are going. But now, with a bit of hindsight, it seems that there is a bit of a reaction in this area. I guess that is part of my response to that question.

**Senator STOTT DESPOJA**—I want to clarify something about your response to a question from Senator Tierney—I think it was about the ‘double jeopardy’ or ‘double whammy’. You do understand that women in the work force who would be in receipt of paid maternity leave would not actually be receiving their salary in addition, don’t you?

**Mr Muehlenberg**—That is right; exactly.

**Senator STOTT DESPOJA**—Thank you.

**Proceedings suspended from 2.49 p.m. to 3.21 p.m.**



**HALLIDAY, Ms Susan Maria, Member, Victorian Branch, Women's Electoral Lobby**

**CHAIR**—I welcome Ms Halliday from the Women's Electoral Lobby. The committee has before it submission No. 24. Are there any changes you wish to make to it?

**Ms Halliday**—No.

**CHAIR**—I now invite you to make a brief opening statement and then we will go to questions.

**Ms Halliday**—We have a unified position, so I will be reading the opening statement. The Women's Electoral Lobby welcomes the Senate Employment Workplace Relations and Education Legislation Committee inquiry into the Australian Democrats' [Workplace Relations Amendment \(Paid Maternity Leave\) Bill 2002](#) and commends the use of parliamentary resources for this purpose. WEL congratulates the Australian Democrats for tabling the [Workplace Relations Amendment \(Paid Maternity Leave\) Bill 2002](#). The bill demonstrates that a system of paid maternity leave can be established within the parameters of the Australian industrial relations operations and within federal government budgetary constraints. We are keen to look at establishing paid maternity leave as a legitimate leave entitlement.

Seven out of 10 women of child-bearing age are in Australia's work force. Women's participation in the paid work force is one of the most significant areas of social change in this country. Women are contributing to Australian economic growth as full-time, part-time, casual and self-employed participants. Indeed, if you were to remove women workers, the economy would collapse. Unless leave associated with childbirth is accepted as a legitimate leave entitlement, women in the work force will continue to experience disadvantage and discrimination, be it direct or indirect, at work. This is where recognition of women's differences from men is absolutely necessary in order to achieve equal opportunity—and that is about equal outcome.

Failure to guarantee paid maternity leave means that most working women are expected or obliged to take unpaid leave while their male counterparts are able to access a raft of legitimate paid leave entitlements: recreation leave, sick leave, long service leave, study leave in many organisations—they are all paid for. For example, the government pays for men's absence for military service. It is recognised as legitimate leave. This constitutes, in its own way, sex discrimination, even if it is not actionable under current law due to exemptions.

Maternity leave is accepted as a legitimate reason for paid leave from the work force in over 150 countries across the globe. Working women who are pregnant cannot avoid taking time from work to give birth and recover from the birth. There is no choice. Returning to work before six weeks following childbirth often complicates issues of breastfeeding, potentially affecting both maternal and child health. These reasons have already been accepted as grounds for unpaid maternity leave across the country.

In countries where childbirth is accepted as a legitimate form of leave from the workplace the leave is paid, to varying levels, as a form of compensation for loss of income. The ILO Maternity Protection Convention 183 suggests that cash benefits should be provided 'at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living'. The key to that, of course, is that although you have a baby and remove yourself from the work force you still have to pay the rent.

A further condition of leave entitlements is the right to return to work at the end of the period of leave. Job security is a real issue for many women. Women who are pregnant or returning to work following childbirth report various examples of discrimination despite equity legislation: pressure to resign, unfair dismissal, pressure to leave work earlier than the woman prefers, pressure to return to work before the woman is ready, having to work shifts or hours that do not accommodate caring responsibilities or the transporting of children to and from child care, pressure to step aside because the replacement employee is ‘better fitting for the role’ than the woman on her maternity leave, pressure to forgo the right of return in exchange for the federal government’s bouncing baby bonus up to a maximum of five years.

A national system of paid maternity leave would help to overcome these forms of employment discrimination. Paid maternity leave entrenches a woman’s right to combine the dual roles of employment and childbirth. This is one area where men and women must be treated differently—until the day when men can give birth. Valuing women’s economic security is very important; it is key. Having children is a significant opportunity, but it is also a cost to women in the work force. As more women enter the paid work force—for example, from 37 per cent in 1966 to 53 per cent in 1996—more women face the opportunity cost. To date the cost is largely unrecognised. The opportunity cost of childbirth for women in the work force can be estimated as forgone earnings based on the mother’s education levels. You will notice in the documentation I have handed out a chart that cites those.

In the absence of paid maternity leave the loss of income takes place at just the time when additional costs are incurred. Except for the impact on women’s lifetime earnings and income, the consequences of this for women and their families has not been adequately researched in this country. In the UK, however, in research commissioned by the government’s Women and Equality Unit, parents were asked about the impact of maternity leave on family finances. The responses indicated that many families experienced hardship and had to go without things that they needed during maternity leave. Fifty-one per cent of parent respondents and 48 per cent of mothers interviewed said that they felt they had lost their financial independence during maternity leave.

The survey also confirmed that one of the principal responses to the loss or reduction of the mother’s income during mat leave was for the father to increase his working hours or take more work to compensate—assuming, of course, that in all cases there is another parent. In this context there was some paid maternity leave as well, but it was not full earnings replacement and did not cover the whole period of leave. Partly in response to these findings, the UK government has now increased the level and duration of paid leave. In Australia, data on working hours also demonstrates that men are likely to work particularly long hours when they have babies or young children—one of the reasons being the mother’s loss of income. Paid maternity leave would reduce the pressure on fathers to work long hours—another valuable social policy outcome—as well as improving women’s economic security and allowing them to maintain their independence.

Periods of leave from work also lead to considerably lower levels of retirement income for women. A woman on the median income for women will have 50 per cent less retirement income than a male equivalent if she is out of the work force for five years between the age of 20 and 60; her retirement income will be 1.5 times the aged pension versus three times the aged pension for a man working from the age of 20 onwards. Retirement income is also reduced as a function of reduced ability to save during any periods out of the paid work force. Paid maternity leave helps to increase the level of lifetime income for a woman in two ways: by providing income replacement for a period of up to 14 weeks and by creating a higher

degree of workplace attachment, which encourages women to return to paid work and makes that return easier. The Democrats' bill recognises the importance of workplace attachment for women as well as the wider implications for the federal government and the community of women having a dislocated work history.

The bill clearly seeks to maintain an ongoing employer and employee relationship by suggesting that the fortnightly payment should be administered by the employer. Also of interest is workplace equity. A national system of paid mat leave is necessary to address a range of inequities that women experience to this very day, despite the rhetoric of equal opportunity. Having a child penalises working mothers relative to working non-mothers—for example, financially through payments tied to continuity of service and professionally through promotion and training opportunities. For public sector and private sector women employees, 62 per cent of working women cannot access paid maternity leave schemes, women in part-time and casual employment do not have the ability to access the paid maternity leave schemes and workplace arrangements make paid maternity leave available to women employees on higher grades but not to women employees with lower skills and fewer qualifications. Relying on industrial system and the market to negotiate and secure paid maternity leave for the private sector employees is ridiculous.

The current inequities are neither family friendly, particularly for women on low incomes, nor conducive to gender equity in employment. The federal government is in a difficult position of providing paid maternity leave to public servants and setting an example of preferred employment practices—which discriminate against those who are not within their own ranks—yet being unwilling to establish an equitable government funded system to support all Australians, remembering that all Australians pay taxes that contribute to the few within the government sector that are actually paid mat leave. Unless the government funded system is available, the majority of working women, particularly women on low incomes with the least access to paid maternity leave, are treated less favourably than women who are public servants or on higher incomes or in a position to negotiate. Leaving paid maternity leave to motivated employers or the current set of bargaining arrangements is not going to deliver equitable outcomes.

A national government sponsored system is necessary to deliver substantive equality to all women in this country—women who indeed are equal. It creates equity between women in all employment sectors as well as between full-time, part-time and casual employees. Establishing a government funded system of paid mat leave will help the federal government meet its obligations under article 11.1(c) and 11.1(d) of the Convention on the Elimination of All Forms of Discrimination against Women.

Paid maternity leave is a predictable social policy issue for the Australian parliament to consider right now, particularly in light of the significant shift in women's participation in the work force. It is entirely congruent with a national work and family policy as proposed by the Howard government during a third term and, while it is not the only important work and family provision, it is a vital piece of the jigsaw. Without paid maternity leave any resulting national work and family policy will be like a chair missing a leg; it will not be functional.

**Senator STOTT DESPOJA**—Thank you, Ms Halliday, for your submission, your verbal presentation and your general support for the bill. Starting with the public service, as you know the bill excludes women in the public sector. That is something that I am still grappling with. We have had roundtable discussions with groups such as WEL to try to work out what is the most appropriate way of dealing with women in the public sector. Do you have a view, or does WEL have a position, on this? Is it not problematic that, if we include the public sector,

this will represent significant cost shifting or basically letting the states off the hook if the government at a Commonwealth level is topping up that money that otherwise should really be provided by the states within the public sector?

**Ms Halliday**—I think there are two ways to look at it. The first is a bigger picture vision—that is, every woman, irrespective of sector or length of time in employment, should be given the same amount. We would suggest that that be average weekly earnings—cross-gender average weekly earnings. Having said that, some of the state governments are not up to speed with what would be an appropriate amount paid and I think it is fair to say that it is the responsibility of the state governments to lift their game in that area. South Australia is a classic example. It is important that the federal government not only shows some leadership in this area but also requires those state governments that do not contribute the appropriate amount to lift their game. The pressure should be put on that way. I think we have to be fair and reasonable about what the federal government is actually asked to supply.

**Senator STOTT DESPOJA**—So you would not anticipate an amendment to the bill along those lines. Today Sharan Burrow from the ACTU gave an excellent verbal assessment of where the states are at, but I think the preferred position of the ACTU—I hope I am not misrepresenting them—is to include the public sector in there.

**Ms Halliday**—I think it is fair to say that the bill has to address all women. I do not think we can ignore the fact that women in the public sector are not within the bill. However, I am also of the view that the state governments should not be let off the hook. So I think the bill should encapsulate women working in the public sector but there should be some onus on the state governments to lift their game.

**Senator STOTT DESPOJA**—In relation to superannuation, I would like to clarify the WEL position. Do you believe that employers should continue to make superannuation contributions during the period of paid maternity leave?

**Ms Halliday**—Yes.

**Senator STOTT DESPOJA**—In relation to the payment process, in your verbal presentation today you spoke about the notion of the ongoing employer-employee relationship. That relates also to the administration of the scheme. Would you contemplate a two-track administrative system—that is, one where it is paid directly to the employer or to the employee? Do you have a view as to the manageability of such a scheme?

**Ms Halliday**—To take it back a step—and I am going to answer your question—it is key to understand that, to this day, the way work is organised, structured, formalised and mapped is still in line with traditional working patterns. Women's participation is still that of the 'other' rather than the standard, the base or the norm. We will not have equity until the way work is viewed, structured, mapped and organised actually reflects in an equitable way the obvious working patterns that some women are going to have to participate in. To do that, we are going to have to travel different paths to have the same outcome. That is what equity is all about. It is not about everybody having the same blue book and a red pen to write in it; it is about understanding that we have to get to an equitable outcome at different times in our lives, travelling in different ways. Indeed, again, it is going to depend on the employee as to whether they would prefer to receive a payment from government or from their employer. If we are talking about flexibility—and it is such a popular word—here is a classic example of where it could be utilised: we can give people that choice. To say, one way or the other, 'It must be done like this,' is possibly more rigid than what we could be looking for if we are looking for a new system that is leading edge. Rather than being that prescriptive, we could

give the beneficiary the opportunity to make a decision as to whether they would rather receive it through a government payment or via their employer. Via their employer certainly deals with some of the issues of continued superannuation.

**Senator STOTT DESPOJA**—I notice that WEL is very critical of the notion of achieving paid maternity leave through the enterprise bargaining process. Could you outline for the benefit of the committee your concerns with enterprise bargaining in this situation? What are the impediments? Why is it so hard?

**Ms Halliday**—It is abundantly clear it would work for me, because I can go in and negotiate, but there are a lot of other people who do not have my education, my experience, my background or my skill level who could not negotiate such things. There are days when I meet employers in my current line of work who say, ‘People should climb across cut glass to get a job with me.’ Many people still have that mindset about their staff in our working environment. Those women do not have a hope of negotiating paid maternity leave. There are other employers who, for a range of reasons, can see the advantage associated with recognising that this is a short period out, that the people they have may have skills that are the same as many others but that the commitment they have from those individuals is worth pursuing, and they will pay some form of paid maternity leave in order to facilitate their return.

You cannot leave it up to the market. I have spent many years in the private sector. You cannot leave things that should be managed by law up to the market, because it does not work. What you can do is provide people with legislation and a range of ways to administer it, but you need the law to underpin that level of fairness and we do not have that. I have seen many examples where people who are not well versed in the industrial system—and the majority of Australians are not—trade off terms and conditions that they did not have to trade off for family friendly practices, but they have no idea that that is the case.

**Senator STOTT DESPOJA**—Taking that notion—one that I am firmly committed to—that you have to mandate for certain things, and this is obviously a provision which should be enshrined in law, if we have a safety net provision, and I am advocating 14 weeks at minimum wage with the possibility for employers to top up that provision through enterprise bargaining or whatever processes, is that too much of an unhappy compromise? Do you think that it is so unlikely, because of EB difficulties or because there are so few work forces that have already taken that initiative, that that would result in an adequate scheme? Connected with that is my question in relation to average weekly earnings. I understand exactly where you are coming from. I have not put average weekly earnings in this bill—obviously, I am compromising in an attempt to get a scheme that will work but also get support. How much of a threshold issue is that for WEL?

**Ms Halliday**—The WEL position is that it should be a national system that is funded by government with the minimum being the average weekly earnings payment. I think the reality is that certain employers may choose to do a range of other things—sometimes financial and sometimes using other means—by which they facilitate earlier return or part-time return or other forms of easing back into the work force, depending on what their business is and what their culture is. We are keen to see a minimum standard and to see that that is adhered to and guaranteed for all and that it be left up to the employer as to whether or not they want to top up or not, acknowledging that there are more ways to do it than doing it financially. There are people who would rather have it done in non-financial ways. Again, we need to look at the opportunities for it to be as flexible as possible.

**Senator STOTT DESPOJA**—But you can see as problematic a mandated levy or contribution from employers—as advocated, for example, by the ACTU.

**Ms Halliday**—It could be, because the reality is that you are dealing with businesses of different sizes. We already have a series of inequities where small business has been significantly disadvantaged by the fact that large business, in many instances, can afford to pay. I have dealt with many small employers, and WEL has heard from small employers, who are in a position where they say, ‘I’ve had staff member X for eight years; they’ve now gone to join company Y because they’re paying maternity leave and I can’t.’

What we have currently, with a system where we pay no maternity leave, is the fostering of an inequitable system and a divide between small and large business. You have small business losing skilled staff who are hunting for this particular potential benefit. Small business cannot compete with that; they are disadvantaged. What do they do? So we have to be mindful of the power base that large business has and the disadvantage that small business has already found itself dealing with because we have not had a national underpinning of such a system. Any work around a mandated employer top up would have to be particularly well managed, but I do not think we can rely on that. The minimum base of a national system is where WEL sits.

Again we have to be broad in our thinking about employees in this country. A significant number of the people who may well be, within a time frame, ready to have a child are also people who are still working regular casual, so any system which ignores what is a standard practice and just gives an option to permanent employees is going to be flawed, because there are so many women who will miss out, and they are probably those who are least likely, with respect, to be able to negotiate paid maternity leave. I see this similarly in government scenarios, where people are continually employed to do contract work and other forms of work for government but do not become permanent employees and equally are not entitled to the terms and conditions that are offered to permanent government employees. So we have to look at the range of people, and when we talk about employees we have to think in a very broad framework.

**Senator STOTT DESPOJA**—Undoubtedly, the definition of a casual is something that the committee will examine further as to what constitutes someone who is eligible for paid maternity leave. I will put some further questions on that issue and others on notice.

**Senator CROSSIN**—Some witnesses today have suggested that this is more a social debate than a debate about workers’ rights or women’s rights and entitlements. What is the position of the Women’s Electoral Lobby on that?

**Ms Halliday**—It is somewhat removed from that.

**Senator CROSSIN**—Do you favour one or the other?

**Ms Halliday**—We need to put this in a framework that identifies the substantial contribution to the country and to the economy made by women who work. Women who work and have children are making a dual contribution, and yet they are the women who are currently penalised. The system as it sits with respect to welfare payments, immunisation payments and the maternity allowance actually rewards women who do not work. Women who are making a dual contribution are denied any benefit and are, if anything, penalised. We do not see maternity leave as part of the welfare system; we see it as an acknowledgment of some time out from what is a dual role that is essential to the continuation of both the economy and the population.

**Senator CROSSIN**—You would err on the side expounding the rights of women workers argument, basically, as opposed to the side expounding the social welfare argument that is around?

**Ms Halliday**—Certainly, and in doing that we need to acknowledge the contribution that women make. Having said that, great concern is being mooted that what will evolve over a period is a revisiting of an earlier system—from the 1950s or the 1960s—where all women were paid maybe \$60 a week whether they were working or not. That would defeat the whole purpose of paid maternity leave, which is underpinned by a recognition of the contribution working women make and which provides support for the period of time that those women are out of the work force. There is obviously great fear that the debate, in whatever jurisdiction, may merge that way—which takes us back 30 years. That is not paid maternity leave.

**Senator CROSSIN**—Some witnesses today have presented a view that the whole notion of women having babies, whether they are in the paid work force or not, needs to be addressed by government. If you are going to look at paid maternity leave, then you also need to look at maternity allowances or payments for women who choose to not be in the paid work force but who then have a family. I asked one of the witnesses earlier, ‘Wouldn’t you do one rather than the other?’ Their response was, ‘The women who choose to stay at home always seem to come last.’ Your evidence, though, says that seven out of 10 women of child-bearing age are in the work force, so WEL would put to us that we should be addressing paid maternity leave first?

**Ms Halliday**—Yes. Indeed, we would also argue that it is the women who are in the work force who are coming last, because they are the ones who are being penalised for their dual contribution.

**Senator CROSSIN**—Significantly, you have done some research—I think it is on page 6 of your original submission here—that provides some evidence to suggest that women from a low income base or a low education and socioeconomic base are further penalised. Would that be right?

**Ms Halliday**—Indeed. Again that is underpinned by the fact that they are the least likely to be able to go in and negotiate a package or a particular individual outcome that allows them to manage work and family—take some time out and come back. This is an important debate for educated women, but it is far more essential for women who are in semi-skilled employment and who rely on that very last dollar every day. Indeed, it is an important debate about their right to be able to do both. I consider that the system we have currently denies that right, and WEL is very concerned about the fact that women choose to continue to put off children. That is not to say that paid maternity leave will turn the fertility rate around. To assume that is naive, but it will certainly support people’s choices if they choose to do both.

**Senator CROSSIN**—Certainly some evidence coming out of a study a women academic has done in Sweden suggests that the introduction of paid maternity leave encourages people to have a second child, which is where the population and fertility rates increase. There may well be some anecdotal evidence for that.

**Ms Halliday**—It is a good reason to go a second time but, if it was really difficult and there was no financial support the first time, the second time is out of the question.

**Senator CROSSIN**—The ILO Convention 183 suggests 14 weeks paid maternity leave, which I think your submission picks up on—

**Ms Halliday**—We support 14 weeks, yes.

**Senator CROSSIN**—But it also suggests that it should be based on the preleave earnings of a woman, as opposed to your notion of the average weekly wage. Has WEL tried to go for the low jump bar instead of the high jump bar in this instance?

**Ms Halliday**—Across a range of issues, we have tried to be realistic and we have tried to be mindful of what people are knowledgeable about in this country. The average weekly earnings seem to make a fair and reasonable mark; we are not talking about the minimum wage, we are talking about the average weekly earnings. That is cross gender; we are not talking about women's average weekly earnings. That is the area that we, as a body, were most comfortable with, so that is what we continue to support.

**Senator CROSSIN**—Is there one particular preferred funding model in the HREOC options paper that WEL has considered might be the way in which to do this?

**Ms Halliday**—With respect to how it is paid, we would like to see the actual employee have a choice, be it via the employer or some form of government agency. We would like to see it as a national system that picks up every employee across the country.

**Senator CROSSIN**—Thank you.

**CHAIR**—Thank you for appearing today. The hearing will now adjourn until parliament resumes. We will then hear from the Office of the Status of Women, the Department of Employment and Workplace Relations and the Department of Family and Community Services.

**Committee adjourned at 3.52 p.m.**