



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION  
COMMITTEE

**Consideration of Budget Estimates**

TUESDAY, 23 MAY 2000

CANBERRA

BY AUTHORITY OF THE SENATE



**SENATE**

**FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE**

**Tuesday, 23 May 2000**

**Members:** Senator Mason (*Chair*), Senator Murray (*Deputy Chair*), Senators Calvert, Conroy, Lightfoot and Ray

**Senators in attendance:** Senators Calvert, Collins, Faulkner, Lightfoot, Mason, Murray, Ray and Sherry

**Committee met at 9.06 a.m.**

**FINANCE AND ADMINISTRATION PORTFOLIO**

**In Attendance**

Senator Ellison, Special Minister of State

**Department of Finance and Administration**

Dr Peter J. Boxall, Secretary

Margaret Kidd, Office of the Secretary

**General (Corporate Group/Financial Management Group/Business Services Group)**

Jenny Morawska-Ahearn, General Manager, Corporate Group

Jan Mason, Manager, Corporate Contracts

Mike Loudon, Manager, Strategy Coordination and Implementation

Ian McAuley, Manager, Ministerial Support and Coordination

Maureen Grear, Manager, Risk Management

Gary Bullivant, Manager, Corporate Governance

Barbara Sullivan, Manager, Corporate Strategies

Phil Gouldson, Corporate Strategies

Connie Kirk, Manager, Marketing and Communications

Simon Schiwy, Corporate Contracts

Alistair Cochrane, Chief Financial Officer, Financial Management Group

Homer Vanniasinkam, Financial Controller

Maureen Hay, Financial Management Group

Alastair Hodgson, General Manager, Business Services Group

Julia Burns, Branch Manager, Comcar

Robert Knapp, Branch Manager, Comcover

**Outcome 1 - Sustainable government finances (Budget Group)**

Jim Murphy, Acting General Manager, Budget Group

Megan Coombs, Branch Manager, Commonwealth Shareholder Advisory Unit

Phillip Prior, FAS Budget Coordination

Ed Lekawski, Longterm Budget Policy Unit

Greg Fullam, Commonwealth Shareholder Advisory Unit

Andrew Kefford, Budget Coordination Unit

Mat Kimberley, Budget Group Executive  
Melanie Jordan, Budget Group Executive  
David Weiss, Agency Advice Unit  
Jennifer Gale, Agency Advice Unit  
Matthew Bohun, Budget Coordination Unit

**Outcome 2 - Improved and more efficient government operations (Resource Management Framework Group and Property Group)**

Dr Diana Wright, General Manager, Resource Management Framework Group  
Kim Clarke, Branch Manager, GST Implementation Unit  
Eric Thorn, Adviser, GST Implementation Unit  
Sandra Wilson, Branch Manager, Commonwealth Superannuation Group  
Robert Irvin, Acting Branch Manager, Competitive Tendering and Contracting  
Peter McGuinness, Acting Secretary, Remuneration Tribunal Secretariat  
Michelle Kinnane, Branch Manager, AusInfo  
Jonathan Hutson, Branch Manager, Financial Framework Branch  
Anne Morant, Senior Adviser, Financial Framework Branch  
Gavin Back, Senior Adviser, Financial Framework Branch  
Clive Hawkins, Director, CTC Branch  
Paul Leyton, Finance Officer, Resource Management Framework Group  
Phil Bowen, General Manager, Property Group  
Kathryn Campbell, Branch Manager, Portfolio Management  
Matthew Parkinson, Assistant Director, Commonwealth Superannuation Group  
Jenni McMullan, Director, CTC Branch  
John Brain, Director, CTC Branch  
Peter Vinicombe, Director, CTC Branch  
John Edge, Director, CTC Branch  
Robert Higgins, Director, CTC Branch  
Phillipa Crome, Project Officer, CTC Branch  
Adam Lambert, Project Officer, CTC Branch  
Tracie Ann Maher, Director, Agency Partnership Management – AusInfo  
Pam Spurr, Adviser, Information Governance – AusInfo  
Jeremy Gregson, Director, e-Business Solutions – AusInfo  
Liz O'Donnell, Director, Contract and Service Delivery – AusInfo

**Outcome 3 - Efficiently functioning parliament (Ministerial and Parliamentary Services Group)**

Daryl Wight, Acting General Manager, Ministerial and Parliamentary Services  
John Gavin, Special Adviser  
Mike Cramsie, Service Centre  
Paul Goodwin, Service Centre

**Australian Electoral Commission**

Andy Becker, Electoral Commissioner  
Mark Cunliffe, Acting Deputy Electoral Commissioner  
Paul Dacey, Assistant Commissioner, Elections and Enrolment  
Tim Pickering, Assistant Commissioner, Information Technology

Barbara Davis, Assistant Commissioner, Corporate Services  
Brad Edgman, Director, Funding and Disclosure  
Anthea Wilson, Acting Director, Information  
Michael Munday, Assistant Director, Financial Management

**Commonwealth Grants Commission**

Bob Searle, Secretary

**Office of Asset Sales and Information Technology Outsourcing (OASITO)**

Ross Smith, Chief Executive, OASITO  
Trixie Makay, Senior Director, IT Outsourcing  
John Bridge, Senior Director, IT Outsourcing  
Neil Williams, Senior Director, IT Outsourcing  
Rod Whithear, Senior Director, IT Outsourcing  
David Yarra, Executive Director, Asset Sales  
Mark Heazlett, Senior Director, Asset Sales  
Robin Renwick, Senior Director, Asset Sales  
Anthony Eaton, Senior Director, Asset Sales  
Louise Saave-Fairley, Senior Director, MTACO  
Matthew Kay, Corporate  
Lindley Evans, Corporate  
Morag Lokan, IT Outsourcing  
Lyn Dudgeon, IT Outsourcing

**CHAIR**—Ladies and gentlemen, good morning. Today we commence our consideration of budget estimates 2000-01 for the Finance and Administration portfolio. On 9 May 2000, the Senate referred to this committee the particulars of proposed expenditure for the service of the year ending on 30 June 2001, documents A and B, for the Finance and Administration portfolio. The Finance and Administration portfolio has a proposed total expenditure of \$744,995,000. We will follow the order of agencies as listed in the Portfolio Budget Statements, excluding the Office of Asset Sales and Information Technology Outsourcing, which is scheduled for tomorrow. For each agency, I will call on general questions not pertaining to outcomes first and will then address outcomes and outputs in the order listed on the running sheet.

I welcome Senator Ellison, Special Minister of State and Minister representing the Minister for Finance and Administration, and also officers from the Department of Finance and Administration. I would also like to thank the officers who gave us a useful briefing on the Portfolio Budget Statements last Thursday. Senator Ellison, do you wish to make an opening statement?

**Senator Ellison**—No, thank you, although later on I might have some comments depending on the issues that are raised.

**CHAIR**—Are there any general questions?

**Senator ROBERT RAY**—What is the expected response date on the questions taken on notice about Employment National last time?

**Senator Ellison**—In relation to the questions generally—and I include Employment National, because I think most of the questions taken on notice were about Employment National—137 questions were taken on notice; indeed, 750 questions were asked. The request

was that they be answered by 18 May. Of course, the duration of time between the last estimates and this estimates has been short, and the deadline provided has been shorter than usual. I am advised that the task has been time consuming for a number of reasons: a search has to be conducted through over 50 files containing large numbers of documents; there has been a need for extensive communication and cross-referencing; and the questions on notice were extensive in nature.

The sum total of that is that the department has been working on this assiduously and we hope that the answers to these questions on notice will be provided shortly. But, of course, they are not available at this point in time. I do not know whether that will assist Senator Ray greatly but, unfortunately, it is just a question of logistics. There were some eight hours of questioning at the last estimates and, as I say, there is an unusually short period of time involved—not as long as normal—so the answers to these questions are not available at this time. They are being worked on. I can assure the committee that the department has taken on this task in an earnest fashion, as it normally does. As you can appreciate, the exercise is vast.

**Senator ROBERT RAY**—Thank you, Minister. I would like you to address the question of ‘shortly’. Does that mean within hours, within days or within weeks? I am not asking you to put a precise time on it, but I do not understand what ‘shortly’ means in your lexicon.

**Senator Ellison**—My advice from the department is that it will be within a matter of days.

**CHAIR**—Thank you.

**Senator ROBERT RAY**—Mr Chairman, can I make a suggestion. We indicated last time that we were following up some of the Employment National issues because we did not complete them last time rather than sit an extra day. I just make the suggestion to you that we work our way through Finance this morning and get onto Employment National at about 2 p.m. or 3 p.m. Dr Boxall, that means you can release all your other officers to go back and toil away. It probably also means that anyone who is here this morning and who would normally answer questions on the Commonwealth Shareholder Advisory Unit can have the morning off to continue the pursuit of the answers that they are accumulating for us. Does that suit you?

**CHAIR**—I think that is a good idea, Senator Ray.

**Senator Ellison**—I do not know whether that will necessarily address the situation.

**Senator ROBERT RAY**—It was not intended to.

**Senator Ellison**—Anyway, I think it is a reasonable suggestion. Let us do it that way because it does give us some sort of idea of time for the setting of the agenda, and that is always helpful.

**Senator ROBERT RAY**—Minister, it was not made to get the answers ready any earlier. It was just for the convenience of this committee and, hopefully, the department.

**Senator FAULKNER**—Can we just indicate though, Mr Chairman, that that would mean that we would deal with the Australian Electoral Commission after Employment National, which might also assist those officials.

**Senator Ellison**—Yes. We will let them know that. Thank you.

**Senator ROBERT RAY**—I think we can indicate that they have time to do another redistribution before we get to them.

**CHAIR**—Just to repeat, then, Senator Ray: we will not reach Employment National until at least 2 p.m.

**Senator ROBERT RAY**—Yes; it will more likely be 2.30 p.m. to 3 p.m.

**Senator Ellison**—It certainly will not be before 2 p.m.?

**Senator ROBERT RAY**—No. Is your minister back on deck after his unfortunate illness?

**Senator Ellison**—Yes. He is well—hale and hearty and into it.

**Senator ROBERT RAY**—Working Hume hard, we hope.

**Senator Ellison**—Always.

**Senator ROBERT RAY**—Always?

**Senator Ellison**—It is his local electorate.

**Senator ROBERT RAY**—You have made a faux pas there—

**Senator Ellison**—No, I have not.

**Senator ROBERT RAY**—It is not his local electorate yet—Hume, we said; not Macarthur. Stop digging.

**Senator Ellison**—I am not.

**Senator ROBERT RAY**—Good. I notice on the witness list, Dr Boxall, that Mr Jim Murphy is the acting General Manager, Budget Group. Why is that?

**Dr Boxall**—Because Mr Bartos is on leave.

**Senator ROBERT RAY**—I am not criticising someone taking leave, but is it ever taken into account that there are two main estimates hearings?

**Dr Boxall**—It is, Senator Ray.

**Senator ROBERT RAY**—It is?

**Dr Boxall**—Yes.

**Senator ROBERT RAY**—I will not take that any further.

**Dr Boxall**—The reason Mr Bartos is on leave is that his wife has just had a baby.

**Senator ROBERT RAY**—No. I did accept your comment. As long as you have thought about it, there is a good reason. I did not need any further explanation, but thank you for that. We wish him well.

**Senator FAULKNER**—Dr Boxall, I read an article in the *Canberra Times* on 21 February this year with some concern. This was an article entitled ‘PS mantras control minions’, and it was by someone by the name of Karin Geiselhart, who had just completed a PhD. I do not know if you are aware of the article, Dr Boxall, but this was written after this particular PhD student, according to the blurb in the newspaper anyway, had conducted a two-year study into DOFA for a PhD thesis. Are you aware of the article that I am referring to?

**Ms Morawska-Ahearn**—Yes, we are aware of the article.

**Senator FAULKNER**—Without going through this in great detail, Dr Boxall, I think it is fair to say that there are a lot of very critical statements made. I suppose the issue I will focus on for the purposes of our general questions today is this general question about morale in the department which would, from reading this article, seem to be at a very low level indeed. I wonder if you could comment on your view of staff morale in the department and whether you feel this article is fairly recording and observing the situation that exists.

**Ms Morawska-Ahearn**—Dr Geiselhart's research work was done pre-1996.

**Senator FAULKNER**—Do you know what period she was covering in this particular article?

**Ms Morawska-Ahearn**—She was covering the Department of Finance before the existence of the Department of Finance and Administration.

**Senator FAULKNER**—So it is not in fact the Department of Finance and Administration. Was it the old DAS or the old—

**Ms Morawska-Ahearn**—The old Finance.

**Senator FAULKNER**—Do you know what period the research covered?

**Ms Morawska-Ahearn**—I believe she finished her research at the beginning of 1996.

**Senator FAULKNER**—Has there been any formal response to the article at all that you are aware of? I assume that to undertake research like this would require the cooperation of the department. You may not have been involved, obviously, at that time. It does appear as if she has had access to a range of officers and so forth. Do you know if this is the case?

**Ms Morawska-Ahearn**—Yes.

**Senator FAULKNER**—This is obviously prior, Dr Boxall, to your becoming secretary, but one would assume that the then departmental secretary just allowed this researcher to have full access to any departmental officer in basically an unfettered fashion. Would that be correct?

**Ms Morawska-Ahearn**—I do not believe that was correct.

**Senator FAULKNER**—Could you just explain to us how it was?

**Ms Morawska-Ahearn**—As I understand it, Ms Geiselhart's research was part of a doctoral work she was doing whilst an employee of the Department of the Prime Minister and Cabinet and she was looking at the use of electronic bulletin boards in the then Department of Finance.

**Senator FAULKNER**—It did say at the end of the article that Dr Geiselhart was an officer of the APS but left in December. I assume that was December 1999, but that is neither here nor there. Anyway, as I said, the basic response of anyone reading this article would be to say that, at the time she was reporting on that, morale in the department was very low. That was certainly my own response to it. I suspect that even a more objective observer than me would come to the same conclusion. I wonder if, as I said, Dr Boxall, you could briefly indicate to the committee whether you think that is an ongoing problem. If it is something that was identified in 1996, are you confident that there is no morale issue or problem in the department in the year 2000?

**Dr Boxall**—As you know, Senator Faulkner, I am not here to give views on things, but if you want to ask me a question about the state of morale in the department now I am happy to answer it.

**Senator FAULKNER**—I thought I did ask you that, but if I did not let me do so now.

**Dr Boxall**—The state of morale in the department in the year 2000 is very good. There are various ad hoc indicators of this. For example, every time the department advertises a vacancy we get a huge number of very well qualified applicants. We keep a record of departures each month, and we noticed in the previous 12 months that, in at least nine or 10 of those 12



months, very few people left the department and those who did tended to be ones who were better suited elsewhere. Basically, the department is functioning well. In less than three years, we have pulled together the Department of Finance and Administration, which is able to deliver on the outcomes and outputs for the government.

**Senator FAULKNER**—Are you aware of whether Dr Geiselhart has formally reported to any APS authority or whether this was just work that was undertaken for university research and what was published in the newspaper was some distillation, if you like, of her findings for her university thesis?

**Ms Morawska-Ahearn**—As I understand it, it was purely a personal doctoral thesis that she was undertaking at the University of Canberra.

**Senator FAULKNER**—As a result of the publication of the article, was there any departmental response?

**Ms Morawska-Ahearn**—No.

**Senator FAULKNER**—Is there intended to be any departmental response?

**Ms Morawska-Ahearn**—No.

**Senator FAULKNER**—Would it be fair to say that you are considering it pretty old news?

**Ms Morawska-Ahearn**—Yes.

**Senator ROBERT RAY**—Dr Boxall, you may like to respond to the quality of printing in the PBS. Have you managed to go through the document? It looks to me like there was an original and all these documents are now photocopies. Pages 40 and 41, in particular, are considerably difficult to read and there are several other examples of pie charts and other things. It probably makes it easier because the document is unintelligible anyway to the layman, but the printing just makes it doubly worse. Was it photocopied?

**Mr McAuley**—The document that was given to the printers, which had to be consecutively paginated, was not the original. So to get the pagination right, because we had some difficulties with the document, it was run through a machine. Hence the quality of the print is never quite as good.

**Senator ROBERT RAY**—Is this a one-off occurrence?

**Mr McAuley**—Yes, it is.

**Senator ROBERT RAY**—It is not going to happen again?

**Mr McAuley**—No, definitely not.

**Senator ROBERT RAY**—So we will not worry about it again.

**Senator SHERRY**—I want to go back to an answer you gave earlier, Dr Boxall. You referred to staffing retention rates for a nine- or 10-month period and you went on to make reference to staff who have left being better suited elsewhere. How do you make that judgment?

**Dr Boxall**—All staff in the department are on a performance management system and a performance appraisal. As a result of that, which is embedded in the certified agreement, they are given a rating. When staff leave the department, we are able to, for example, take the average rating of the staff who leave the department and compare that with the average rating for the staff in the department. What we have observed over time, which is what you would expect, is that the staff who consider themselves not to be as well suited to DOFA as they

might be to other departments tend to have a lower rating in DOFA than the average, and they tend to leave. This is often a win-win situation because they very often go to another department and perform exceedingly well because they are better suited. It is a question of the performance management system facilitating the assignment of staff to where they are best suited.

**Senator SHERRY**—You anticipated my next question: whether or not these people were going to other departments or leaving the Public Service altogether. Do you have an approximate breakdown of the two categories?

**Ms Morawska-Ahearn**—We will need to take that on notice.

**Senator SHERRY**—Do you have raw figures and percentage figures by annual comparison?

**Ms Morawska-Ahearn**—Again, we will need to take that one on notice.

**Senator SHERRY**—Thank you.

**Senator ROBERT RAY**—Senator Faulkner and I were asking some questions about this study. On when did you say this study was based?

**Ms Morawska-Ahearn**—As I understand it, it was in the mid-1990s.

**Senator FAULKNER**—Didn't you say to us that it was prior to 1996?

**Ms Morawska-Ahearn**—As I understand it, Ms Geiselhart collected some information in the department in 1996 and did some writing in early 1997.

**Senator ROBERT RAY**—That does not quite equate to what you told us before. Unfortunately, it is not like *Law and Order* where we can get the record read back to us immediately, but I thought you indicated the research had been completed at the start of 1996.

**Ms Morawska-Ahearn**—I understand that in 1996 she completed her research and that she was writing in 1997.

**Senator ROBERT RAY**—But she started it in 1996 too. In fact, according to this article—that is all I have got to go on—at the beginning of the fifth paragraph:

At the beginning of the study, in early 1996, there was a sense of optimism in Finance.

It goes on to say:

The second year of study, 1997, saw a shift in organisational culture.

So basically it was a 1996-97 study; it was not completed by the start of 1996, was it?

**Ms Morawska-Ahearn**—As I understand it, Dr Geiselhart was not actually doing a cultural assessment of the organisation. She was looking at electronic bulletin boards.

**Senator FAULKNER**—But isn't it true to say that Dr Geiselhart used the 1996 election and the standing of the department at that stage and that that was the benchmark from which she worked in her study?

**Ms Morawska-Ahearn**—I am unaware of that, Senator.

**Senator ROBERT RAY**—Where did you get your understanding from? You said several times here, quite appropriately, that it is your understanding. Where did you get that understanding from?

**Ms Morawska-Ahearn**—From talking to officers in the department.

**Senator ROBERT RAY**—Did you find some with corporate memories?

**Ms Morawska-Ahearn**—Yes.

**Senator ROBERT RAY**—Congratulations.

**Senator FAULKNER**—If the situation is as I believe it to be, that the department's status at the time of the 1996 election was used as a benchmark, I do think you would need to have a look at the *Hansard* record of your earlier evidence to the committee. I might ask the minister if he could ensure that occurs and, if there is a correction required, perhaps that could be given to the committee.

**Senator ROBERT RAY**—Could I ask Dr Boxall, if the minister so asks, whether he gave any consideration or response to the suggestion from the Salvation Army's Major Brian Watters that all public servants involved anywhere in the drafting or response to illicit drug programs undergo compulsory blood tests. Did that ever come to your attention?

**Dr Boxall**—I am not aware of this issue.

**Senator ROBERT RAY**—Minister, we were looking at an issue in the Department of the Senate with regard to an overseas visit for the IPU. The evidence given—I think I am reflecting it accurately—at the Senate estimates committee on the Department of the Senate was that the leg of concern, the one to Tanzania, was in fact a Department of Finance and Administration operation. Is that right?

**Dr Boxall**—This is an issue in Ministerial and Parliamentary Services, which we could take in outcome 3. Do you want to take it now?

**Senator ROBERT RAY**—I thought it was more in the general because it crossed both. I would rather take it now if we can get rid of it. It will not take long. Mr Gavin is going to join us. First of all, I understood that the two parliamentary departments in the main sponsored parliamentary delegations, so I was rather surprised to hear that the Department of Finance and Administration sponsored one leg. Maybe 'sponsored' is the wrong word. Would you like to just explain the circumstances of it?

**Mr Gavin**—It is a very longstanding arrangement that the parliamentary departments bear the cost of IPU delegations. For other parliamentary delegations the cost is borne by the Ministerial and Parliamentary Services Group in the Department of Finance and Administration. The head of power of course in each is the same, which is the Parliamentary Entitlements Act. I imagine that the basis for this distinction is to do with the IPU's funding, but I have never got to the bottom of it.

**Senator ROBERT RAY**—I have been conned. In other words, you basically have got no control over this trip at all. All you are doing is basically funding it like you normally would. It is not a special Department of Finance and Administration mission to Tanzania.

**Mr Gavin**—The IPU delegation was to Jordan, as I understand it. The add-on was by longstanding arrangement. We fund the add-on.

**Senator ROBERT RAY**—But the decision to add on is part of the normal parliamentary outgoing delegations, is it not, arranged by the two parliamentary departments?

**Mr Gavin**—Yes, and approved within the program approved by the Prime Minister.

**Senator ROBERT RAY**—That solves that, Dr Boxall, it is nothing to do with you. But someone has handed it over to you very unfairly. While I have got you here, though, I might

as well follow through with it. Do you have any coverage of compensation for MPs that get ill or injured overseas?

**Mr Gavin**—No.

**Senator ROBERT RAY**—So if there was any extra expense incurred it would not come to you. If, for instance, a doctor or a nurse was hired to fly a member back to Australia and had to return to the country of origin, that would not be picked up by you?

**Mr Gavin**—It would in this case. The leg to Tanzania, as I say, was borne from department of finance funds. The decision was taken, I think over a weekend, in the evacuation that someone had to recognise the responsibility for bearing the costs. Since the leg on which it occurred was a leg funded by the department of finance, it was seen as reasonable that the department of finance meet the cost of the evacuation, which in my view the Parliamentary Entitlements Act has sufficient power to cover.

**Senator ROBERT RAY**—What were the costs in this case?

**Dr Boxall**—We would really like to take this in outcome 3 or, if you want to pursue it now, we need to regroup a little for this topic.

**Senator ROBERT RAY**—It is the last question, the cost of the evacuation, and then I was going to move on to more general questions. I thought we would finalise it now.

**Dr Boxall**—Certainly.

**Mr Gavin**—The full accounts are not in yet, but the advice I have is that the hospital costs were of the order of \$A5,500 and the cost of the evacuation was about \$33,000.

**Senator ROBERT RAY**—Did this need Minister Fahey's authorisation, to bring Mr Schultz back to Australia?

**Mr Gavin**—Assuming this question is allowed, no.

**Senator ROBERT RAY**—Just a departmental decision.

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—Minister, yesterday when you had another hat on we were talking about the fact that certain questions on notice had to be cleared through the PMO. You suggested that might be in relation to the use of cars in the Olympics. Have you been able to get some further information to assist us with this?

**Senator Ellison**—I think we have found the question you were referring to, Senator Ray. I think it was to do with the employment of DLOs and there was a question that said there had to be liaison with PM&C. Mr Wight can perhaps assist there.

**Mr Wight**—The only one that sounds like the characteristics described yesterday was a question directed to the Department of the Prime Minister and Cabinet. We said in our answer to that question on notice that in preparing its response the Department of the Prime Minister and Cabinet has agreed to consult with DOFA relating to the MoPS Act, employment of liaison officers. That is the only one we can think of.

**Senator ROBERT RAY**—Just to assist you, there is a letter dated 4 April 2000 signed by Mr Ian McAuley, Branch Manager, Ministerial Support and Coordination, and it said that answers pertaining to outcome 3, Ministerial and Parliamentary Services Group, including Comcar, are currently being cleared by the office of the Prime Minister and will be lodged as soon as possible. The question we raised yesterday, Mr Wight, which was to the minister

rather than anyone else, was why questions on notice have to go through the PMO rather than directly through the minister's office. I am not sure we are any closer, or are we?

**Senator Ellison**—I have not seen a copy of that letter. Perhaps you could provide us with a copy of it.

**Senator ROBERT RAY**—There you go.

**Senator Ellison**—I can only say that the process is that I am responsible for the questions. I mentioned yesterday that you might have a situation where there is a dual responsibility or where there is an ancillary involvement by, say, Comcar and that you would go to the Prime Minister on questions such as the Olympics. When you asked us that question, Senator Ray, I requested that the department have a look at it. The only thing we could find in the questions on notice that would have relevance was the question that Mr Wight has mentioned. Yesterday I thought it might have been Comcar, but it appears not. This is a question which PM&C has control over. It regulates a number of DLOs, and that is what the answer says. I cannot explain why that is in the letter. It certainly is not the case.

**Senator ROBERT RAY**—I have a couple of concerns here. Firstly, we would not want it to be thought that there was a lack of confidence in the minister responsible. Secondly, we have discovered in the past that the reason why we do not always get answers to questions on notice is that they sit in some minister's office for an inordinate amount of time. If we have a double-up process here—that is, they might sit in the minister's office, then the PMO's office, then back in the minister's office—it may not be conducive to doing rapid business. The one thing I did not remember to do was to see what answers were attached to this particular one—although there probably were not any, of course. So I do not know what ones they were referring to, and I do not think we will ever know, by the look of it.

**Senator Ellison**—I think it must have been the reference to the DLO question to which we have referred.

**Senator FAULKNER**—Dr Boxall, can I just come back to the issue I canvassed briefly with Dr Morawska-Ahearn earlier on. Could I ask you again whether you have read the article I referred to in the *Canberra Times* of 21 February, 'PS mantras control minions'.

**Dr Boxall**—No, I have not.

**Senator FAULKNER**—Did anyone draw this article in the *Canberra Times* about a two-year study of Department of Finance and Administration to your attention?

**Dr Boxall**—Yes, they did.

**Senator FAULKNER**—But you did not read it?

**Dr Boxall**—No, I did not.

**Senator FAULKNER**—Just remind me again when you became secretary to the department.

**Dr Boxall**—Which department?

**Senator FAULKNER**—The Department of Finance and Administration.

**Dr Boxall**—The Department of Finance and Administration was formed in October 1997.

**Senator FAULKNER**—The Department of Finance.

**Dr Boxall**—In January 1997.

**Senator FAULKNER**—Ms Morawska-Ahearn told us earlier on—or I understood her to say—that for this research to be undertaken it would have required the secretary’s approval. I think that is what you indicated to us, was it not?

**Ms Morawska-Ahearn**—It would be normal procedure for somebody doing research work in an organisation to seek clearance from that organisation.

**Senator FAULKNER**—Did that occur on this occasion?

**Ms Morawska-Ahearn**—I am not aware as to whether the previous secretary of the department gave his clearance for Dr Geiselhart’s work or not.

**Senator FAULKNER**—Do you know, Dr Boxall, whether you gave approval in the period that you were Secretary to the Department of Finance?

**Dr Boxall**—Senator Faulkner, I cannot recall giving approval for this work. It is obvious, I think, that Dr Geiselhart started whatever she was doing under my predecessor.

**Senator FAULKNER**—Sure, I do not think there is any doubt that that is the case.

**Senator ROBERT RAY**—If you are ever confronted with this situation, Dr Boxall, do you reserve the right to, quite properly, suppress information which may have been gained from this survey if you regard it as appropriate? Often PhD students or otherwise will say, whoever they are interviewing or whatever methodology they use, that the ultimate right to publication lies with the person they are interviewing. Would that be your normal approach?

**Dr Boxall**—In the event that somebody was collecting information around the department without proper authorisation and then wanted to publish it, then certainly I would reserve the right to step in, as would be proper.

**Senator ROBERT RAY**—Would you put conditionality on someone collecting that particular information? They approach you and say they would like to collect information. Would you put some conditionality on that?

**Dr Boxall**—It would depend on the issue, but that would be normal practice.

**Senator FAULKNER**—Given that you have not read the article, Dr Boxall, it would be unfair of me to ask you questions about the contents of the article. You have indicated to us that the article was drawn to your attention. I assume you have made a deliberate decision not to read it. You know it is an article in part about the internal operations of the Department of Finance and Administration. I just wondered why you might have decided not to read it.

**Dr Boxall**—I am aware of the content of the article. I have read extracts of it. You asked me if I had read the article. I have not read the article.

**Senator FAULKNER**—How did extracts of the article come to your attention?

**Dr Boxall**—The article was drawn to my attention with extracts highlighted.

**Senator FAULKNER**—You did not feel the need to go and look at the whole article, having had extracts drawn to your attention?

**Dr Boxall**—I have answered this question about three times. I did not read the article.

**Senator FAULKNER**—I realise you did not read the article. I asked a different question but, if you feel uncomfortable answering it, that is fine. Did other departmental officers draw the article to your attention?

**Dr Boxall**—Yes, they did.

**Senator FAULKNER**—Did you get any formal notes from departmental officers about the article?

**Dr Boxall**—Not that I recall.

**Senator ROBERT RAY**—Was the article in the excellent DOFA clipping service?

**Dr Boxall**—I do not know.

**Senator FAULKNER**—I do not know either, but I know it was in the AEC clipping service, which is also excellent.

**Senator ROBERT RAY**—When was the \$4.3 billion suit against DOFA served on you?

**Dr Boxall**—Just a minute, please.

**Ms Grear**—The counterclaim by the main group of defendants in this ongoing litigation was lodged on Friday, 7 April.

**Senator ROBERT RAY**—There has been some critique I have read somewhere that this claim should have in some way appeared in other spots in the budget papers. Would you like to comment on that? I am not giving it any credence. I am just asking what the situation is.

**Dr Boxall**—This claim is referred to in the risk section of statement 6.

**Senator ROBERT RAY**—But the argument was that, by tradition, it also should have been put in the forward estimates or somewhere else. Is that not true?

**Dr Boxall**—It would not be normal to include contingent liabilities or risks in the forward estimates. They are listed in statement 6. That is normal practice.

**Senator ROBERT RAY**—I take it any other questions relating to this will probably be sub judice.

**Dr Boxall**—Probably.

**Senator FAULKNER**—On the same point, the fiscal risks expenses are also detailed in Budget Paper No. 1. I think on page 4-30 DOFA litigation is mentioned.

**Dr Boxall**—That is correct, Senator Faulkner. I am sorry; I said statement 6, I meant to say statement 4.

**Senator FAULKNER**—Within Budget Paper No. 1.

**Dr Boxall**—Correct.

**Senator SHERRY**—Appendix C.

**Senator FAULKNER**—Statement 4.

**Senator SHERRY**—Okay.

**Senator FAULKNER**—That is clear, as you say, in statement 4. I noted in the Commonwealth's consolidated financial statements for the year ended 30 June 1999 there is a statement on page 34 in the schedule of contingencies—

**Dr Boxall**—Which document is this?

**Senator FAULKNER**—I think it is described as the consolidated financial statements for the year ended 30 June 1999, circulated by Mr Fahey. There it says, in the schedule of contingencies:

Macquarie Fleet Leasing Pty Limited, purchaser of DASFLEET, has disputed the valuation methodology adopted by the Commonwealth in the Completion Asset and Liability statements in relation to the vehicle fleet. This matter is subject to arbitration and may result in loss by the Commonwealth.

What is the status of that? Is that ongoing?

**Dr Wright**—The arbitration process has commenced. It commenced in April. There is a break, and it will recommence in mid-June and go through to conclusion.

**Senator FAULKNER**—So I am clear, is that properly described as arbitration, not litigation, if you like?

**Dr Wright**—It is an arbitration. There is an arbitration agreement.

**Senator FAULKNER**—In relation to the matter raised by Senator Ray on page 4-30 of Budget Paper No. 1, I just want to be clear. Basically—and again I do not want to cross over the invisible line—there are effectively two sets of litigation as I read that paragraph under DOFA on 4-30. I think that is fair to say. Is that correct? There are, if you like, two sets of litigation relating to the alleged Muir fraud case. Is that a correct reading of the situation?

**Ms Grear**—That is right. Once the counter claims were lodged in this particular case, the Commonwealth moved from being a plaintiff to also being a defendant. So two counterclaims were lodged: one is by the main group of defendants and is of a specified amount of \$4.3 billion; the other counterclaim is of an unspecified amount, which is also listed as a potential risk to the Commonwealth.

**Senator FAULKNER**—I appreciate that. Thank you, that is helpful. I am grappling with trying to understand why the Macquarie Fleet Leasing Pty Ltd issue that we spoke about a moment ago is not noted as a risk in the budget papers. What is the technical reason for that, just so that I can understand that?

**Dr Wright**—It is a contingent liability, and it has been identified for some time.

**Senator FAULKNER**—I see. So that identification is effectively noted in the consolidated financial statements? Is that how it works? I am just trying to understand the distinction.

**Dr Boxall**—It is listed somewhere in statement 4. We will find it for you.

**Dr Wright**—It is on page 4-41, Senator.

**Senator FAULKNER**—I see. So, effectively it is a contingent liability, not a fiscal risk?

**Dr Boxall**—That is correct.

**Senator FAULKNER**—Thank you for that. In relation to these legal matters—and not going to the substance of either of them—there is at least the possibility of a significant amount of litigation that the department might be involved in and, I suppose, the possibility that significant legal costs will be borne by the department. I wonder if an officer at the table could outline how DOFA is approaching this question of legal advice and tell me who technically DOFA's lawyers are and whether you are still depending on a panel and so forth. Could you give me a brief general understanding of how DOFA is accessing legal advice and support.

**Dr Boxall**—In general terms?

**Senator FAULKNER**—Yes.



**Ms Mason**—In general terms, we have a legal panel of four firms, and business units are able to draw on whichever of those four firms they consider best meets the business needs, bearing in mind the areas of expertise possessed by each of the firms.

**Senator FAULKNER**—I think that those four firms have been identified at previous estimates hearings. I am correct in saying that, aren't I?

**Ms Mason**—Yes. Would you like the names now, Senator?

**Senator FAULKNER**—It is my understanding that they have been identified. I was just going to ask you if there had been any change since they were last identified.

**Ms Mason**—Technically no. It is the same four firms. Minter Ellison has had a change of name.

**Senator FAULKNER**—Are any of these four firms paid a retainer?

**Ms Mason**—No, Senator.

**Senator FAULKNER**—So, given that they are on a panel for DOFA, is there any formal DOFA agreement with the four firms?

**Mr Loudon**—The legal panel arrangements were that we had a deed of standing offer—a standing agreement—of which we could set the basic conditions of access to the members of the panel and then each business unit is able to access that under the deed of standing offer.

**Senator FAULKNER**—Would it be possible for that deed of standing offer to be made available to the committee? Perhaps Dr Boxall might prefer to answer that. I do not want to be too sensitive about DOFA's internal operations.

**Ms Mason**—It would be our assessment that the deed contains information that could prejudice the commercial interests of the firms involved in the legal panel. We could take it on notice if you wish.

**Senator FAULKNER**—Yes, could you take it on notice? If it is not possible, perhaps you could explain what problems exist. I am interested in understanding whether a particular firm is attached to a particular piece or set of litigation. Is that how it works, or is there a bit of mixing and matching in here with legal firms?

**Ms Mason**—Normally with a piece of litigation it would make sense for one firm to handle that piece of litigation, but it is up to the business unit concerned to decide how best to take legal advice in relation to the matters they are handling.

**Senator FAULKNER**—In relation to prospective major litigation that the department might be involved in, could you indicate which legal firms are dealing with which matters?

**Ms Grear**—In terms of the major litigation in relation to the alleged fraud, the solicitor on record for that case is the AGS, supported in a minor role by Minter Ellison who are providing some assistance on that. So it is a dual team but AGS has the primary carriage.

**Senator FAULKNER**—And that is in relation to what?

**Ms Grear**—In terms of the David Muir alleged fraud case.

**Senator FAULKNER**—What about in relation, say, to the DASFLEET issue?

**Dr Wright**—Minter Ellison.

**Senator FAULKNER**—I read a little note in the *Canberra Times* on 22 March, which says under the heading, 'Fraud charges':

Alan Christopher Shires defrauded almost \$73,000 from the Commonwealth, the ACT Magistrates Court heard yesterday

Shires is facing 16 charges of defrauding the Commonwealth. He was employed by the Department of Finance and Administration to sell department computers.

He allegedly kept \$72,771.33 from the sales for himself.

He will next appear in court on April 10.

Is DOFA directly involved in any matter relating to that particular case that I have identified?

**Ms Grear**—Sorry, Senator; could you restate the question?

**Senator FAULKNER**—I mentioned a case that was reported in the *Canberra Times*—fraud charges involving a Mr Alan Christopher Shires. My only recollection of reading about it anywhere was an article in the *Canberra Times* of Wednesday, 22 March 2000. My question was: is DOFA involved in any litigation around that issue, or is that a matter being handled by other departments or agencies?

**Ms Grear**—That matter is basically a criminal matter which is being pursued.

**Senator FAULKNER**—I assumed it might be handled by other departments and agencies. Is there any DOFA involvement there?

**Mr Loudon**—As is normal with these criminal cases, it is being operated by the Director of Public Prosecutions and was referred through from the AFP on reference from the department.

**Senator FAULKNER**—So, really, the answer to my question is no.

**Mr Loudon**—No.

**Senator FAULKNER**—I thought that was the case, but I appreciate that. In relation to legal costs in general for the panel of lawyers that we are referring to, can you just point to where I find that in the PBS, please?

**Mr Murphy**—The price of legal services would be spread across each of the outputs; or, firstly, the outcomes in each output pertaining to the outcome. So each business unit, as was said previously, funds its own legal services.

**Senator FAULKNER**—So there is no, if you like, disaggregation, specific budget appropriation, line item or anything that I can find in the PBS; it that what you are saying?

**Mr Murphy**—Yes.

**Senator FAULKNER**—Yes, there is not?

**Mr Murphy**—Yes, there is no direct line item.

**Senator FAULKNER**—That is user friendly! How can I get to the bottom, then, Dr Boxall, as to what the cost to the department is for its engagement of outside legal consultants with the four panel members? In other words, I require a figure that is aggregated across the four panel lawyers. Would you know that figure, Dr Boxall?

**Ms Mason**—We do not know the precise figure without taking it on notice, but I can give you from the papers that I have an estimate of around \$2 million for this financial year.

**Senator ROBERT RAY**—That is a good estimate; now that you are taking it on notice you will have given us both barrels. That is good.

**Senator FAULKNER**—I think what would be useful, Ms Mason, is to understand how much the four panel members were receiving of the department's work, just a very general description. In other words, for example, if it is the Muir case, or it might be, I think you said, Minter Ellison for DASFLEET—just a dollar amount would be helpful. I do not want to put you to a huge amount of work, but you just cannot find any of this information anymore in any of the documentation that is made available. Generally, Dr Boxall, at what departmental level have you determined officers can make decisions about which particular member of the panel the department might go to? Is there a specific departmental level below which officers are not competent in the circumstances to make those decisions?

**Dr Boxall**—Legal advice is initiated in the relevant area by the business group. So the general manager of the business group would be in charge of hiring legal advice if necessary.

**Senator FAULKNER**—Thank you. Again, which level of officer is competent to brief lawyers?

**Dr Boxall**—That depends on the circumstances, Senator Faulkner, and that is a judgment for the general manager of the group.

**Senator FAULKNER**—Are there any departmental guidelines on this, or is it something that is basically left to the good sense of the manager concerned?

**Dr Boxall**—It is an issue that is left to the judgment of the general manager.

**Senator ROBERT RAY**—Is Mr Searle from the Commonwealth Grants Commission here?

**Dr Boxall**—That is down the agenda.

**Senator Ellison**—Did you want to knock it off now?

**Senator ROBERT RAY**—I was just thinking, if he were here, because we have slotted everyone else in, I would try to find a slot for him. If he is not here, we will do it later on.

**Senator Ellison**—He is not here, unfortunately.

**Senator ROBERT RAY**—We will do it later on. Minister, can I ask you a question. Can you confirm that you received the Australian Electoral Commission annual report on 18 October 1999?

**Senator Ellison**—I would have to check that date. Off the top of my head, I could not tell you the date.

**Senator ROBERT RAY**—Could I ask you why as minister you did not as required by section 25(8) of the Public Service Act 1992 table the document before 31 October 1999.

**Senator Ellison**—I think we did comply with our duties in that regard. I might even have the date here too. The Electoral Commission does not accept that either it or the minister—that is me—failed to comply with the legislative or tabling requirements. Since the AEC annual report for 1998-99 was provided under the Commonwealth Electoral Act, it was not subject to the Public Service Act 1992 time frames. The AEC accepts the discrepancy between the date of the letter of the transmittal of the report and the printed and Internet versions of the AEC report and has taken steps to rectify the problem. For those reasons, we do not accept that it was in breach of any time line that you mentioned.

**Senator ROBERT RAY**—I was asking you two fairly simple questions before you found the lifeline there.

**Senator Ellison**—It is not a lifeline; it is a fact. As for the date I received it, I will advise you.

**Senator ROBERT RAY**—I asked you whether you received the AEC report on 18 October. Does that brief help you to refresh your memory?

**Senator Ellison**—It was received on 18 October.

**Senator ROBERT RAY**—When was it forwarded for tabling by you?

**Senator Ellison**—The report of the Australian Electoral Commission was tabled on 23 November 1999, according to my advice here.

**Senator ROBERT RAY**—So 36 days after you received the report you managed to have it tabled?

**Senator Ellison**—In the circumstances that I have outlined we do not accept that that was late.

**Senator ROBERT RAY**—I have not said it was late—not yet anyway. I have asked why it took 36 days to get it out of your office and tabled in the parliament.

**Senator Ellison**—I do not think that is an abnormal length of time. It is a decent—

**Senator ROBERT RAY**—What were you doing? Did it take 36 days for you to read and clear it, or did you just not bother?

**Senator Ellison**—No. The report is not something that you read at bedtime and give a tick to.

**Senator ROBERT RAY**—Have you ever amended an annual report? Have you ever sent it back for correction? Don't you just tick it off? Because it is their report, not yours.

**Senator Ellison**—I have dealt with a lot of annual reports in a number of portfolios. I will have to check that.

**Senator ROBERT RAY**—You would remember if you altered an annual report. That is not your report.

**Senator Ellison**—It does not go to the minister for rubber-stamping. It goes to the minister for the minister to read.

**Senator ROBERT RAY**—This is the Australian Electoral Commission. It does not go to you for amendment. It is a statutory authority.

**Senator Ellison**—I still have responsibility for tabling it, and I still have responsibility for answering questions on it.

**Senator ROBERT RAY**—And that is: putting a stamp on an envelope, addressing it to the President, and having it tabled. You do not get to read or amend or do anything else to the Electoral Commission's report.

**Senator Ellison**—Senator Ray, there was nothing untoward in that effluxion of time.

**Senator ROBERT RAY**—There is. I am just asking why it takes 36 days, after receiving a report, for you to table it in the parliament. I understood the original reason for this was 'workload'—that the minister was heavily involved in the referendum campaign and did not have a chance. That was just a bit of gumpf put up at the time, was it?

**Senator Ellison**—There was a referendum on at that time, as you will recall, and that of course occupied the time of the AEC and my office—in early November, I think.

**Senator ROBERT RAY**—There is no criticism of the AEC here. The AEC gets its report in to you on 18 October. Whether they are bound or only morally bound to have it tabled by the 31st, it does not matter. You sat on it until 23 November.

**Senator Ellison**—I do not think I did.

**Senator ROBERT RAY**—What did you do?

**Senator Ellison**—It is not the only thing that occupies my time each day.

**Senator ROBERT RAY**—But you do not have that much compared with other ministers. Why does it take 36 days to table it?

**Senator Ellison**—The referendum was, for part of that time, occupying the attention of my office, and the AEC as well. You are entitled to ask questions of the people who give you a report, aren't you, Senator Ray? You could not possibly deny that.

**Senator ROBERT RAY**—Yes, I could. I could say that if I got a report from a statutory authority, that is their annual report and what is in it is their responsibility, not mine.

**Senator Ellison**—So you are not going to ask them any questions.

**Senator FAULKNER**—Did you ask them any questions, Senator Ellison?

**Senator Ellison**—I will check my records. But the fact is that there is absolutely nothing wrong with that period of time; nothing.

**Senator ROBERT RAY**—Of course there is. It takes you 36 days to table an annual report. What does your office do?

**Senator Ellison**—There was the referendum for the first two weeks of that time.

**Senator ROBERT RAY**—What? You were handing out how to vote cards between 18 October right through to 6 November?

**Senator Ellison**—Senator Ray, you might recall that I was the minister responsible and there were a number of issues running at the time. Our office had a number of queries as to the referendum which we had to deal with and which we were dealing with the AEC on. There were a variety of aspects of the referendum which were unique, as you know. It was not your normal referendum. Even after the referendum, which was held, as I recall, on 6 November, there were other issues to follow up.

**Senator ROBERT RAY**—I think that is one of the most demeaning and pathetic answers I have ever heard. You cannot get a report in, it takes you 36 days, and you are citing the referendum as one of the reasons why it was not in. You cannot remember whether you asked for any amendments, you do not know whether you have ever asked for an amendment—

**Senator Ellison**—Yes, I have. As I recall, in other portfolios—

**Senator FAULKNER**—But you cannot recall in this one, can you?

**Senator Ellison**—In this particular instance—

**Senator FAULKNER**—You cannot recall whether you contacted the AEC.

**Senator Ellison**—I said I would check my records.

**Senator FAULKNER**—But you do not know. You have to check your records.

**Senator Ellison**—I cannot tell you what I had for breakfast on 7 November. I would have to go back and check.

**Senator FAULKNER**—You ought to be able to if you suggest amendment—

**Senator ROBERT RAY**—I know what you will have tomorrow: a bit of crow, by the looks of things.

**Senator Ellison**—Senator Ray, you really are drawing a long bow; let's face it. There was nothing untoward in this tabling whatsoever.

**Senator ROBERT RAY**—I would have thought it would have been better—rather than to construct this elaborate reason—to say that there was some hiccup in your office. We would understand.

**Senator Ellison**—There is none.

**Senator ROBERT RAY**—A report comes in, there is a general requirement that it be tabled by 31 October—that is there for good reason; you might find a technicality in this case why that is not the case—and it sits in your office for 36 days. In fact, it sits in your office for 17 days after the referendum, apparently. It is nothing to do with the AEC; it is to do with the incompetence of your office in not getting it in to the parliament.

**Senator Ellison**—There is absolutely no incompetence.

**Senator FAULKNER**—It is your incompetence, not your office's.

**Senator Ellison**—It was within time.

**Senator FAULKNER**—It is your incompetence.

**Senator Ellison**—No, it was within time.

**Senator FAULKNER**—You do not even know whether you talked to anyone about it.

**Senator Ellison**—It was within time, and I reject the report of this committee, which stated that it was out of time. That is totally wrong, because of the misunderstanding of this committee of the provisions of the Electoral Act and that it does not come within Public Service Act time frames. If you are going to talk about incompetence, you might have to think about your report.

**Senator FAULKNER**—You talk to the majority of the committee about that.

**Senator ROBERT RAY**—Minister, I have not once argued about cut-off times here. I am just arguing about normal competency, that it takes you 36 days and then you put up this absolute garbage that you were going to consider the report and there may have to be amendments to it. You do not amend the AEC annual report; you do not have the power to amend it. You know that. Go back and look at the legislative base.

**Senator Ellison**—Do you mean to say that if you find something to be a mistake in the report you have got no comeback at all?

**Senator ROBERT RAY**—You would if it was a departmental document. This is a statutory authority.

**Senator FAULKNER**—Look left. You are getting the word. You are in trouble.

**Senator Ellison**—I have just been advised that our office found two errors which they did communicate to the AEC, which were taken out.

**Senator ROBERT RAY**—When was that?

**Senator Ellison**—I do not have the dates, but they were communicated to the AEC.

**Senator FAULKNER**—Typos, were they?

**Senator Ellison**—I will have to get further instructions on that.

**Senator ROBERT RAY**—It caused the delay, did it?

**Senator Ellison**—I think it shows you that it is not just a rubber-stamping of a report. It would be wrong of any minister to simply get a report from a statutory authority and say, ‘Well, it doesn’t concern me. It is their report and I will table it willy-nilly.’ It was within the time frames, and that is what you have regard to.

**Senator FAULKNER**—‘We will send up our press releases to you so that you can check the spelling.’ That is terrific.

Dr Boxall, going back to the Geiselhart report that you have not read, were you aware that the Geiselhart report was published in the *Canberra Bulletin of Public Administration*?

**Ms Morawska-Ahearn**—The Geiselhart report was not published in the bulletin of administration. An extract of the *Canberra Times* article was published in the *Canberra Bulletin of Public Administration*.

**Senator FAULKNER**—Is the department aware of any legal action that was threatened in relation to that particular publication?

**Ms Morawska-Ahearn**—The department, as I understand it, sent Dr Geiselhart a letter after the original article reminding her that we had a legal right to review any material that she might wish to reproduce. I am not aware of any legal action.

**Senator FAULKNER**—Who signed the letter?

**Ms Morawska-Ahearn**—I did.

**Senator FAULKNER**—Did you draw that to Dr Boxall’s attention?

**Ms Morawska-Ahearn**—I do not believe that Dr Boxall has read that letter.

**Senator FAULKNER**—I see. You threatened legal action—

**Ms Morawska-Ahearn**—No, I did not threaten legal action. I simply returned her doctorate and requested that, should she wish to publish any further information pertaining to our department, we were to discuss it first.

**Senator FAULKNER**—Was Dr Boxall, for example, or the minister made aware that this was going on?

**Ms Morawska-Ahearn**—I believe they were, yes.

**Senator FAULKNER**—So Dr Boxall was made aware this was going on?

**Ms Morawska-Ahearn**—Yes.

**Senator FAULKNER**—And the minister was made aware?

**Ms Morawska-Ahearn**—I believe the minister was.

**Senator FAULKNER**—Can you confirm that Dr Boxall was made aware?

**Ms Morawska-Ahearn**—I can confirm that Dr Boxall was made aware.

**Senator FAULKNER**—Can you confirm that the minister was made aware?

**Ms Morawska-Ahearn**—I cannot confirm that the minister was made aware.

**Senator FAULKNER**—Thank you. Dr Boxall, you can confirm that you were made aware of this matter?

**Dr Boxall**—Which matter, Senator Faulkner?

**Senator FAULKNER**—The matter I have just been canvassing with Ms Ahearn.

**Dr Boxall**—Which aspect of that matter?

**Senator FAULKNER**—Do we really have to go through this?

**Dr Boxall**—To these questions I need to give precise answers, so I would like to know which matter you would like me to—

**Senator FAULKNER**—Did Ms Ahearn make you aware of the correspondence she has just been referring to in the evidence to the committee?

**Dr Boxall**—In general, yes.

**Senator FAULKNER**—Ms Ahearn, how did you communicate with Dr Boxall about this issue?

**Ms Morawska-Ahearn**—I told Dr Boxall that I had sent a letter to Dr Geiselhart.

**Senator FAULKNER**—Thank you. Did you threaten legal action yourself, Dr Boxall, on this matter?

**Dr Boxall**—No.

**Senator FAULKNER**—I see. Did anyone in the department take action to have Dr Geiselhart's paper effectively pulled from the agenda of a recent conference on public administration?

**Ms Morawska-Ahearn**—No, we did not undertake action to have her paper pulled from that conference.

**Senator FAULKNER**—Are you aware of the conference?

**Ms Morawska-Ahearn**—I am aware of that conference, yes.

**Senator FAULKNER**—Did the department take any action in relation to the proposal to present that paper at the conference we are referring to?

**Ms Morawska-Ahearn**—No, we did not undertake any action to have that paper pulled from the conference.

**Senator FAULKNER**—There was no action at all?

**Ms Morawska-Ahearn**—No.

**Senator FAULKNER**—Did you undertake any action in relation to the paper being presented at the conference?

**Ms Morawska-Ahearn**—No, we did not.

**Senator FAULKNER**—With all this going on, Dr Boxall, you did not actually read the original article in *the Canberra Times* about the administration of the Department of Finance and Administration, a great deal of which occurred under your stewardship of the old Department of Finance.

**Ms Morawska-Ahearn**—Senator, while I have the opportunity, I would like to amend the *Hansard* record in relation to that comment you made. As we understand it from discussions I have had with ex-DOF officers, Dr Geiselhart's work was undertaken in 1996. She wound up



her work between December 1996 and January 1997, and she was finishing just as Dr Boxall came to the department.

**Senator ROBERT RAY**—There is reference in the article, isn't there, to a new secretary? On the right-hand side of the article there is some reference there, isn't there? That sort of gives us the time line. It's okay.

**Senator FAULKNER**—What I find extraordinary, Dr Boxall, is that, regardless of whether some of this period was when you were Secretary to the Department of Finance and Administration or the Department of Finance, here is an article in the *Canberra Times* newspaper effectively about the administration of the department, and you do not see fit to read it, even though it has been raised with you on a number of occasions and the like. Apparently, it would appear from the evidence being given, it is at least contentious or a little controversial. I find that remarkable. I wonder why you did not read it.

**Dr Boxall**—There was no need to read it, Senator Faulkner.

**Senator FAULKNER**—Why not?

**Dr Boxall**—Because extracts of the article were highlighted for my information.

**Senator FAULKNER**—But why would you not want to read the whole article to get the flavour and tenor of what the writer was promoting?

**Senator Ellison**—There are occasions where the secretary can be asked why he did something or did not do something, but there are other occasions where it is just a matter of personal judgment on the secretary's behalf. I think that this question really does go beyond the bounds. I do not think the secretary has to answer every single question as to why he did or did not do something. There may be a host of reasons. Certainly, if there was a decision made by the department, or if there was something relating to the administration of government, that would be a different story. But in his day-to-day work it really is going beyond the bounds as to why he did or did not do something.

**Senator SHERRY**—Ms Morawska-Ahearn, have you obtained a copy of Ms Geiselhart's paper?

**Ms Morawska-Ahearn**—Of the *Canberra Times* paper?

**Senator SHERRY**—No, not the *Canberra Times* article report on her paper but the paper itself.

**Ms Morawska-Ahearn**—As I understand it, the *Canberra Times* report was an article that she wrote for that particular—

**Senator SHERRY**—I understand that, but do you have a copy of the paper itself?

**Ms Morawska-Ahearn**—Which paper are you referring to, Senator?

**Senator SHERRY**—Ms Geiselhart's paper.

**Senator ROBERT RAY**—I think they might call it a doctorate; the actual thesis.

**Ms Morawska-Ahearn**—I have seen her thesis, yes.

**Senator ROBERT RAY**—I think you said earlier on that you had returned it.

**Ms Morawska-Ahearn**—I did return it to her.

**Senator ROBERT RAY**—You had it but you no longer have it.

**Ms Morawska-Ahearn**—I do not have it; she has it back.

**Senator SHERRY**—Did you draw the paper's attention to Dr Boxall?

**Ms Morawska-Ahearn**—Which paper? The thesis or the *Canberra Times*?

**Senator SHERRY**—The thesis.

**Ms Morawska-Ahearn**—Dr Boxall was aware that I had seen the thesis and that I had returned it to Dr Geiselhart, yes.

**Senator SHERRY**—Yes, but that is not what I asked. Did you send a copy of it to Dr Boxall?

**Ms Morawska-Ahearn**—I did not send a copy of it to Dr Boxall because I believe this actually happened prior to my arrival in the department. I think I arrived just as the thesis was in the process of being sent back. In my role as GM, corporate, I returned it to Dr Geiselhart.

**Senator SHERRY**—Do you know if any other officer of the department sent a copy to Dr Boxall?

**Ms Morawska-Ahearn**—I am not aware of any other officer who sent a copy to Dr Boxall. I would just like to amend the record there. I believe I was on leave when this happened rather than having just started in the department.

**Senator SHERRY**—Did you send a note to Dr Boxall with extracts or a commentary?

**Ms Morawska-Ahearn**—No, I did not.

**Senator SHERRY**—Dr Boxall, did you read a copy of Dr Geiselhart's thesis?

**Dr Boxall**—Not the complete thesis.

**Senator SHERRY**—You said 'not the complete thesis'; what did you read? Were they extracts?

**Dr Boxall**—I recall reading one chapter, possibly 1½ chapters, of her thesis.

**Senator SHERRY**—Did you obtain that from the officer who had a copy of her thesis?

**Dr Boxall**—Yes. It was forwarded to me by the relevant officer.

**Senator SHERRY**—Was that prior to the appearance of the article in the *Canberra Times*?

**Dr Boxall**—Correct.

**Senator ROBERT RAY**—Which might explain why you did not read the article. You had already read the book.

**Dr Boxall**—Possibly.

**Senator ROBERT RAY**—Dr Boxall, I would like to seek your guidance for a moment. Where would you like questions on competitive tendering and contracting raised—under 2.2?

**Dr Boxall**—Senator Ray, if they are general questions on government policy, I think the best shot would be to raise them under 2. If they are specific to DOFA contracts, it would be best to raise them now. Is that okay with you?

**Senator ROBERT RAY**—No. The question is on general government policy so I will raise them with you later in the day.

**Dr Boxall**—Certainly.

**CHAIR**—Are there any further general questions?

**Senator SHERRY**—Yes. The Joint Committee on Public Accounts and Audit expressed some concerns about the lack of availability of the outcome and output forward estimates. They said that ‘accrual appropriations will reduce the ex-ante scrutiny parliament is able to exercise on the detail of government expenditure.’ I understand that they have asked that they be provided in the budget papers. When does the government intend to respond to that JCPAA report?

**Mr Murphy**—The government has responded, and it has agreed to adopt six of the committee’s recommendations.

**Senator SHERRY**—Do they include the recommendation on the provision of outcome and output forward estimates?

**Mr Murphy**—No. That is the only one the minister or the government did not accept. The rationale for that is that that information is already provided in the budget papers in statement 6 and in the function analysis tables. So the information in the out years for each of the department’s expenditure is already provided in the budget papers.

**Senator SHERRY**—You are arguing that this information is provided in full?

**Mr Murphy**—Yes, it is provided in statement 6, the expense tables. You can see where the out years of the expenses are for each of the agencies. It does not break it down into the outputs, but it gives you each of the agency’s expenditure for the year.

**Senator SHERRY**—Part of my question went to output forward estimates. That is not provided.

**Mr Murphy**—It is provided in the agencies forward. Some people prefer to use the functional analysis than the output analysis.

**Senator SHERRY**—Is this the information that the budget management systems of the Department of Finance and Administration produce in detail?

**Mr Murphy**—Yes. The information which is in the budget papers is what will be in the AIMS database within the department, provided by the agencies.

**Senator SHERRY**—Does the department produce internally estimates by outcome with detail for each output and administered item?

**Mr Prior**—It depends a bit on what you mean by detail. I am not trying to be difficult. The system does not collect the detail down to the level that I think you are referring to.

**Senator SHERRY**—There has been some criticism—and I include the JCPAA in this—about the detail of information that is provided in the budget papers. It seems that there is less detailed information than we had prior to the introduction of accrual accounting.

**Mr Prior**—It has already been pointed out to you that Portfolio Budget Statements contain significant detail at the individual departmental agency level. To the extent there is a criticism of that detail, we have a view that the budget papers embrace the Portfolio Budget Statements as well. They are now released on budget night as a complete package and provide a significant degree of detail. If you are looking for all the detail in the budget papers themselves, that is not there.

**Senator SHERRY**—Sorry?

**Mr Prior**—The detail you are looking for in the budget papers is in the Portfolio Budget Statements, I believe.

**Dr Boxall**—Under the accrual budgeting system, the plan, which has been adhered to, is to produce the Portfolio Budget Statements on the night of the budget. The total amount of detail is the budget documents and the Portfolio Budget Statement, which was not the case before—they were not produced on the night of the budget. So there is more detail, more information, available now.

**Senator SHERRY**—Are you saying there is more detailed information about outputs and the administration of each item than there was prior to the introduction of accrual accounting?

**Mr Murphy**—Could you please repeat the question?

**Senator SHERRY**—Are you saying that under accrual accounting there is more detail for each output and administered item published in the budget papers than prior to the introduction of accrual accounting?

**Mr Murphy**—A number of commentators have said that there is less information. We would argue, on balance, that there is probably more information in the budget papers when you take them as a whole and read them with the PBSs. Take into account that accrual budgeting is looking at outcomes and outputs and not looking at inputs. I go back to the question Senator Faulkner asked about legal services. It is an input, not an output, for the department. To achieve an output, yes, you might need legal services or you might not. That is what I am getting at. It is in the eye of the beholder. We feel that when you examine all the papers and trace through the documents you do get substantial information about the government's expenditure.

**Senator SHERRY**—I am glad you asked about the issue that Senator Faulkner asked about earlier. Let us use that as an example. Senator Faulkner and my colleagues could not find that information about the cost of legal services, and it has been taken as a question on notice. If we use that as an example, not just my colleagues but apparently the Joint Committee on Public Accounts and Audit has similar concerns.

**Mr Murphy**—No. I think with those concerns again you would have to go back. The rationale or the thesis behind accrual budgeting is to concentrate on accounting for outputs, and that information is provided as outputs. The ingredients that make up the output, yes, there is information there about those ingredients and there is performance information in the PBSs about the achievement of those outputs.

**Senator SHERRY**—My understanding is that the outcomes and outputs are provided for one year out. Is that correct?

**Mr Murphy**—In statement 6 in Budget Paper No. 1, for each agency the expenses for the agency and their capital are detailed for the budget year and outyears.

**Senator SHERRY**—If I go to page 82 of the Portfolio Budget Statement, just by way of example, we have departmental appropriations, output group 2. I have only got the one year listed there.

**Mr Murphy**—Yes.

**Senator SHERRY**—Why doesn't it go out for the three years?

**Mr Murphy**—Which one?

**Senator SHERRY**—I am looking at page 82 of the Portfolio Budget Statement.

**Mr Murphy**—As I said, if you look at the functional tables in statement 6, appendix A, it sets out information in the outyears.

**Senator SHERRY**—This is Budget Paper No. 1?

**Mr Murphy**—Yes.

**Senator SHERRY**—Statement 6. Can you show me by cross-referencing on page 82 of Portfolio Budget Statement 2000-01—this is by way of example—where we get figures for the three forward years by cross-referencing to statement 6 in Budget Paper No. 1? Is that possible?

**Mr Murphy**—Could you clarify the question, please, Senator?

**Senator SHERRY**—I am asking about portfolio budget statements. Right?

**Mr Murphy**—Yes.

**Senator SHERRY**—I look at them—and I have used page 82 as an example—and I see budget estimates for one year, 2000-01. Why don't I see budget estimates for three years?

**Mr Murphy**—The decision was made by the government that, as that information is provided in aggregate form in statement 6, there should be no requirement on portfolio agencies to provide the outyears in the portfolio budget statements.

**Senator SHERRY**—I will come back to that response in a second. Presumably, the department keeps—using page 82 as an example—the forward estimates for the three years. You publish them for the one year—2000-01—so, presumably, you have the figures for the three years in the department.

**Mr Murphy**—Yes, we have the aggregate figures.

**Senator SHERRY**—Which aggregate? Let us use page 82 by way of example—'Department appropriations—Output group 2.1'. Do you have within the department the forward estimates in the same way as they are listed there for the years beyond 2000-01?

**Mr Murphy**—I am advised that we do have that information.

**Senator SHERRY**—To go back to your answer before my last question—and I preface the question by this remark—these portfolio budget statements are used by members of the estimates committee to examine department expenditure, to prepare questions, and there may be a whole range of other people who do the same thing. Certainly, I think some journalists, from articles I have seen, do that. The department prepares that information. What is the rationale for not publishing it in the budget statements? You have said it is not government policy, but what is the rationale?

**Mr Murphy**—The rationale would be to say that the focus is the budget year and that that type of information is available elsewhere within the budget papers.

**Senator SHERRY**—But it is not available in the portfolio budget statements which not just myself but other committees use as their ready reference when coming to estimates. That is the difficulty.

**Dr Boxall**—As Mr Murphy said, it is a government decision not to require agencies to provide forward estimates in the portfolio budget statement—and you have referred to page 82 of the portfolio budget statement. The government has made a decision not to do that. The rationale is that there is lots of forward estimates information in the 2000-01 budget papers, and we have outlined a few. All we can do is note your concern and advise the government accordingly.

**Senator SHERRY**—I appreciate you noting the concern. I do not know what sort of advice you are going to give to the minister on this matter. I understand that this is an issue raised by the JCPAA. It is an issue that I and other members of the opposition have raised. More importantly, people in the general community who go to these portfolio budget statements are also seeking this information. Mr Murphy has admitted that it is available within the department.

**Dr Boxall**—As you might imagine, it has to be available; otherwise we could not add up and produce the tables in statement 6. We have explained that it is a government decision. We can do little more than note the concern of the committee on this and advise the government accordingly.

**Senator SHERRY**—It seem to me that, as a consequence of the position that we are in with what I would term the lack of publication of available data, we have less information in this area than we did prior to accrual accounting.

**Dr Boxall**—As Mr Murphy said, the focus of the accrual budget is on outcomes and outputs; it is not on process and inputs. There is a lot of information in statement 6 which gives expenditure projections right out to 2003-04. We have noted the concern you have raised. Effectively what you have raised is that the forward estimates of the appropriations are not in the portfolio budget statement. We will take that matter up.

**Senator SHERRY**—My concern, Dr Boxall, is that there is a retreat, a lesser availability, of the more detailed information, notwithstanding the earlier points you have made, that we have previously had access to. I am not just referring to my parliamentary colleagues or me but to members of the community, community groups and organisations, including the media, who have attempted to obtain this information. They have had access to it in the past and cannot obtain it as a result of the format and information made available in these portfolio budget statements.

**Dr Boxall**—The point here is that there is probably more information available. It is not surprising, I would argue, given the government has introduced an accrual budget system which focuses on outputs and outcomes, that the relative availability of information has shifted from process and inputs, which was the previous case, to relatively more information on outputs and outcomes. We have noted your concern that there is relatively less information on process and inputs.

**Senator SHERRY**—I note your comment about more information in the general, but it is the lack of detailed information. Going back to that earlier question of Senator Faulkner about legal costs, we could not identify it. I would have thought that is something by way of example that should be readily identifiable in the Portfolio Budget Statements. That type of detailed information, in certainly the Labor opposition's view, would be readily available and this seems to us to be, rather than a more transparent and open availability of information, a retreat from that under the guise of accrual accounting.

**Dr Boxall**—I think you will find there is much more detailed information available. It tends to be available on outputs and outcomes. But we have noted your comments.

**Senator SHERRY**—You have said that you would report this to the minister. You are obviously going to have some discussions about this. You will take this on notice for us, please.

**Dr Boxall**—We will report these concerns to the minister.

**Senator SHERRY**—Will we have a response to the expression of our concerns? You will take that on notice.

**Dr Boxall**—Yes, but obviously we will need to consult the minister before we respond.

**Senator SHERRY**—I understand that. I would like to ask some questions about the treatment of the sale of the Commonwealth's remaining interest in Telstra in terms of budget paper information.

**Senator Ellison**—Excuse me. It might be getting a bit detailed. We can answer the questions in due course, but I do not know whether we are at a stage where we can go into much detail. We are still on general questions, I understand.

**Senator SHERRY**—I do not want to go into extensive detail about the treatment of Telstra, but can you show me where in the budget papers the financial detail of the sale of Telstra is?

**Dr Boxall**—Are there more general questions? We are happy to answer this question—

**Senator SHERRY**—I have got some other general questions.

**Dr Boxall**—This goes to outcome 1. We are happy to answer it.

**Senator SHERRY**—It goes to outcome 1?

**Dr Boxall**—Yes.

**Senator SHERRY**—Maybe we should try and clear it up now.

**Mr Murphy**—Just to facilitate proceedings, Senator: this is an interim answer and we can get the relevant people from the department to give more detail. It is Budget Paper No. 1—4-10, proceeds from asset sales program.

**Senator SHERRY**—I have got page 4-10.

**Mr Murphy**—It is in the centre of the page.

**Senator SHERRY**—I still cannot find it.

**Dr Boxall**—It is table 6. Go down to about the fifth bold item—'Investing activities', 'Cash received', 'Proceeds from asset sales program'.

**Senator SHERRY**—I see it. Looking back at Budget Paper No. 1 in 1998-99—I do not know whether you have got that readily available—there was a heading 'Budget implications of the sale of Telstra' and it appeared on 2-39. There were some paragraphs about the part sale of Telstra. It had a table 11—'Budgetary impact of sale of two thirds of Telstra'—and it had a set of figures listed: sales, costs, net income, underlying budget impact. I wondered why there is not a table similar to that in the budget paper.

**Dr Boxall**—This is a question on outcome 1. We are happy to address it. Is it possible to deal with the general questions first?

**Senator SHERRY**—Yes, we will come back to it later. We will put the issues relating to Telstra aside for the moment. I have a general question about the \$360 million GST advertising campaign. I cannot find where it is appropriated in the budget papers. Can you take me to where it is appropriated?

**Senator Ellison**—It is an advertising information campaign, I hasten to add.

**Mr Murphy**—You would need to look at the portfolio budget statements of Treasury and the Taxation Office to identify the GST program funding.

**Senator SHERRY**—So we need to go to each department to identify each particular category and add them all up?

**Mr Murphy**—Yes.

**Senator SHERRY**—A lot of the money for the GST propaganda campaign—

**Senator Ellison**—Mr Chairman, I think we have referred to it as the GST information education advertising campaign. I think it is tomorrow that the GCU is being called on to PM&C. Perhaps that issue can be raised then, with questions and statements in relation to that.

**Senator SHERRY**—I do not propose to go to the detailed questioning about expenditures in this area. I am just dealing with some general principles about appropriation. I do not have a lot of questions in this area. Much of the allocated moneys that have been spent, or will be spent, are new. My understanding is that under the old appropriation structure it would have had to have been separately identified by the relevant department in Appropriation Bill No. 2. Is that correct?

**Mr Murphy**—I would have to seek advice on the previous system. Appropriation bills now are at statement 4. I would just have to check statement 4 to see whether it is identified under the Treasury portfolio as a separate line item. I doubt that it is, but I can check on that for you.

**Senator SHERRY**—Perhaps you could check and come back at a later time. As we saw in the last round of estimates with you, Minister, Senator Faulkner had some problems identifying the total figure and had to go through to Treasury to get a better idea about what that total figure was. This is another example of the budget papers being less transparent than the previous system. It was not possible to identify this money by examining the appropriations. Do you have a response?

**Mr Murphy**—I do not wish to respond to that until we look at the documentation of the previous appropriation system and compare. I cannot comment on that until we have checked back to see whether what you are saying is actually the position.

**Senator SHERRY**—Could you indicate under which outputs in which department the moneys for this program are for? Are you able to do that now or do you want to take that on notice?

**Mr Murphy**—Questions relating to the GST should really be directed to the Treasury portfolio. It would not be too hard to look at the Treasury portfolio PBS to see where the outputs relating to the GST were. But that is an issue for Treasury.

**Senator SHERRY**—There was some considerable difficulty in finding the details of these expenditures. I do not know whether you were watching the Economics Legislation Committee estimates a fortnight ago when Senator Faulkner was asking about these issues. And he posed some questions here.

**Mr Murphy**—Those questions should be put to the Department of the Treasury.

**Senator SHERRY**—I will come back to this matter. If you are able to obtain that information and provide it over the course of the next day or two, I might have a couple of further matters I want to raise on that.

**Mr Murphy**—Certainly.



**Senator SHERRY**—This question relates to Budget Paper No. 4, page 3—the mechanics of the appropriation for the GST. Could you explain how the appropriation for the GST will work?

**Dr Boxall**—Would it possible to give us an idea of what general questions you have so we can get them out of the way?

**Senator SHERRY**—I was of the view that these were general questions. Where would you like this issue dealt with?

**Dr Boxall**—This issue can be dealt with under outcome 1.

**Senator SHERRY**—I will leave it there and come back to it under outcome 1. I have some questions in relation to carryovers from 1999-2000.

**Dr Boxall**—Outcome 1.

**Senator SHERRY**—There was an advance to the Minister for Finance and Administration, Family and Community Services.

**Dr Boxall**—Outcome 1.

**Senator SHERRY**—We are making very rapid progress here. I had some questions about the Department of Finance and Administration's liaison with the Department of Defence.

**Dr Boxall**—That is possibly outcome 1, but I think we could probably handle that now as a general question.

**Senator SHERRY**—Good. Thank you. By way of background, Dr Hawke, the Secretary to the Department of Defence, made an address to the National Press Club on 17 February. Have you seen reports of that address?

**Dr Boxall**—Yes, I am aware of that.

**Senator SHERRY**—I am only summarising this in general terms, but he indicated that the financial position against the forward estimates was poor and that the department's financial statements were in danger of being qualified by the Auditor-General. What is your understanding of the potential danger of the department's statements being qualified by the Auditor-General? Do you have any information on this?

**Mr Hodgson**—The issue in relation to the potential qualification of the Department of Defence's accounts related to the valuation of assets, in particular the difficulty of calculating depreciation on a number of those assets. There were extensive discussions between the auditors and the Department of Defence, and you probably should direct that question to the Department of Defence.

**Senator SHERRY**—I understand we are going to have a coffee break now. I have some further questions in this area, but we will explore them after the break.

**Proceedings suspended from 11.07 a.m. to 11.25 a.m.**

**CHAIR**—I invite Senator Sherry to address further general questions to the department.

**Senator SHERRY**—Continuing with the Department of Defence, Dr Hawke's speech, I do not know what your view of it was, Dr Boxall, but the matters that were raised publicly I think anyone would reasonably view as being serious. Was the department of finance aware prior to Dr Hawke giving that speech of the types of issues that he was going to raise in that public speech?

**Mr Hodgson**—Yes, Senator.

**Senator SHERRY**—How did you become aware of the types of issues he was going to raise in the speech?

**Mr Hodgson**—There was a DOFA team sent over to Defence by agreement between the Department of Defence and the Department of Finance and Administration in early November. That team worked with the Department of Defence and was aware through meetings with Dr Hawke of some of the issues that were going to be raised in his speech.

**Senator SHERRY**—Was that at Dr Hawke's request, that the team from the department of finance go over to go through the department?

**Dr Boxall**—Dr Hawke and I agreed that it would be useful for a team to go over there and work with Defence.

**Senator SHERRY**—But did Dr Hawke come to you expressing concerns and raising the issue of a team to go over?

**Dr Boxall**—No, because this process was initiated before Dr Hawke was appointed.

**Senator SHERRY**—Okay. So we have got a team over in Defence. They are still there, I assume.

**Dr Boxall**—Not that team. That team came back in about April. There is a small team working with Defence now on related issues.

**Senator SHERRY**—My understanding is that your department has an ongoing oversight of departments. That is correct, isn't it?

**Dr Boxall**—As part of our Budget Group we have the agency advice units that are ready to advise the minister, Expenditure Review Committee and cabinet on financial matters with departments. So, to that extent, yes.

**Senator SHERRY**—Did the group overseeing Defence pick up these problems in the past that Dr Hawke alluded to publicly?

**Mr Murphy**—Within the department we have within the Budget Group small teams which oversight the business of another agency, in particular as it would affect sustainable government finances, which is the Department of Finance and Administration's responsibility. In relation to issues of Defence, it was on the public record that the ANAO, the audit office, have expressed reservations about some of the contract management practices, project management practices and other issues relating to Defence over a considerable period of time.

**Senator SHERRY**—But that is not an answer to my question. My question relates to the team in Finance that was liaising with and overseeing Defence. Did they pick up any of these problems that Dr Hawke alluded to publicly?

**Mr Murphy**—I cannot talk about advice to the minister which had emanated from Finance.

**Senator SHERRY**—I am not asking you about that.

**Mr Murphy**—I would say that, from the department of finance's point of view, they were aware of some of these issues, especially where Defence issues had been raised by independent third parties, such as the auditor coming in.

**Senator SHERRY**—Presumably, the department of finance would have raised the issues you were referring to in your last answer with Defence.

**Mr Murphy**—They could have been raised in various forums.

**Senator SHERRY**—It is commonsense that if you are aware of a problem in Finance, you would raise the problem with the department concerned.

**Mr Murphy**—There is day-to-day contact between an agency and people in the agency advice unit. The contact is regular. To be fair to Defence, they have had particular issues relating to their budgeting which have made it more difficult for them than for other agencies.

**Senator SHERRY**—My concern is that your department was aware of some of these problems over a period of time. Did the Department of Defence respond to queries or concerns raised by the department of finance about particular issues?

**Mr Murphy**—Under due government processes, if the department of finance has issues with expenditure proposals or project financing issues that may relate to Defence, they would be handled not only at the departmental level but also within the government. I cannot comment on that.

**Senator SHERRY**—I know you cannot comment at the ministerial level, but you have continual oversighting, continual liaison in whatever form that is, people visiting or examination of documents and discussions between officers of Finance and Defence. What was the response of Defence to your department about the sorts of issues that were emerging?

**Mr Murphy**—I think the response from the Department of Defence has been that they are very concerned about the difficulties they are having with management of their finances, to put it in a nutshell, and they are taking steps.

**Senator SHERRY**—I know they are taking steps now, but this was obviously an accrual of a series of problems over time. It did not all start at one point. I am just concerned. Did the department lay out a list of the concerns that it had picked up in Defence over any period of time?

**Mr Murphy**—I think these concerns were communicated to Defence in the normal course of business. I am aware that those concerns have been communicated to Defence along the way.

**Senator SHERRY**—But this is over a period of time. It is not necessarily a full-blown report.

**Mr Murphy**—As Dr Boxall has just pointed out to me, to some extent accrual budgeting has brought forth some of these issues or given them greater transparency and that is why there are now problems and issues there.

**Senator SHERRY**—I certainly hope the position as exposed by Dr Hawke in his address at the National Press Club does not exist in any other department. By any reasonable judgment, it is most serious in this department. Did these departmental officials in Defence come back to the department of finance and satisfactorily answer the queries that you had put to them?

**Mr Murphy**—I think some of these questions should really be directed to Defence.

**Senator SHERRY**—We will, but I am interested in—

**Mr Murphy**—From our point of view, over the last couple of years, questions have been asked of Defence of their financing arrangements and, as I alluded to before, there are particular considerations about Defence which make it potentially more of a problem than you would find with other agencies.

**Senator SHERRY**—I will come to that last issue a little bit later. You say that the questions were asked.

**Mr Murphy**—Yes.

**Senator SHERRY**—Was the department satisfied with the answers it got from the Department of Defence?

**Mr Murphy**—Some of the explanations were the way that Defence saw things, but whether we were satisfied or not is another issue. We would give advice to the minister, because we are only acting on his behalf; we are not acting as an independent agency.

**Senator SHERRY**—I understand that. So, if you had concerns with answers, you would have passed those concerns onto the minister?

**Mr Murphy**—Yes.

**Senator SHERRY**—Minister, are you aware of any actions that Minister Fahey took prior to Dr Hawke's speech about concerns in the Department of Defence?

**Senator Ellison**—No, I am not aware of anything of that sort. I would have to check on that.

**Senator SHERRY**—You will take that on notice?

**Senator Ellison**—I will take that on notice. Of course, in taking that on notice, it is done on the basis that there would be some security aspects which Senator Sherry would appreciate—the committee on national security and others. But it is always subject to those.

**Senator SHERRY**—I understand that. My overriding concern, Dr Boxall, is you are oversighting departments, and Defence seems to have particular serious problems that have been exposed in the media. That does not worry me; that is just par for the course in a democracy like ours. But there does not seem to have been an adequate response by the Department of Defence to the issues your department has been raising with them. There just seems to be a stonewall. Nothing seemed to change in Defence up until very recently.

**Dr Boxall**—I cannot comment on Defence's response, and I am sure you can inquire of them about that. The issue is that the working relationship between Defence and DOFA has, I think, never been better and never been more productive. The procedures that Dr Hawke and I have put in place in terms of working closely with Defence have, I think, already borne significant fruit. Some of that was articulated in Dr Hawke's speech where he actually mentioned the cooperation with DOFA. What Defence may or may not have done in the past is an issue that I think can be explored with Defence. The new arrangement with Defence in roughly the last nine months has been remarkably productive.

**Senator SHERRY**—I appreciate that, but my concern is that a number of problems accrued over time. Your department has a role in liaising with Defence and, presumably, in pointing out various difficulties or problems that were emerging, and very little appears to have eventuated. So the problems accrue and all of a sudden we had the speech from Dr Hawke, highlighting some very major problems. How do you get Defence to respond? Notwithstanding what has happened in recent months—and I accept that; that is good—as a department of finance, how were you trying to get Defence to respond prior to this time?

**Dr Boxall**—Dr Hawke's speech was obviously something that he had thought about and prepared over a number of weeks and was clearly the result of his own work, supplemented by work that his department was doing with us. Defence were responding. The fact that it was

not announced publicly until Dr Hawke made the speech does not mean to say that they were not responding in the past. They were starting to respond on a number of issues. There were issues in the past that they have responded to.

But the point I would like to make again, Senator Sherry, is that it is actually the introduction of the new accrual budget and the outputs and outcomes which have brought many of these issues to the fore. As you would well know from when you were in government, Defence used to operate under a cash global budget system and, with the introduction of accrual budgeting, Defence has been responding in a different context. They have been responding in the context of accruals which has brought to the fore issues which were not picked up under the old system.

**Senator SHERRY**—Sure, but no other department appears to be in the same condition, at least not that we have seen publicly to date, and I hope that is the case; I am assuming it is—the exception being the Department of Defence. My concern is that problems build up over time. How can the Department of Defence get to grips with these problems before we have a full-blown major problem as expressed by Dr Hawke? Surely it should not get to that stage. Surely these issues should be dealt with day by day and, if there are problems, they should be responded to and cleared off and cleaned up.

**Dr Boxall**—Exactly, and issues were raised and Defence did try to deal with them. Dr Hawke has identified a number of issues to which you have referred, but we do not have a situation where Defence is hopelessly out of control or anything like that. You ask how can these problems be kept track of over time. I would say that there are a number of committees: there is the Joint Committee of Public Accounts and Audit; there are the Defence estimates committees; there are lots of opportunities for parliamentarians to ask questions of Defence officials, and similarly of us. There is the Auditor-General who often does audit reports of Defence. So it is not as though nobody has not been doing anything. As a matter of fact, I know that a number of colleagues have questioned Defence on these issues.

**Senator SHERRY**—I was going to get to that. I appreciate that, but what worries me is that liaison problems between Finance and Defence, as occur with any government department, I would have thought would have been sorted out generally as they occurred rather than be allowed to build up. I am not quoting a particular concern about an approach of Defence, but what is peculiar about Defence as distinct from other departments? What were you alluding to, Dr Boxall?

**Dr Boxall**—I think Mr Murphy said that, Senator.

**Senator SHERRY**—Sorry. Mr Murphy, I was going to come back to that.

**Mr Murphy**—However you want to describe it, their budgeting arrangements are different to other agencies. As was mentioned by Dr Boxall, they have a global budget arrangement which some observers might say at the present time does not assist Defence in managing its affairs under accrual budgeting arrangements.

**Dr Boxall**—Can I just add that they have had a global budget arrangement for a number of years.

**Senator SHERRY**—Do you think that there is a particular culture in Defence that is different from other departments which makes it difficult to deal with some of these financial issues?

**Dr Boxall**—I think it would be improper for us to comment on the culture or behaviour of other departmental officials.

**Senator SHERRY**—I do not want names of specific officials, I do not want the names of individuals, but it just seems that Defence is a problem, much more so than any other department. Why is it so? You have mentioned the issue of their unique financial arrangements but it seems to me there is a bit more to it than that.

**Mr Murphy**—I think to be fair, Senator, Defence is just huge expenditure.

**Senator SHERRY**—So are some other departments.

**Mr Murphy**—Defence is a substantial slice of the Commonwealth's expenditure.

**Senator SHERRY**—Social Security is too, and Education.

**Dr Boxall**—A large bulk of Social Security's expenditure is transfer payments. That is different from a very big department, which has large departmental expenses to pay all the personnel and also has a large capital budget. Their assets are a very big slice of the government's asset base. On top of that, for years, well before the change of government, Defence was operating on a global budget arrangement which is different from other departments. That arrangement might well have been well suited to a cash budgeting system. The issue now is to look at the global budget arrangement in the context of accruals.

**Senator SHERRY**—I accept that Defence's capital area of expenditure is unique. There is nothing that would approach their level of capital expenditure and some of the related issues. No other department has that. Dr Boxall, going back to an earlier comment, you referred to other parliamentary committees—and senators have taken an interest in this. I listened to Senator Hogg at Defence estimates asking Defence officials and the secretary about a range of issues to do with the Department of Defence's expenditure activities. Frankly, you got the view, listening to that performance, which was shortly prior to Dr Hawke's arrival, that everything was okay. Then, to his credit, you get a speech by Dr Hawke raising very serious issues.

**Dr Boxall**—I really think this is an issue to pursue with Defence, about why they may or may not have answered questions in their own estimates.

**Senator SHERRY**—I accept that, Dr Boxall. However, you referred to oversight of government departments, and the processes we know are all available. Finance is central to this overseeing, oversighting, role. We are just concerned about the level to which the problems have got within the Department of Defence and why the defence department did not act earlier, given your department's oversighting role.

**Mr Murphy**—It is on the record to address these issues. The government has taken action. The Department of Finance and Administration has taken action to work with Defence to try and improve the position. It is on the public record.

**Senator SHERRY**—Let us just move on a bit. Was the team that went down to Defence, which was down there for a number of months, drawn from the team that had the oversighting, liaison role with Defence on an ongoing basis?

**Dr Boxall**—Some of them were.

**Senator SHERRY**—Did you see it as necessary to supplement the group with some particular expertise? What was the rationale for picking the team that went down to Defence?

**Dr Boxall**—The rationale was what we thought was the best use of the department's resources, especially at the senior level. Defence is, as you have pointed out, a very important agency for the government and for outcome 1—Sustainable government finances. It is a very important agency. So we wanted to be sure that we had a person in there of sufficient seniority who could liaise effectively with the people in Defence. And I must say that that was the outcome we got.

**Senator SHERRY**—Who was that?

**Dr Boxall**—The most senior person was Alastair Hodgson, the General Manager of Business Services Group.

**Senator SHERRY**—You mentioned, Dr Boxall, that there is another team that is carrying out further work.

**Dr Boxall**—Correct. There is a team of four or five.

**Senator SHERRY**—Presumably they prepared a report on the situation that they discovered or unfolded at Defence?

**Dr Boxall**—You are referring to the second team, Senator Sherry?

**Senator SHERRY**—Both.

**Dr Boxall**—Both teams did report and are reporting back to the department. At the appropriate time and in consultation with Defence, no doubt the relevant ministers will be informed of the progress.

**Senator SHERRY**—I would be surprised if they were not being informed already, frankly.

**Dr Boxall**—I did not say they were not.

**Senator SHERRY**—You gave the impression that they hadn't—but, anyway. Obviously there are reports that are being prepared. Can copies of the department's reports on the situation in Defence be made available to the committee? You can take this on notice, I am sure.

**Dr Boxall**—I think the answer to that question is no, Senator Sherry.

**Senator SHERRY**—Could you take it on notice and convey the request to the ministers?

**Dr Boxall**—Yes, we can do that.

**Senator SHERRY**—I think you are probably right, but I think in terms of public accountability on this issue it would be useful to see what the problems were and how they are being addressed. Dr Boxall, are you confident that problems similar to those in Defence that were exposed by Dr Hawke in his speech do not exist in other departments?

**Dr Boxall**—I have no reason to believe that some of the problems that Dr Hawke identified occur in material agencies.

**Senator SHERRY**—What sort of warning mechanisms do you have within your department about other agencies?

**Mr Murphy**—As we mentioned earlier, within the budget group we have small teams which work with agencies primarily on their expenditure proposals but also on performance management issues. There are also processes, under accrual budgeting, whereby the price of outputs is reviewed, and we had eight reviews of different agencies reported back to government in this budget context. Also, we have a team in Budget Group who looks at

ownership analysis. By that I mean reporting back on management of capital and assets strategies. So there are various mechanisms within Finance to become aware of any difficulties which agencies may be running into in relation to either their short-term or their longer term financial management. Saying that, you cannot walk away from the fact that under the FMA Act the CEO of particular agencies responsible for the management of that agency is also accountable to the minister, and the minister is accountable back to the government. There are a lot of checks and balances within the system. One comment on Dr Hawke's speech: that was a very wide ranging speech. It raises a lot of issues—some are financial management and some are human behavioural management. We do not comment on that.

**Senator SHERRY**—I understand that, but it is quite extraordinary for the head of department to unleash a barrage of criticism of his own department publicly. I cannot, frankly, recall a time when that has ever happened.

**Mr Murphy**—We cannot comment on that.

**Senator Ellison**—That is something that officials cannot comment on, Mr Chair.

**Senator SHERRY**—They could perhaps comment if they can recollect a head of department making similar criticisms in a public speech.

**Senator Ellison**—I think that is best left to another estimates committee. I think you have made your point, Senator Sherry. It is nothing that officials can comment on or go into.

**Dr Boxall**—I might add, Senator Sherry, that the department is in the strongest possible position now to undertake the sort of review that you are obviously angling for. For example, with the introduction of accrual budgeting, things like balance sheet problems come to the fore earlier and are easier to identify. We have, through the restructure of the Budget Group, an ownership analysis unit for the first time, which looks at some of the issues with which you are concerned. Mr Murphy mentioned the pricing reviews which are carried out by the department in consultation with portfolio agencies and feed into ERC—the Expenditure Review Committee. We have a situation now where the restructure of the Budget Group and the introduction of accrual budgeting put us in the strongest possible position. On top of that, as Mr Murphy mentioned, under the FMA Act, which came into force on, I think, 1 January 1998 and was passed by parliament, agency CEOs are auditable under section 44, I think it is, for the efficient, effective and equitable use of Commonwealth moneys. With a combination of the Auditor-General being able to audit departments under the FMA Act and the restructured Budget Group and the accrual budget, we are now in the strongest possible position.

**Senator SHERRY**—I appreciate that, Dr Boxall. I would summarise it as Defence walls are being breached. I am not unhappy with that, and I suspect your department is not unhappy with that in terms of the accountabilities and the changes that are now apparently occurring. Why aren't the issues that Dr Hawke exposed flagged as a financial risk in the budget statement of risks in the budget paper?

**Mr Murphy**—Could you identify the particular risks? It has been some time since I read the speech.

**Senator SHERRY**—I do not have the speech here.



**Mr Murphy**—The issues that Dr Hawke raised were overall governance issues and cultural issues. I would have to refresh my mind on the speech before I could say whether he actually got into expenditure issues.

**Senator SHERRY**—I would have to do the same. I do not have a copy of the speech here with me. I would have thought, given the seriousness of the issues raised publicly by Dr Hawke, that there would have been reference in the statement of risks to the particular types of exposures that he was referring to.

**Dr Boxall**—That speech was made before the Expenditure Review Committee and the budget processes. Defence, like all other agencies, has been to the Expenditure Review Committee. We have the government's position. There are some measures taken with respect to Defence. There are some issues in risks with respect to Defence, but they are more to do with litigation type matters.

**Senator SHERRY**—I think I have covered the issues I wanted to there. Chair, I would like to go back and traverse the issues that I flagged earlier which Dr Boxall indicated came under 'Sustainable government finances', but Senator Faulkner and Senator Ray may have some other general issues

#### **Outcome 1—Sustainable government finances**

##### **Output group 1.1—Budget**

**CHAIR**—Dr Boxall, are you in a position to address those issues raised before by Senator Sherry under outcome 1—Sustainable government finances? Are you prepared to do that now?

**Dr Boxall**—Yes.

**Senator SHERRY**—The first of those issues related to Telstra. You drew my attention to the treatment of the sale of Telstra in Budget Paper No. 1. I then got on to the issue of table 11 in the year 1998-99 which outlined the sales costs, the net income and the underlying budget impact. My question goes to why information like that is not presented in Budget Paper No. 1 or anywhere else in the budget papers.

**Mr Prior**—I think the simple answer is that the government decided not to include the table in either last year's or this year's budget papers.

**Senator SHERRY**—Could the Department of Finance and Administration provide the committee with a replica of table 11 for the Commonwealth's remaining interest in Telstra?

**Mr Prior**—We will take that one on notice.

**Senator SHERRY**—I am going to assume the worst, unfortunately, that we will not get that. I will put this to you, Minister: why was this table not made available on this occasion?

**Senator Ellison**—The situation is that the government has not seen a need to replicate that. It was done in 1998-99 and was not seen as being appropriate or necessary for 1999-2000.

**Senator SHERRY**—The table that we got in 1998-99 contains more detailed information than we have got in Budget Paper No. 1

**Dr Boxall**—You will recall, Senator Sherry, that that table was a one-off in 1998-99. In other words, it was not there—I might be wrong—in 1997-98 or previous years. It was a one-off in 1998-99.

**Senator SHERRY**—I understand it was a one-off for that particular portion of the sale of Telstra. But the government is proposing to sell the remaining 49.9 per cent or whatever the precise figure is of Telstra. Why have we not got similar detailed information, given the proposal to sell the remaining shares in Telstra?

**Dr Boxall**—We have taken that on notice. We have noted your question.

**Senator SHERRY**—Would you accept, Dr Boxall, that the information contained in table 11 is more detailed than we have got in Budget Paper No. 1?

**Mr Prior**—If you are asking whether there is more information in table 11 by virtue of the fact that that table is not replicated, the answer has got to be yes.

**Senator SHERRY**—Thank you. I thought I was going to have to extract teeth to illustrate it.

**CHAIR**—If it helps, there are no more general questions from the committee.

**Senator SHERRY**—Given that answer, in light of the move to an accrual system which, the argument goes, is supposed to provide us with more information and more openness about the financial decisions and management of government, why couldn't we have a table similar to table 11 produced by the department and released by the government?

**Mr Prior**—I think your question has been answered, but to make it a bit clearer: we will take on notice your question as to whether it can be provided or not.

**Senator SHERRY**—You would have that information available, presumably, within the department.

**Mr Prior**—Clearly, that information can be constructed.

**Senator SHERRY**—I do not want to labour the point, but under the accrual system we were supposed to get an improvement in the detail of information. You have already accepted that there is less detailed information with respect to the sale of Telstra. We have gone backwards, not forwards, in terms of the availability of detailed information.

**Dr Boxall**—I am not sure we do accept that, Senator Sherry. As was said, that table, from recollection—and nobody has corrected me—was a one-off. It is a one-off of information. It has nothing to do with whether we are under an accruals or a cash system.

**Senator SHERRY**—Then why haven't we got details of sales costs and net income?

**Dr Boxall**—Because, as we said, the government decided not to provide that information and we have taken your question on notice.

**Senator SHERRY**—And therefore we have got less information. My understanding—

**Dr Boxall**—We have less information on this issue compared with 1998-99. It has got nothing to do with accruals versus cash. It has got nothing to do with the new budget papers.

**Senator SHERRY**—My point to you would be that one of the arguments for accrual accounting that this government has advanced ad nauseam, along with a charter of budget honesty, was the provision of more detailed information in a more open way and here we have, unfortunately, on a major public issue of interest—Telstra—less information.

**Dr Boxall**—Just to repeat, for the record: we have less information on this particular issue with respect to Telstra compared to one particular year—the previous year. We do not have less information than in 1997-98 or 1996-97. We have taken your question on notice and we will see whether we can provide the information to you.

**Senator SHERRY**—Good. Turning to the valuation of Telstra in the budget papers: is that at historic cost?

**Mr Prior**—Yes, it is.

**Senator SHERRY**—Do you believe that is an appropriate valuation, given Telstra's current value?

**Mr Prior**—I am aware of the issue. We are currently looking at that issue as to the carrying value of Telstra.

**Senator SHERRY**—How do you mean you are looking at it?

**Mr Prior**—We are considering the implications, providing advice to government on that issue.

**Senator SHERRY**—You understand there is an argument that this understates the net worth of the asset?

**Mr Prior**—Indeed, yes.

**Senator SHERRY**—Given the argument that the net worth of the asset is understated, doesn't this provide the opportunity for overstatement of sale proceeds should the asset ever be sold?

**Mr Prior**—No, Senator. The sale proceeds will not change by virtue of a revaluation in the balance sheet.

**Senator SHERRY**—Why not?

**Mr Prior**—Because, regardless of what you value it at in the balance sheet, the amount of cash that you receive will be dependent upon what the market pays on the day.

**Senator SHERRY**—I understand that. Going back to the earlier issue about the argument that the net worth is understated: if ultimately the market determines a higher price and therefore the government receives higher income—if that happens—effectively there is an understatement of the proceeds that the government is projecting it will receive from the sale of Telstra, should it occur.

**Dr Boxall**—I do not think the issues are related. The issue is at what value is Telstra carried in the books, and Mr Prior answered that it is carried at historic cost. We are obviously aware of the issue of whether it should be in the books at historic cost or at some sort of current market value. We are looking into this issue in consultation with the relevant agencies, including the Australian Bureau of Statistics, and we will prepare advice for the government on that particular issue, which is at what value should Telstra be carried in the government's books. That is a separate issue from what proceeds the government might get in the event that Telstra is sold.

**Senator SHERRY**—Yes, it is a separate issue, but it is related in the context of selling it. Why would you be doing this?

**Dr Boxall**—We cannot see the relation between what Telstra is valued at in the books and the sale price. We just cannot see that relation.

**Senator SHERRY**—You have mentioned that there is a potential change in the budget papers if a change was made, in the event that a change was made.

**Dr Boxall**—Let us be clear. In the event that the government were to decide to change the value at which Telstra is in the books, that would flow through to various key aggregates in the budget documents.

**Senator SHERRY**—So the government will be making a decision on this. Do we have any idea of the time frame?

**Dr Boxall**—We can only say that we are working on that now, so we would expect to be able to advise them in a reasonable period of time. When they decide on it is up to them.

**Senator SHERRY**—You are in the process of preparing some advice at the moment. The government need not take your advice. You talk about a reasonable time period: could you be more specific?

**Dr Boxall**—We are talking months; weeks or a few months.

**Senator SHERRY**—On the historic cost, how is that kept up to date? Is it simply a book entry?

**Mr Prior**—No, historical cost reflects the amount of investment that has been made. To the extent that there was an additional investment, if you like—it is a cost concept in the sense of what has been paid.

**Senator SHERRY**—The Senate passed a resolution relating to the treatment of the government's proposed sale of Telstra. Of course, the government has indicated that it intends to sell Telstra. Have the budget papers reflected the resolution of the Senate?

**Dr Boxall**—Page 4-31.

**Senator SHERRY**—Has that been reflected in the proposed sale and the impact on the budget?

**Dr Boxall**—I am not sure I understand that question, but let me have a go. The budget is prepared on what the government's policies are, and the government's policy is to sell the rest of Telstra, so that is in the budget figuring. As you would know, it goes right through the accounts. In the statement of risks, which Mr Murphy is just pointing out to me, the introduction on page 4-24 points out where there might be significant changes. As you might imagine, in the event that the government decided not to sell Telstra, for any number of reasons, that would be a significant change, and that is why it is listed. Does that answer your question?

**Senator SHERRY**—Yes. Just following on from that, you do not see it as appropriate in respect of your department's role to have prepared budget papers without the sale of Telstra and the likely financial impact, given the Senate's resolution?

**Dr Boxall**—The budget papers are put out by the ministers, so they are not Treasury's papers or the Department of Finance and Administration's papers.

**Senator SHERRY**—I understand.

**Dr Boxall**—It has been a longstanding tradition for as long as I can remember that you prepare budget papers, including the forward estimates, based on government policy. Obviously, that is government policy and the budget paper aggregates are prepared accordingly.

**Senator SHERRY**—That concludes the questions I had on Telstra. I think we completed GST advertising. I have some questions in relation to the mechanics of the appropriation for

the GST. With regard to budget paper 4 on page 3, can you outline the mechanics for the appropriation for the GST and how it will work?

**Mr Thorn**—I would like to start by distinguishing between GST that is refundable and GST that is not refundable. GST that is refundable comes back to the agency. So the net cost to the agency after that refund is the basic amount that is going to be paid. Where GST is not refundable, then GST is a final cost to the organisation. In the case of GST that is not refundable, that will have to be met, together with the cost of the supply that is involved, from the basic appropriation in the appropriation bills. Those are the annual appropriation bills that you are looking at now. Where GST is refundable, however, the cost of GST is not included in those bills. The department, at the end of the day, does not bear the cost. But it is necessary that there be an appropriation for that GST to comply with section 83 of the Constitution. For that reason, the GST in respect of recoverable or refundable GST is being appropriated through a standing appropriation mechanism, the bills for which are currently in the parliament accompanying the budget legislation. That approach is in line with the accounting treatment of GST. It is a practical approach that ties in with the control of funds. It is also an approach that does not reduce the parliament's control at all because you need the basic appropriation before you can access the additional appropriation for refundable GST.

**Senator SHERRY**—In respect of appropriations to grant recipients, and I would include within this grants to local government that are paid by the Commonwealth, what will be the impact on that area?

**Mr Thorn**—Where the grant is subject to GST, the grant would be marked up by the amount of the GST and recovered by the department. Let us say the basic grant is \$100,000. The recipient would get \$110,000 but would remit \$10,000 of that to the Taxation Office. The department that pays the \$110,000 would recover the \$10,000 GST. As recoverable GST, the basic appropriation to the department would be the \$100,000, and the standing appropriation appropriates the additional \$10,000 prior to the grant being made.

**Senator SHERRY**—I think we should stick with the \$100,000 example. A grant is paid to a local government or a community organisation. You have mentioned the additional 10 per cent, taking it to \$110,000. Will there be any allowance made and consequent reduction to that additional \$10,000 as a result of what the government believes should be taken into account—embedded taxes, the removal of wholesale sales tax?

**Mr Thorn**—Before I come to that question, could I add one further rider to my last answer. You asked particularly about local government.

**Senator SHERRY**—Yes.

**Mr Thorn**—The bulk of grants to local government would not be subject to GST. That is my understanding. Let me just qualify it in that regard.

**Senator SHERRY**—You say 'the bulk'. Are you aware that some would be?

**Mr Thorn**—Yes, some could well be. In relation to the embedded savings, the issue is whether there should be a discount before the addition of the GST. The government has taken a policy decision that there will be no discount in relation to grants paid to charities.

**Senator SHERRY**—What about other grants?

**Mr Thorn**—As a matter of principle, unless government has taken a particular decision, there would be an expectation of a discount.

**Senator SHERRY**—You say ‘expectation’. Are you saying that when the government is giving a grant of \$100,000 plus the 10 per cent to whatever the organisation is—putting aside charities—it will be taking into account that expectation?

**Mr Thorn**—I probably used the wrong word. I used the word ‘expectation’ to explain a general policy under which there may be exemptions that I am not aware of. The government may have made particular exemptions, but I am not aware of them.

**Senator SHERRY**—Let us put aside the exemptions that you are not aware of and look at the general policy. Let us go to a specific example—maybe research and development, scientific research. Is it your understanding that there would be an adjustment of the GST grant—the additional moneys to offset the GST—to reflect the removal of those embedded costs in that area?

**Mr Thorn**—I am not aware of particular decisions in relation to R&D. I cannot help you, I am sorry. All I am aware of is the broad exemption of charities and the general principle that the embedded costs would be taken into account in payments to organisations.

**Senator SHERRY**—If charities are exempt and that is the only one you are aware of, let us assume that scientific research is not exempt. Looking at the cost effects by industry of indirect tax reform in the government’s tax reform package, I notice that it categorises the cost effect by industry, doesn’t it? There is a table attached. We are talking about the way in which the additional GST component of grants will be adjusted in accordance with the general government policy, excluding charities—and there might be some other areas. Just before we go to that, are we to get a definitive list of the exclusions? You have mentioned charities. Is it proposed to publish a list of any further exclusions?

**Mr Lekawski**—During the recent budget deliberations, the government did make decisions on embedded WST savings. I think you would have to refer to the government on that.

**Senator SHERRY**—Presumably these decisions were publicly announced.

**Mr Lekawski**—Some of them are in the process of being negotiated. Some have been announced. You referred to the CRCs and the like; they have been announced. But I think you will also have to go to individual portfolios. The government, as a general principle, agrees with removing WST embedded charges, but there are exceptions being made.

**Senator SHERRY**—We are aware of the general principle. There are exceptions. We might see some more announcements about those exceptions. But the general principle is you get the money plus the additional 10 per cent for GST minus the embedded taxes, wholesale sales tax and the other bits and pieces that are a lot more.

**Mr Lekawski**—That is correct.

**Senator SHERRY**—Let us take the example of scientific research. The cost effect by industry is a negative of 3.6 per cent. That is the figure that we would take into account when adjusting the grants in that area.

**Mr Lekawski**—I do not know the particulars, but as a principle I would agree with that.

**Senator SHERRY**—As a principle that is what we would look to.

**Mr Lekawski**—Yes.

**Senator SHERRY**—In the *Australian* of 17 May, there was a report about embedded tax savings yielding a figure of \$800 million in savings across portfolios, and it concludes that embedded tax savings will be in the range of 0.3 to 3.5. Is that accurate?

**Mr Lekawski**—Relative to what, sorry?

**Senator SHERRY**—Is the figure of \$800 million accurate? If not, what is it?

**Mr Lekawski**—Perhaps I should begin from first principles. DOFA contracted the consultancy Econtech to provide us with a model, the MM303 model. We then went to agencies and asked them to fill in their expenses according to the model. When they did that, that gave us an estimate of WST savings once the GST is implemented. From there we did get an aggregate figure, but then we presented that figure to the government and the government made its decisions on its own. The number we gave them was merely a guide—basically it is a theoretical number. You also had practical considerations when it came to actually deciding on where WST savings should be sought from.

**Senator SHERRY**—What sort of practical considerations?

**Mr Lekawski**—Charities, for one.

**Senator SHERRY**—I am talking at the moment about government departments.

**Mr Lekawski**—Yes. There are also at times non-reviewable contracts. Lots of contracts are reviewable, in which case they would have to go and reopen those contracts and get their WST savings. In other cases we would be advised that there was no review mechanism, so then we would give them dispensation from those savings.

**Senator SHERRY**—You have gone into the process. Does each department have the ability to contest the ‘savings’ with Finance?

**Mr Lekawski**—We asked agencies to firstly fill out the spreadsheets, the model results, and to just give us the raw numbers, and then, when they handed in the model results to us, to outline where they think the model might overestimate their savings. When we did that, we asked them for specifics. We did not want any general things like, ‘We just don’t think we’ll achieve these savings.’ We ask them for specific cases, one being, as I have said, non-reviewable contracts.

**Senator SHERRY**—At what stage is all this at?

**Mr Lekawski**—It has already been through the government.

**Mr Murphy**—This was dealt with in the appropriations and in the calculation of the final figure for WST for each agency. It was dealt with in the context of their appropriation.

**Senator SHERRY**—In terms of government departments, it has been wrapped up?

**Mr Murphy**—Yes, as part of the budget.

**Senator SHERRY**—Going back to my earlier question, is this figure of \$800 million accurate? What is the final figure for government agencies? Can you show me where in the appropriations that figure has been outlined?

**Mr Lekawski**—There has been no publicly released figure on that, so we do not know.

**Senator SHERRY**—If the process has been completed, how come you do not know?

**Mr Lekawski**—Because it was then spread across agencies.

**Senator SHERRY**—But presumably the Department of Finance and Administration has a coordinating role; they would know the figures across agencies. You coordinated this centrally. You prepared the information. The agencies came back to you and tick-tacked about what the figures should be. It is all signed off. Why can't Finance point me to the total figure?

**Mr Murphy**—As I mentioned earlier, this issue has been factored into appropriations of agencies. So it is in there. But the aggregate figure of the impact of WST and its removal from agency appropriations has not been released by the government.

**Senator SHERRY**—To save me going to every estimates committee and having to ask this question, where I would hope I would get an answer, can you provide the figure?

**Mr Murphy**—We will have to take it on notice and then go back and ask the minister whether he wishes to release it.

**Senator SHERRY**—Okay. But you have the figure?

**Mr Murphy**—Yes.

**Senator SHERRY**—I just do not see what all the secrecy is about.

**Mr Murphy**—There is no secrecy. It is just the way the matter has been dealt with. It has been factored into each agency's appropriation because it is only a tool to get to the appropriation; it is not such a thing in itself.

**Senator SHERRY**—I hope you can get me the figure by the end of the day. Going to the savings for grants, do we have a figure for grants to organisations, including local government?

**Mr Lekawski**—We would have to take that one on notice.

**Senator SHERRY**—That is not what I asked. Do you have a figure? I have not asked for it yet.

**Mr Lekawski**—Presumably we can get it.

**Senator SHERRY**—It is not far to 1 July. You are taking that on notice, and I would appreciate a breakdown between the local government and the other non-government organisations. How much did you pay the consultant you employed to do this work?

**Mr Lekawski**—Firstly, we basically bought the model from the consultant. The consultant provided us training courses. It is very simple to use, so we did it ourselves basically. The cost would have been between \$60,000 and \$70,000.

**Senator SHERRY**—Is this model similar to, or the same as, the one being used by the ACCC?

**Mr Lekawski**—I believe the ACCC is using the MM600, which is a similar model. It is just more disaggregated; it contains more commodities.

**Senator SHERRY**—With your model, were percentage reduction figures applied by each departmental and industry sector?

**Mr Lekawski**—Are we talking about departmental expenses?

**Senator SHERRY**—Both: departmental expenses and also grants to non-government organisations, putting aside charities.

**Mr Lekawski**—For the departmental expenses, they would just list their expenses and put a model code beside it. For instance, if it was paper, they might put a stationery code against



it, and the model would figure that there would be savings of X per cent or whatever. Then at the end of that process we just aggregate across all the expenses and come out with a savings percentage. On the administered side, basically agencies were asked the final output of grants and entered the appropriate code against that. So, in the instance of CRCs, they might put the scientific research expense code against that.

**Senator SHERRY**—I do not know how extensive this modelling is, but can a copy be made available to the committee?

**Mr Lekawski**— Just the basic model?

**Senator SHERRY**—Until I see it, I am not sure.

**Mr Lekawski**—We can furnish you with a copy—without any expenses.

**Senator SHERRY**—I am not sure whether this is obtainable from the model, but what I am after are the percentage reduction figures that apply to each sector. Does the model give those? There have to be certain assumptions underlying the model.

**Mr Lekawski**—Yes, it does.

**Senator SHERRY**— If that is contained, we would like that information.

**Mr Murphy**—We have purchased this model, so we have to check what rights we have to pass it on or disclose it to other parties. We just have to check the nature of the commercial relationship we entered into with Econtech.

**Senator ROBERT RAY**—While you are checking that out, I am sure that Senator Sherry will give you an undertaking not to further disclose it. That may influence a decision as to whether you give it to us.

**Mr Murphy**—We will have to look at the contract we had. This is a business proposition—Econtech are selling this model. It is widely used, but we will just have to check that out.

**Senator SHERRY**— I can assure you we are not going to dash out and market the model, and I understand the commercial sensitivity in that respect. What was the inflationary assumption that was used when working out the embedded tax saving?

**Mr Lekawski**—I will have to take that one on notice. The model has got a front-end and a back-end component. The front-end component also handled the macro-economic variables and the back-end component, which is the section we have, is just the WST.

**Mr Murphy**—We will endeavour to find out the answers to those things and give the evidence later this afternoon.

**Senator SHERRY**—Thank you. We had a discussion earlier about some of the difficulties in industry savings—local government is probably the best example to use here—and I have referred to the cost effects by industry contained in the tax package. The various categories are there. But where you have industry savings are the savings consistent with the ANTS package documentation?

**Mr Lekawski**—We have not checked that against the ANTS package.

**Senator SHERRY**—Why not?

**Mr Lekawski**—Because we had 39 agencies come to us—

**Senator SHERRY**—We are talking about local government. Let us use that as an example. I understand why government agencies would be a bit different.

**Mr Lekawski**—Are you asking whether we modelled local government?

**Senator SHERRY**—Is the modelling, the outcome and the reduction in grants, because of the WST—that percentage—consistent with the cost effect by industry in the ANTS package, in the tables contained at the back?

**Mr Lekawski**—We did not check that out.

**Senator SHERRY**—Why not?

**Mr Lekawski**—Because we had 39 agencies coming to us. Basically, we had to go through all their results and vet those—see that they had entered their expenses correctly—which was a time consuming job in itself.

**Senator ROBERT RAY**—That is a very complex task, is it?

**Mr Lekawski**—As I say, it was very time consuming. We had to look across a number of agencies. Senator, are you interested in the issue of grants to local government?

**Senator SHERRY**—I am interested in the application of this to all Commonwealth agencies, obviously, and to private organisations and local government.

**Mr Lekawski**—In the case of something like local government, we did not look at those grants because they are covered under the intergovernmental agreement. Those were not modelled.

**Senator SHERRY**—Looking at the ANTS package, it lists, for example, government administration, savings of 1.9 per cent. Why go to all this trouble with all this modelling when we have the figures in the ANTS package?

**Mr Lekawski**—Because those ANTS package figures are aggregated and we had to disaggregate the figures because it would not have been fair to do it simply on a pro rata basis across agencies.

**Senator ROBERT RAY**—Did you have the information before it was aggregated to compare it with? You cannot have an aggregated figure without starting with a disaggregated figure, can you?

**Dr Boxall**—The ANTS package was put together primarily by Treasury in consultation with one or two other agencies. That is an aggregate figure and the modelling that Mr Lekawski is talking about is an attempt to in effect divvy up that aggregate and apportion it to agencies.

**Senator ROBERT RAY**—That is highly sensible; I understand that. But I would have thought that the Treasury calculation of the aggregated figure would have had to have been based on a whole range of disaggregated figures that you could use as a point of comparison. Was it just a guess, plucked out of the air, by Treasury?

**Dr Boxall**—I do not know. You would need to talk to Treasury about that.

**Senator SHERRY**—This is supposed to be simple. I would have thought you used that base information. This is a simpler tax system, isn't it?

**Senator Ellison**—You said it.

**Senator ROBERT RAY**—You paid for it and you will pay for it.

**Senator SHERRY**—Regarding scientific research, the figure in the ANTS package is 3.6 per cent. Is that the figure that will be applied with respect to grants for scientific research?

**Mr Lekawski**—On that one I believe DISR are providing advice. I think I would have to refer you to them.

**Senator SHERRY**—Do you know what the figure is for scientific research?

**Mr Lekawski**—Not offhand, Senator.

**Senator SHERRY**—Regarding percentage grants to universities and local government, you have already mentioned local government. What is happening with universities?

**Mr Lekawski**—This is an issue best placed if you ask DETYA.

**Senator SHERRY**—Why is that? You are coordinating all of this. Has it been resolved?

**Mr Lekawski**—Yes, it has been through the budget. It is an administrative expenses item, which is administered by DETYA.

**Senator SHERRY**—How can you do all of this? How can you calculate the savings before we know what the real price effect of the GST will be?

**Mr Lekawski**—It is based on statistics—input-output tables. Basically, what you are doing is assuming that past fiscal relationships are going to hold when the new tax system comes in. Input-output tables are issued about every five years, but there is generally very little movement in the relationships between them. So it gives you a very good estimate of what is going to happen.

**Senator SHERRY**—But, at the end of the day, you are not going to know the price effect until the implementation of the GST, are you?

**Dr Boxall**—I am not sure how this fits together. I thought the line of questioning was on how Mr Lekawski and others calculated the wholesales sales tax ‘clawback’, and that is an issue which he has explained. The rate of inflation which is in the front-end of the model is a separate issue.

**Senator SHERRY**—But it is an important issue in terms of the ‘savings’, the total net saving that applied to departmental grants.

**Mr Murphy**—But these are all obviously worked out with the best precision that can be achieved when you are forecasting what will be in the next financial year. If anyone was affected materially differently from the effect which was projected, that would be addressed in the next budget cycle.

**Senator ROBERT RAY**—Would that be the budget cycle or the additional appropriations?

**Mr Murphy**—If you had enough information gathered beforehand, it could be addressed at additional estimates.

**Senator ROBERT RAY**—And when would you need that information gathered by if it was to be involved in the additional estimates? You would need it by the end of August?

**Mr Murphy**—No, you would not have it by then.

**Senator ROBERT RAY**—So it is not going to be in the additional estimates, is it?

**Mr Murphy**—You would need at least half-yearly results, I would think.

**Senator ROBERT RAY**—So it would be in the next budget cycle?

**Mr Murphy**—It could be, if we were well out in any of these calculations. But we are relying on a model which is widely used, and we would have thought that we were on track there.

**Senator SHERRY**—Before the election, we were relying on an inflation impact of 1.75 per cent.

**Dr Boxall**—These issues on the impact of the new tax package on inflation are really issues for Treasury.

**Senator SHERRY**—In this area, I think it is relevant to the modelling you are doing at the moment.

**Dr Boxall**—I do not see how it is, Senator.

**Senator SHERRY**—Mr Murphy, you were very helpful. You were saying that there will be a review, or reviews if necessary, if the projections prove to be wrong.

**Mr Murphy**—Agencies would come back to us if we were materially in error, because it affects their appropriations and they are the ones managing grants to those organisations that come under the responsibilities of their portfolio.

**Senator ROBERT RAY**—If those adjustments are necessary, where will they be shown in the budget papers?

**Mr Murphy**—If there were adjustments, more likely than not they would become part of the normal budget cycle, so it would be part of the general appropriations to that agency.

**Senator ROBERT RAY**—Sorry, I did not make myself clear. Will these adjustments be clearly identified in the budget papers, or will they just be rolled up in other figures?

**Mr Murphy**—I suppose it would depend on how it fitted within the accrual framework and whether it was material. On general principles and in accordance with the Charter of Budget Honesty, if it were a material matter which should be drawn out, it would be drawn out. If it was minor, then it could be wrapped up into agencies' appropriations for a particular output. I think we would have to wait and see.

**Senator SHERRY**—Whatever our views on the GST are, given the level of public debate, you would expect it to be shown separately. People want to see what the impact is.

**Mr Murphy**—I am responding to the question on the WST. We are not responding to questions on GST, its impact or forecast calculations on it.

**Senator SHERRY**—We referred earlier to charities. Is that commitment by the government to be legislated for?

**Mr Lekawski**—I think I would have to refer you to Treasury on that one, Senator.

**Senator SHERRY**—We have had some discussion about the principles being applied to government departments—embedded tax, wholesale sales tax. How will state government departments be treated?

**Mr Lekawski**—We did not consider state in there, because that again is covered under the intergovernmental agreement. So we just quarantined those during the modelling process.

**Senator SHERRY**—Is it expected that states will apply the same principles to their departments?

**Mr Lekawski**—You would have to ask the states.

**Senator SHERRY**—Is there no provision for the states to apply the same principles that are being applied by the Commonwealth to Commonwealth departments?

**Mr Murphy**—The intergovernmental agreement is the responsibility of Treasury—Commonwealth-state relations. They would handle that in that context.

**Senator SHERRY**—Going back to the issue of charities again, do you know if grants from state governments to charities will have the same rules applied?

**Mr Murphy**—We are not aware of that. You would have to ask Treasury, because it is their responsibility.

**Senator SHERRY**—You will make sure when we ask Treasury that they do not flick it back to you.

**Mr Murphy**—You should pursue them on that. It is an intergovernmental agreement which they entered into.

**Senator SHERRY**—I have had this bad experience before of being recommended to go to Treasury and then Treasury saying, ‘Go back to Finance.’ I just do not want to be in that position.

**Mr Murphy**—That is a fair question which you should have a response to.

**Senator SHERRY**—We have talked about wholesale sales tax as a saving. What about the other taxes that are removed? They are small in the context of wholesale sales tax, but will you be attempting to take into account the other taxes that are removed?

**Mr Lekawski**—Yes. The model took into account those taxes at the same time. As you said, the lion’s share is WST.

**Senator SHERRY**—Given that a number of those taxes are being removed over different time periods—some of them do not disappear from July 1—does the modelling take that into account as well?

**Mr Lekawski**—That is correct.

**Senator SHERRY**—So departments will be applying rolling savings over time as those taxes disappear?

**Mr Lekawski**—Savings, as we said, was a government decision.

**Senator SHERRY**—Logically, we would expect rolling savings as the taxes disappear.

**Mr Lekawski**—Yes, I agree.

**Senator SHERRY**—I will pursue these other issues in Treasury.

[12.54 p.m.]

## **Outcome 2—Improved and more efficient government operations**

### **Output group 2.1—Public sector financial management**

**Senator ROBERT RAY**—On output group 2, there is \$509,000 estimated or allocated for potential act of grace payments. I figure that is based on the current allocation for this financial year. Is that right?

**Dr Wright**—Could you repeat the question?

**Senator ROBERT RAY**—I have noted I think in the PBS there is \$509,000 allocated next year for act of grace payments. I was asking whether that is based on what is estimated to be spent this year.

**Dr Wright**—It is a three-year moving average that we base the estimate on.

**Senator ROBERT RAY**—Could you tell me how much has been allocated this year so far—that is, proper approvals—to act of grace payments?

**Dr Wright**—We do not have that information with us, but we might be able to get it before we conclude.

**Senator ROBERT RAY**—Could we just go back to the principles of act of grace payments. Up to what level can the Minister for Finance and Administration authorise an act of grace payment as an act by himself?

**Dr Wright**—I think we need to double-check on that to make sure that we are accurate. We could probably get it to you after lunch.

**Senator ROBERT RAY**—Dim memory tells me that the minister for finance can approve up to \$50,000 and figures in advance of that may have to have cabinet approval, or prime ministerial approval or Attorney-General's approval. I would not mind seeing how act of grace payments are triggered in terms of who can approve them.

**Dr Wright**—We can deal with that, Senator. The officer who could answer it is not here at present.

**Senator ROBERT RAY**—It is up to you, Dr Boxall, whether you want to take those two questions on notice and respond in due course or respond after lunch.

**Dr Boxall**—I feel that we should be able to respond straight after lunch on that, Senator Ray.

**Senator ROBERT RAY**—If you are hungry—I am—why don't we go to lunch.

**Proceedings suspended from 12.57 p.m. to 2.04 p.m.**

**CHAIR**—The committee is examining outcome 2—Improved and more efficient government operations.

**Dr Boxall**—Mr Chairman, we have a answer to Senator Ray's question.

**Dr Wright**—I believe the \$500,000 you were referring to is on page 37 of the PBSs. That refers to act of grace payments by ComSuper. Specifically, act of grace by agencies are actually funded by agencies themselves, but the same rules apply to ComSuper. That is why it appears on our books.

**Senator ROBERT RAY**—Each government department would make a continuing provision for act of grace?

**Dr Wright**—That is right.

**Senator ROBERT RAY**—That has clarified that.

**Mr Hutson**—Senator, you asked how much money the Minister for Finance and Administration could authorise on his own account. The answer is technically unlimited, but for any amount over \$100,000 he needs to have regard to an advisory committee's report prior to making a decision.

**Senator ROBERT RAY**—Who is on the advisory committee?

**Mr Hutson**—The advisory committee is established under the FMA Act. Technically it consists of the Secretary of the Department of Finance and Administration, the secretary of the relevant line departments—so, if it was a health matter, it would be the Secretary of the Department of Health and Aged Care—and also the Comptroller-General of the Australian Customs Service.

**Senator ROBERT RAY**—So you have got two permanent and one floating?

**Mr Hutson**—Yes, and of course those people can appoint a person for the purposes of standing in their stead.

**Senator ROBERT RAY**—I assume that the reason these matters may occasionally go to cabinet is for the Minister for Finance and Administration not to be directed but to get a feel for what his colleagues' views are and then he makes his independent determination. That happens several times in government where the power legislatively resides with the minister, but he can seek the views of cabinet colleagues and then go away and make an independent bid. Is that right?

**Dr Wright**—It would be a matter for the minister whether he consulted with his colleagues.

**Senator ROBERT RAY**—I just had a memory of cabinet—I am not going to disclose what happened in cabinet—having dealt with these sorts of matters over a certain sum.

**Dr Wright**—That is not a requirement.

**Senator ROBERT RAY**—But there is no actual trigger for that sum, you are saying?

**Dr Wright**—No.

**Senator ROBERT RAY**—Thanks for that.

**Mr Hutson**—There was one other question, which was the expenditure to date. The approvals that have been made for both act of grace and debt waiver—both are classified together in the budget statements—at the end of April is \$46.6 million.

**Senator ROBERT RAY**—For this financial year?

**Mr Hutson**—Yes.

**Senator ROBERT RAY**—That sounds extraordinarily high to me. Is there a particular factor that may have boosted it to \$46 million this year? Disaster relief may have been put in it.

**Dr Wright**—There was one significant transaction.

**Senator ROBERT RAY**—How much was that?

**Dr Wright**—\$45 million.

**Senator ROBERT RAY**—I think that has explained it. My assumption of \$1 million to \$2 million a year is about right. Was this a disaster related act of grace payment?

**Dr Wright**—It was a waiver of debt.

**Senator ROBERT RAY**—Where does this waiver of debt come from?

**Dr Wright**—It was the waiver of the recovery of a loan, principal and interest that would have remained owing to the Commonwealth by ADI Ltd totalling \$45.45 million following the transfer of \$50 million of the organisation's debt to ComLand.

**Senator ROBERT RAY**—I am just wondering why that would be an act of grace payment rather than being dealt with within another budgetary method.

**Mr Hutson**—It was a debt waiver rather than an act of grace payment.

**Senator SHERRY**—Given the extraordinary size of that, would it not have been appropriate to have noted it separately in the budget papers or at least asterisked it and given an explanation?

**Dr Wright**—I would have to take the technical treatment on notice.

**Senator SHERRY**—I have looked through the lists of act of grace payments that we get from time to time, and it does seem an unusual item. Notwithstanding that, it is such a significant amount, I would have thought it appropriate to indicate that.

**Dr Wright**—I would need to take that on notice.

**Senator ROBERT RAY**—When this act of grace payment was made, was it subject to a public announcement or a press release?

**Dr Wright**—I am not aware of the circumstances. I would have to take that on notice.

**Senator ROBERT RAY**—Could you tell us the appropriate date when the payment was made or granted?

**Dr Boxall**—My recollection is that it was early this financial year because it is to do with the transfer of some of the remaining assets of ADI to GBE ComLand.

**Dr Wright**—It was in August 1999.

**Senator ROBERT RAY**—My original question on act of grace payments was not based on that. I had no idea that there was a \$45 million figure in there. That accepted, the normal run-of-the-mill act of grace payments would be \$1 million or \$2 million a year, would they not, Dr Boxall?

**Dr Wright**—Again, that would seem to be about right. If you want specifics, we would need to look back over past years.

**Senator ROBERT RAY**—No, that is all right.

**Senator FAULKNER**—Dr Boxall, have any examples of breaches of the department's competitive tendering and contracting guidelines for managers by either agencies or departments been drawn to your department's attention?

**Dr Wright**—Not to my knowledge.

**Senator FAULKNER**—Are you aware, Dr Wright, of the submission that the Canberra Business Council made to the Joint Committee of Public Accounts and Audit relating to the issue I have just raised?

**Dr Wright**—I can recall that they made a submission. As to the detail, I would need to have a look at it again.

**Senator FAULKNER**—In a general sense, the Canberra Business Council basically drew attention to—to use its words—'several alarming departures' from DOFA's guidance for managers. I wondered whether as a result of that submission the department might have had a look at this issue a little more closely.

**Dr Wright**—No. We would certainly look at issues if they were raised directly with us. The guidelines are precisely those—the Commonwealth procurement guidelines—and



agencies are allowed to depart from those guidelines provided they document the reasons why.

**Senator FAULKNER**—But would it be likely that, if there had been any such departures or breaches, they would have been drawn to DOFA's attention? Would you expect that that would be par for the course in normal circumstances?

**Dr Wright**—That would be our hope. We do run a purchasing advisory and complaints service specifically to field those sorts of questions and issues and, where they need to be resolved, we bring the parties together.

**Senator FAULKNER**—But you have not undertaken any work to have a closer look at what the Canberra Business Council in a public submission have said in relation to DOFA's guidance here?

**Dr Wright**—No.

**Senator FAULKNER**—And you would not be likely to do so unless, what, someone specifically wrote to you or drew it to your attention?

**Dr Wright**—We do have a formal process for reviewing the Commonwealth procurement guidelines. We have recently been out and consulted with both agencies and industry stakeholders and we are in the process of reviewing those guidelines. So our expectation would be that those sorts of issues would be raised at that time.

**Senator FAULKNER**—And who has undertaken the consultative work? Could you give me a little more detail about how the process has progressed?

**Dr Wright**—The CTC branch within the Department of Finance and Administration.

**Senator FAULKNER**—How widespread has the consultative process been?

**Mr Irvin**—The consultation has been quite extensive with both industry bodies and government departments. There have been a number of forums here in Canberra and in Sydney seeking feedback on the operations of the current guidelines.

**Senator FAULKNER**—Would either someone from the department or the minister be able to tell me to what extent the Minister for Finance and Administration's speech to the 11th International Federation of Purchasing and Materials Management World Congress on 19 November 1999 formed a part of that process?

**Dr Wright**—The consultation is more recent than that.

**Senator FAULKNER**—Tell me when the consultation has taken place.

**Dr Wright**—Basically since Christmas, since the beginning of the new financial year, over about a three-month period, from memory.

**Senator FAULKNER**—You mean the new calendar year.

**Dr Wright**—Sorry, the new calendar year.

**Senator FAULKNER**—The reason I ask about Mr Fahey's speech is that I did read some of what he had to say. Is that the most recent policy outline of the government's position on outsourcing, competitive tendering and contracting that you are aware of?

**Dr Wright**—That would be the most recent statement in the public forum, I believe.

**Senator FAULKNER**—It is certainly the most recent thing I have come across. That is why I was keen to understand. Minister, I noticed that Minister Fahey in that speech said:

Our reform agenda will continue to lay the groundwork for a vibrant and competitive purchasing environment and enable the government to obtain benefits for the general public while stimulating the development of an innovative and productive private sector.

I assume that is still a fair summation of the government's position.

**Senator Ellison**—I have heard nothing to change that.

**Senator FAULKNER**—The minister also said in another part of that speech:

We want to encourage greater cooperation between the public sector, the business sector and the community. By working together we can provide higher level services to the public.

Again, would that still be a fair position of where the government stands on this issue?

**Senator Ellison**—Yes, I think that could be a fair summation.

**Senator FAULKNER**—I am just keen to understand whether there is any change to the policy framework. The minister went on to say:

This means building a public sector that is competitive both nationally and internationally, and to do this we must undertake further competitive tendering and contracting (CTC) outsourcing and seek to build more best practice examples and ensure that this is embedded into our day-to-day government operations.

Again, is it still the current government policy position?

**Senator Ellison**—Yes, that sounds right.

**Senator FAULKNER**—Thank you.

**Senator SHERRY**—Since that speech by Minister Fahey, I recall seeing media reports of a decision involving the treatment of wages and conditions in a contracting out situation. Are you familiar with that case?

**Dr Wright**—Could you be more specific?

**Senator SHERRY**—I think the upshot of the decision was that the same wages, conditions and provision of employment entitlements have to be paid to employees effectively doing the same work but to a different employer in a subcontracting situation when they transfer.

**Dr Wright**—Yes, I am aware of a number of cases over the last 12 months.

**Senator SHERRY**—I read the flowery rhetoric in this speech about innovation and productive private sector and higher levels of services—it is all very commendable. It does not mention protecting the wages and conditions of employees who are affected by contracting out. Is the government going to take into account the decisions of the court in this area?

**Dr Wright**—With respect to the decisions of the court, at least two cases are still subject to appeal and have not been seen through to conclusion. Also, these issues have been out in the public forum for over 12 months, and industry is certainly aware of them. Whether business is transmitted or not has to be assessed on a case-by-case basis as well.

**Senator SHERRY**—Is the government involved in an appeals process against those decisions?

**Dr Wright**—No.

**Senator SHERRY**—I would have thought that those decisions, even though they are subject to appeal, do have implications for contracting out.

**Dr Wright**—Provided the industry is aware, then that would be taken on board at the time of any particular contracting out exercise. As I said, it would need to be treated on a case-by-case basis as to whether the functions being performed by the potential contractor were going to be equivalent or different to those undertaken within a department and therefore whether business did indeed transmit. Also, it would depend on whether the terms and conditions offered by the contractor were the same as, or better than, those within an agency. So there are really a number of factors that would need to be taken into account.

**Senator SHERRY**—Where the wages or conditions and/or superannuation are less—and I know that to be the case in some contracting out circumstances—that obviously has a significant implication, doesn't it?

**Dr Wright**—I do not know of any such cases. I am unable to comment on that.

**Senator SHERRY**—Do you mean to tell me that in respect of contracting out—for example, the issue of superannuation—that the private sector is paying the same level of public sector superannuation?

**Dr Wright**—I am not saying that, Senator, no.

**Senator SHERRY**—I would be surprised if any private employer were doing it in a contracting situation.

**Dr Wright**—I have no information to comment one way or another.

**Senator SHERRY**—Minister, given the discussion we have been having about this important issue, has the government changed its principles of contracting out since the minister Fahey's speech on 19 November 1999.

**Senator Ellison**—Not that I am aware of.

**Senator SHERRY**—It is a major issue. I would have thought that the government would have considered this matter.

**Senator Ellison**—I think you have the question of this case which is before the courts. The issue of transmission of business has not yet been entirely decided. I think it would be wise for the government to see what the upshot of those proceedings was, because there will of course be ramifications from any decision that might come from it.

**Senator SHERRY**—Obviously that is right, because if you contract out and you were paying for wages and conditions and superannuation that were less than that being paid for the delivery of the same service in the public sector, you would have to end up paying more and adjust the contract price. That is a very wise approach. I would have thought that you would be putting on hold your contracting out until this matter was decided.

**Senator Ellison**—I do not know what the time line is for the courts. They can take their time, of course. There are important contracts and important projects which have to be proceeded with. I do not really think we can afford the luxury of that.

**Senator SHERRY**—Yes, but surely people who are tendering for contracts have to know very clearly and legally the cost basis on which they are putting forward their tenders.

**Senator Ellison**—I think it is very difficult, without having a crystal ball, to be able to predict what the court will or will not determine. All you can do is operate under the status quo until it is determined otherwise. That has happened in government across a whole range of areas.

**Senator SHERRY**—I am not sure that that is right, Minister. This has major implications for the costing for tenders.

**Senator Ellison**—What I am saying, Senator Sherry, is that governments often have cases pending before the courts which could or could not affect various projects, policies, et cetera. In most cases, the normal approach is to carry on with the status quo, business as usual until it is determined otherwise. You can, in some cases, provide for contingencies. I cannot comment because it is the subject of proceedings, but it is difficult to say where the court's decision might lie. Do you hold up the operation of government waiting for a court case? That is a decision which has confronted all governments from time to time. I think the previous government had its own instances where examples of that could be found.

**Senator FAULKNER**—Could I ask you, Minister, or Dr Boxall, to give the committee a brief thumbnail sketch of how CTC implementation is being progressed with Commonwealth departments and agencies?

**Dr Wright**—The Department of Finance and Administration has policy responsibility for procurement, including outsourcing. The outsourcing of IT activities and other activities is now undertaken by OASITO in terms of coordination with agencies.

**Senator FAULKNER**—Is there cabinet guidance for the department's activities in this area?

**Dr Wright**—I am not sure what you mean.

**Senator FAULKNER**—Is this a matter that has been considered by cabinet in determining the government policy in this area? I assume it has.

**Dr Wright**—It is a government policy.

**Senator FAULKNER**—Yes, I understand that. I am just asking whether there had been cabinet decisions in relation to determining that policy framework. It is a reasonable assumption. I would jump to the conclusion that there had been.

**Dr Wright**—I am unable to comment on cabinet deliberations.

**Senator FAULKNER**—You would make the point normally that you would not comment on the nature of cabinet deliberations or their substance, but normally we do not fall at the first hurdle of trying to establish whether a particular matter has been subject to consideration.

**Dr Wright**—Could you repeat the question, Senator?

**Senator FAULKNER**—I asked whether the policy framework that you very briefly outlined to the committee—and I appreciate that—was the result of the deliberations of cabinet. That was all. In other words, had the policy framework been determined by cabinet? You said it is a government policy. I understand that.

**Dr Wright**—CTC has been a longstanding policy framework of this government. The government has reaffirmed its commitment to CTC.

**Senator FAULKNER**—Has the government reaffirmed its commitment to CTC as a key component of the government's reform policy?

**Dr Wright**—I could not comment on whether it has been as a key component. That depends on perspectives. It certainly has reaffirmed its commitment to CTC.

**Senator FAULKNER**—Could I ask when the government reaffirmed its commitment to CTC?

**Dr Wright**—Towards the end of last calendar year.

**Senator FAULKNER**—That is helpful, but could you be a little more precise?

**Dr Wright**—I believe it would have been in November.

**Senator FAULKNER**—Would it have been 22 November?

**Senator ROBERT RAY**—Three days after Senator Sherry's birthday.

**Senator FAULKNER**—Yes, indeed.

**Dr Wright**—I do not have that information available at the moment.

**Senator FAULKNER**—Would you know, Minister?

**Senator Ellison**—No, but I could take that on notice.

**Senator FAULKNER**—I would appreciate that. I do not know if Dr Boxall is aware of that.

**Dr Boxall**—I do not have the date off the top of my head.

**Senator FAULKNER**—I appreciate the information that it was in late November. Thank you for that. Could you explain to the committee what the position is in relation to the market testing of relevant activities and services that are currently undertaken by agencies?

**Dr Wright**—What specifically do you mean, Senator?

**Senator FAULKNER**—Is there a process established whether to market test or not to market test?

**Dr Wright**—CTC implementation is the responsibility of OASITO. DOFA has policy responsibility.

**Senator FAULKNER**—What happens if an agency considers that there is a strong case for not proceeding with market testing? What happens then?

**Dr Wright**—That again is a matter for OASITO.

**Senator FAULKNER**—Wouldn't an agency make a business case to the Minister for Finance and Administration within two months of the completion of its consultations with DOFA?

**Dr Wright**—That is a question to pose to OASITO as to what processes are going to be followed.

**Senator FAULKNER**—Does the Department of Finance and Administration consult with agencies to assist in implementing market testing, including identifying priority areas for market testing and time frames?

**Dr Wright**—We do not have an implementation responsibility. That is with OASITO. However, we do provide advice to agencies. We will assist when requested, so we can be involved in those sorts of processes in an advisory capacity. However, we also have the CTC panel of some 32 providers that can provide that sort of advice to agencies, and quite often we will facilitate through providing guidance on how to use the panel.

**Senator FAULKNER**—What happens if an agency minister and the minister for finance just cannot agree on an agency's business case?

**Dr Wright**—To my knowledge, that has not occurred, so that is a hypothetical question.

**Senator FAULKNER**—No, surely there is a process in place. Wouldn't cabinet have determined an approach that could be taken if that circumstance arose?

**Dr Wright**—I cannot comment on determinations of cabinet.

**Senator FAULKNER**—Perhaps I could refer you to cabinet minute JH99/0381. Isn't it made clear in that cabinet minute?

**Senator Ellison**—I do not think that the official could be expected to comment on a cabinet minute. I certainly would not. Dr Wright has said that you are raising a hypothetical situation.

**Senator FAULKNER**—No, Minister.

**Senator Ellison**—You could ask: is there a mechanism in place for dealing with this?

**Senator FAULKNER**—I am not asking hypothetical questions at all.

**Senator Ellison**—You could have put the question differently.

**Senator ROBERT RAY**—Let us ask Dr Wright the question: is there provision, in the guidance you have, either from cabinet or anywhere else, where two ministers disagree for there to be a tie breaker? Is that simple enough?

**Dr Wright**—Yes, there is a mechanism in place.

**Senator ROBERT RAY**—Would you like to describe it for the committee?

**Dr Wright**—My recollection is that if the matter cannot be resolved between the relevant portfolio minister and the minister for finance the Prime Minister is also engaged.

**Senator ROBERT RAY**—It is a sort of trilateral meeting between the three to resolve it; is that right?

**Dr Wright**—That is a level of detail which has not yet been sorted out.

**Senator ROBERT RAY**—And you are saying that so far there has not been—if I can put it this way—a Mexican stand-off between ministers that has required the involvement of the Prime Minister.

**Senator Ellison**—It would seem not.

**Senator ROBERT RAY**—Just before you rush into that: can we have that as a considered view?

**Dr Wright**—To my knowledge, no, but that is a question that should now be posed to the Office of Asset Sales.

**Senator ROBERT RAY**—Why is that?

**Dr Wright**—Because responsibility for CTC implementation now rests with the Office of Asset Sales.

**Senator ROBERT RAY**—When was that decision made?

**Dr Wright**—It is covered in the PBSs.

**Senator ROBERT RAY**—But the decision of November last year does not refer to them; it continually refers to DOFA.

**Dr Wright**—The responsibility was transferred at the beginning of May.

**Senator ROBERT RAY**—May this year?

**Dr Wright**—Yes.

**Senator ROBERT RAY**—We have not had that information. It would be very helpful to the committee if you were to occasionally volunteer something like that. By what decision mechanism was that devolved to OASITO?

**Dr Wright**—It was a decision by the minister.

**Senator FAULKNER**—There is no cabinet level decision involved?

**Dr Wright**—It is within the portfolio.

**Senator FAULKNER**—That may be so, but given that cabinet has made decisions about the department, it is competent, is it, therefore, for the portfolio minister, without reference to the Prime Minister or cabinet, to change the responsible agency?

**Dr Wright**—That is a matter for the minister.

**Senator ROBERT RAY**—Do we know why this change was made, Minister?

**Senator Ellison**—No, I do not, but I can take that on notice.

**Senator ROBERT RAY**—That would be helpful.

**Senator SHERRY**—On the issue of market testing and Department of Finance and Administration consultation with agencies to assist in this market testing, what areas are being market tested?

**Dr Wright**—The initial areas are corporate services, but it is a decision for each agency. There is no restriction.

**Senator SHERRY**—So what area of corporate services?

**Dr Wright**—That is a matter for each agency.

**Senator SHERRY**—What are we talking about in corporate services, just for the record?

**Dr Wright**—Financial processing perhaps, various aspects of human resources. For example, within the Department of Finance and Administration outsourcing of corporate services included facilities management and office support—stationery supplies and the like.

**Senator SHERRY**—What about cleaning services?

**Dr Wright**—That is really a matter for each agency as to how it chooses to proceed.

**Senator SHERRY**—I understand it is a matter for each agency, but the department of finance is involved in the consultation to market test in this area. Has there been any involvement with cleaning, for example?

**Dr Wright**—Not to my knowledge, Senator.

**Senator SHERRY**—Do any other areas come to mind?

**Dr Wright**—No, Senator.

**Senator SHERRY**—You mentioned corporate services and have given us some details. What are the staff numbers in these areas?

**Dr Wright**—Could you clarify the question?

**Senator SHERRY**—What are the numbers of staff employed in the area of corporate services?

**Dr Wright**—Are you talking whole of government or DOFA?

**Senator SHERRY**—Whole of government and your department, for example.

**Dr Wright**—Senator, I do not know for the whole of government. For our department, we have outsourced those functions, and that would be a general question which our corporate group would need to respond to.

**Senator ROBERT RAY**—Is there a formula in terms of the way the savings are divvied up between the portfolio department and the rest of budget?

**Dr Wright**—No, Senator.

**Senator ROBERT RAY**—So there is no guidance issued?

**Dr Wright**—It is an assessment made at the time.

**Senator ROBERT RAY**—So there is no formula. The budget could take 100 per cent of the savings or none? Is that right?

**Dr Wright**—It is a matter for negotiation with each agency.

**Senator ROBERT RAY**—Who does that negotiating?

**Dr Boxall**—It is a broader issue than that because it comes into the pricing reviews of agencies. It may well be that some departments elect to outsource or contract out certain operations and to generate savings, which are then taken into account in the pricing review.

**Senator ROBERT RAY**—Does the CTC apply to the Department of Defence?

**Dr Wright**—Yes, Senator.

**Senator ROBERT RAY**—So the Department of Defence still has to negotiate on the amount of savings it can retain vis-a-vis the amount it has to put back into the budget, is that right?

**Dr Wright**—The principles apply across government.

**Senator ROBERT RAY**—So, if the defence department contracts out one of its areas, it does not get to keep the savings.

**Dr Boxall**—It might or it might not. It depends on the overall funding for the Department of Defence.

**Senator ROBERT RAY**—Things have gone downhill.

**Senator FAULKNER**—Could I ask a question of Dr Boxall or Dr Wright—I am not sure who has the responsibility here. It appears to me from the cabinet minute of which I have been provided a copy that there is really no limit at all on departmental functions which might be tested for outsourcing. I wondered whether that was a fair reflection of government policy.

**Dr Wright**—Theoretically, any activity could indeed be market tested. It is really a decision for each agency as to what it considers to be relevant activities.

**Senator FAULKNER**—Thank you for that, because that is certainly the understanding that I now have. Does this mean that the distinction that used to exist between core and non-core agency business is really a distinction of the past?

**Dr Wright**—The words ‘core’ and ‘non-core’ are not ones that we use in the Department of Finance and Administration. It is virtually impossible to put any reasonable definition against them, hence we consider it appropriate to refer to ‘relevant activities’. It is not possible to specify core and non-core.



**Senator FAULKNER**—I hear what you say, Dr Wright, but the point is that there is no such thing any more as core departmental or agency business. There is really a clear statement here that any agency service or any agency function can be outsourced. Is that right, Minister?

**Senator Ellison**—Perhaps you might like to refresh my memory. I was just trying to think of what you were getting at with the reference to ‘statement’. Try that again.

**Senator ROBERT RAY**—Ask him: is there anything exempt from outsourcing, given the government’s resolved policy on this matter that does not seem to set any limits at all?

**Senator Ellison**—Let us take a situation of security or law and order where government obviously has a role which, to a large extent, cannot be outsourced and compare it with some other agency where there could be functions which are capable of being outsourced to a greater extent. It really is something you have to determine with each agency. There is no hard and fast rule across the government.

**Senator FAULKNER**—I do not think you have been concentrating. The officers at the table have told us that there is no agency service or function that cannot be outsourced. I think they have made that absolutely clear. The old distinction between core departmental and agency business and non-core business is gone—it is a thing of the past. You can outsource anything. You could outsource Dr Boxall if you wanted to.

**Senator Ellison**—Dr Wright did not say that every function of an agency could be outsourced. That is not correct, and I take issue with you on that point.

**CHAIR**—Minister, she did say that you could not delineate between core and non-core services.

**Dr Wright**—With due respect, Senator, I said that it was not possible to put sensible definitions around core and non-core. That was not terminology that we used. We spoke about relevant activities.

**Senator FAULKNER**—The minister has a problem listening to evidence given by officials at the table.

**Senator Ellison**—No.

**Senator FAULKNER**—You will find this has been a longstanding problem for us. Either he does not concentrate or he does not listen.

**Senator Ellison**—We are proceeding on the basis that the officer did not say what Senator Faulkner said.

**CHAIR**—I got it wrong, too, Minister.

**Senator Ellison**—And I think Dr Wright has clarified that, Senator Faulkner. You might want to listen more carefully to the officials’ evidence. The situation is one of definition, as Dr Wright said about core and non-core. But a wider question was put by Senator Faulkner as to whether there was anything which was not capable of being outsourced. My answer was clearly that it depends upon the agency concerned, because some agencies have obviously different functions. Such a thing as law and order—with policing—is a vivid example. That, Senator Faulkner, is the position. You might not like it, but that is it.

**Senator ROBERT RAY**—But there is no definition of what we are asking for.

**Senator Ellison**—That is not what Senator Faulkner asked.

**Senator ROBERT RAY**—I am moving on. You have just finished. I was going to move on and say that the one thing I did understand the witness to say is that they no longer use core and non-core. My recollection is that Dr Wright then used the word ‘relevancy’. Relevancy comes into play, but I am looking for the criterion that determines relevancy. Can we address that? Has it been looked at? Is it defined anywhere?

**Dr Wright**—No, it is not defined anywhere because it is addressed on a case by case basis with each agency, and each agency makes an assessment.

**Senator ROBERT RAY**—So, in the absence of that, there is no prohibition, other than looking at it case by case, for outsourcing anything.

**Dr Wright**—There is no prohibition; but, equally, there are no targets.

**Senator ROBERT RAY**—I understand there are no targets. I understand that part. Not only are you in an extraordinarily powerful position with this in being the advisory body but you can also bring this to bear on the budget process. Specific reference is made in government decisions that DOFA were to continue to use information on agencies’ CTC performance in the budget process. In other words, if the negotiations about outsourcing do not to go well during the year, you can screw them in the budget process and say, ‘You are not getting funds because you have not actually faced up to your CTC responsibilities.’ So what are the reasons it has been moved over to OASITO?

**Senator Ellison**—That has been taken on notice.

**Senator ROBERT RAY**—But I think this is relevant.

**Dr Wright**—The reason the responsibility is with OASITO is that OASITO has experience in liaising with the market and in contract development and it is an operational function whereas DOFA is a policy agency.

**Senator FAULKNER**—Dr Wright, you said there are no criteria. I want to be clear on this: are you saying that there are no market testing criteria that have been established?

**Dr Wright**—No.

**Senator FAULKNER**—So there are market testing criteria? I am sorry, we might be talking double negatives here.

**Dr Wright**—I think we are.

**Senator FAULKNER**—Let us be clear: do market testing criteria exist?

**Dr Wright**—That is a question that you need to direct to the Office of Asset Sales.

**Senator FAULKNER**—I thought you indicated to Senator Ray that there were no such criteria.

**Dr Wright**—I am not sure of what answer to which question you are referring to there. You would need to refresh my memory. I do not think I have been inconsistent.

**Senator FAULKNER**—Dr Boxall, do you know if there are market testing criteria?

**Dr Boxall**—As Dr Wright said, that is an operational issue and needs to be addressed to the Office of Asset Sales.

**Senator ROBERT RAY**—Who is actually in charge of the Office of Asset Sales—at the very top, other than the minister? Isn’t it you, Dr Boxall?

**Dr Boxall**—No, it is not.

**Senator ROBERT RAY**—But they come within your portfolio.

**Dr Boxall**—No, they do not. They are an executive agency and the head of the Office of Asset Sales reports directly to the minister.

**Senator ROBERT RAY**—So you are saying that it is all devolved?

**Dr Boxall**—This is a result of the Public Service Act, which was passed by parliament, which establishes executive agencies. The Office of Asset Sales was one of the first executive agencies to be established—in December. The head of the Office of Asset Sales reports directly to the minister. He or she does not report through me.

**Senator ROBERT RAY**—The decision said that DOFA would continue to use information on an agency's CTC performance in the budget process. How do you get to do that if it is all devolved down to OASITO?

**Dr Boxall**—As Dr Wright has explained, the Office of Asset Sales deals with the more operational end of the market testing and DOFA deals with the more policy end of the CTC initiative. I think I mentioned to you earlier in this series of questions that DOFA, because of the Budget Group, has a role where these things can be—not will always be but can be—tied in with pricing reviews which are a part of the information which is fed into the budget process.

**Senator ROBERT RAY**—You have just explained to us what I wanted to hear: that you set the policy parameters, not OASITO.

**Dr Boxall**—We do.

**Senator ROBERT RAY**—Yes, that is right. And you are basically being asked questions on the policy parameters, not on an individual case that they are dealing with for outsourcing cleaners or an ex-building or something else. You are being asked policy questions here, and you are representing a minister. This is estimates on DOFA and its totality. We are entitled to ask questions on these policy things and we are entitled to answers.

**Dr Boxall**—With respect, Senator Ray, I understood you to be asking Dr Wright about criteria for market testing. Maybe there is a misunderstanding here, but market testing is an operational aspect that is dealt with by the Office of Asset Sales, which is responsible for contract negotiation, putting out the tenders and all those sorts of things.

**Senator FAULKNER**—Dr Boxall, if I understand you correctly, are you drawing a distinction between market testing on the one hand and outsourcing more generally on the other?

**Dr Boxall**—That is one way to put it, Senator Faulkner.

**Senator FAULKNER**—I think that is a reasonable distinction for you to draw. Dr Wright did say that there were no criteria in relation to outsourcing more generally. I asked a question about market testing outsourcing. That is my understanding of what occurred. I think Dr Wright responded in the negative to a question that Senator Ray asked about criteria in relation to outsourcing more generally. If that is the distinction you are drawing, I think we understand.

**Senator ROBERT RAY**—What we are asking questions about is your strategic approach, not your tactical approach. I understand OASITO will deal with the tactical approach to these issues, but we are trying to get what the government philosophy is, as determined by the minister, cabinet or departmental policy making, towards outsourcing. We are really asking:

what is exempt? If there are to be exemptions, on what basis are the exemptions to be determined? That is what we are asking about. Can we have a response?

**Dr Boxall**—My understanding is that Dr Wright has answered that question.

**Senator FAULKNER**—Let us be clear on this, Dr Boxall. My understanding of what Dr Wright said is that, theoretically, there is nothing that is exempt.

**Dr Boxall**—I think what Dr Wright said was that it is up to each agency to decide which areas are relevant for outsourcing and which are not.

**Senator FAULKNER**—Yes. So are there any exemptions?

**Dr Boxall**—That is up to each agency.

**Senator ROBERT RAY**—So there are not any.

**Senator FAULKNER**—There are none.

**Senator ROBERT RAY**—They may exempt, but there is no guidance or direction as to exemptions at the moment.

**Dr Boxall**—I did not say that. I said it is up to each agency to decide what is relevant and what is not relevant.

**Senator FAULKNER**—But theoretically, Dr Boxall, any service or function currently being undertaken by an agency could be outsourced if a department wanted to so do. Is that fair?

**Dr Boxall**—No, it is not fair.

**Senator FAULKNER**—Why not?

**Dr Wright**—Just to restate what Dr Boxall has said, it is up to each agency to decide on what is relevant and what can be market tested. I do not think you can juxtapose relevance with exemptions because exemption, by definition, means that there are specific criteria, and we have already covered that area.

**Senator FAULKNER**—In other words, Dr Wright, if an agency determines to outsource any of its existing services or functions, there are no guidelines which would prohibit such an outsourcing activity.

**Dr Wright**—There is provision for a consultative process which engages the Office of Asset Sales and also, where necessary, the minister. So, again, it is on a case by case basis.

**Senator SHERRY**—Without limitation?

**Dr Wright**—It is on a case by case basis.

**Senator SHERRY**—Where are the written limitations? Are there any?

**Dr Wright**—As I said, it is on a case by case basis—

**Senator SHERRY**—Without written limitations.

**Dr Wright**—of relevant activity.

**Senator SHERRY**—Without written limitations. With Employment National I would not have thought it possible to contract out in that area. On the basis of Employment National, you could contract out half of the service delivery and functions of the staff in this room, for example, couldn't you? Do you have a response?

**Senator Ellison**—I think that is a hypothetical. The point Senator Sherry is making is that Employment National is an area that he thought could not be outsourced, but it was. But to ask the official to then draw a conclusion from that that might be based in the future is not appropriate.

**Senator ROBERT RAY**—There is a requirement on the current finance minister to report back at the appropriate time on the progress of the implementation of CTC. Is there now sufficient knowledge within your area, Dr Boxall or Dr Wright, to provide such advice? Or is it also going to have to come through OASITO, given the devolution of some of these activities to them?

**Dr Boxall**—The Minister for Finance and Administration has already reported back.

**Senator ROBERT RAY**—But he has to report back more than once.

**Dr Boxall**—He has reported back once. That took place last calendar year, earlier this financial year.

**Senator ROBERT RAY**—It was earlier this year?

**Dr Boxall**—To be more specific, from memory I think he reported back in the last half of 1999.

**Senator ROBERT RAY**—Do we know whether it was before or after the cabinet decision?

**Dr Boxall**—I do not know.

**Senator ROBERT RAY**—Because a cabinet decision requires him to report back. It is not helpful in terms of how their advice is provided to him if you do not have knowledge of what is happening in OASITO. I am wondering how he can report back.

**Dr Boxall**—The question is that he has already reported back once to cabinet, in the last half of 1999, and when he is due to report back again no doubt both the Office of Asset Sales and DOFA will provide him with advice so that he can report back. But, as you would appreciate, the new system of sharing responsibilities between the Office of Asset Sales and DOFA, which is referred to in a press release the minister put out on 9 May, has only recently come into effect; so there has been no opportunity to report back since then.

**Senator ROBERT RAY**—Was there a transfer of resources between the department generally and OASITO to take up these new responsibilities?

**Dr Wright**—Six members of staff have been seconded to OASITO.

**Senator ROBERT RAY**—Why seconded and not transferred?

**Dr Wright**—So that they are able to return to DOFA should they so choose.

**Dr Boxall**—It is also to assist in the transition of the responsibility over to the Office of Asset Sales.

**Senator ROBERT RAY**—So will there be a reduction in the SES level of DOFA by one to account for the less responsibility you now have?

**Dr Boxall**—If all other things were to remain unchanged, there might be.

**Senator ROBERT RAY**—It has not even been thought about?

**Dr Boxall**—It has been thought about.

**Senator FAULKNER**—So what is your thinking?

**Dr Boxall**—Our thinking is that we look at the responsibilities that are required in outcome 2, where this area resides, and we make a judgment about whether we need sufficient SES.

**Senator ROBERT RAY**—You must be currently looking at the SES levels and the responsibilities in the department. Are you reviewing that at the moment?

**Dr Boxall**—It is constantly under review.

**Senator ROBERT RAY**—But are you having a specific review at the moment of it?

**Dr Boxall**—Not specifically at the moment; it is constantly under review.

**Senator ROBERT RAY**—Is it more under review now in May than it was in April?

**Dr Boxall**—No.

**Senator ROBERT RAY**—So you are constantly reviewing your SES structure?

**Dr Boxall**—No, we are constantly reviewing the amount of resources we need to deliver the outcomes for the government within the budget we are given.

**Senator ROBERT RAY**—So you are not having current discussions with SES officers, looking towards a reshuffle?

**Dr Boxall**—No.

**Senator FAULKNER**—What about performance appraisals of SES officers?

**Dr Boxall**—All DOFA staff are under a performance management system and all performance appraisals take place in roughly May to early June so that we can pay performance pay in the last pay cheque of the year, which is around 22 June.

**Senator FAULKNER**—So we are right in the middle of that period now?

**Dr Boxall**—Exactly.

**Senator FAULKNER**—Who is undertaking those performance appraisals?

**Dr Boxall**—Managers undertake them of the people reporting to them. So it goes right down through the organisation. Anybody who has staff will be undertaking a performance appraisal with the staff and, equally, the staff will be engaged in performance discussions with their managers.

**Senator FAULKNER**—Take someone like you, Dr Boxall. You would appraise those at deputy secretary level in the department, for example?

**Senator ROBERT RAY**—Or their equivalents.

**Senator FAULKNER**—Yes, or their equivalents, and there would be so many of them.

**Dr Boxall**—Yes.

**Senator FAULKNER**—Tell us who you would do.

**Dr Boxall**—I appraise the people on the management board, who are the general managers.

**Senator FAULKNER**—From memory, there are about seven of those?

**Dr Boxall**—That is correct

**Senator FAULKNER**—Seven is a precise figure?

**Dr Boxall**—Seven, plus I appraise two other staff in the office.

**Senator FAULKNER**—At what level are the two other staff?

**Dr Boxall**—My executive assistants.

**Senator FAULKNER**—Minister, can you confirm that on 22 November 1999 there was a cabinet minute to submission JH99/0381—‘Proposal to increase CTC implementation by Commonwealth agencies’?

**Senator Ellison**—I do not comment on cabinet minutes which have been leaked, or in fact on any other cabinet minutes. It is a longstanding practice, Senator Faulkner. You know that.

**Senator ROBERT RAY**—Could we move on to the GST compliance unit. You might tell me what the correct title of that is. We discussed it briefly last time.

**Dr Wright**—Just the GST unit.

**Senator ROBERT RAY**—That is pretty simple. I think we heard last time that you have produced a manual, if that is the right word, for other government departments.

**Dr Wright**—That is correct.

**Senator ROBERT RAY**—Would it be possible for this committee to be supplied with a copy? I understand it was not confidential.

**Dr Wright**—Yes, Senator.

**Senator ROBERT RAY**—When I say a copy, depending on how you are going, one for each of us, but if you are struggling we can share it.

**Dr Wright**—It is not a problem.

**Senator ROBERT RAY**—Thank you. Has there been any increase in staff or funds for this unit since we last spoke?

**Dr Wright**—There has been no increase in funds. The number of staff working in the unit is now 10. I believe it was six when we last spoke.

**Senator ROBERT RAY**—I thought the first answer was six and it went to eight at a later time.

**Dr Wright**—That could be correct, but it is 10 now.

**Senator ROBERT RAY**—Have you had a look at the Gartner Group enterprise-wide report card on GST preparation that has had the odd run in the media?

**Dr Wright**—I am aware of it. I have not looked at it directly.

**Senator ROBERT RAY**—I have not read it myself; I will come clean there. I think it said that federal government departments are poorly prepared for the GST and other tax reforms due on 1 July. Do you want to comment on that?

**Dr Wright**—Our assessment is that all agencies will be GST ready on 1 July.

**Senator ROBERT RAY**—Do you think it would be a good idea to get hold of the Gartner Group report just to see where it might contradict the view you have just put forward?

**Mr Thorn**—There have been a couple of Gartner reports. The one to which you refer I think was a survey done by Gartner at about the beginning of the year. There is a subsequent report that received very little comment in the press. The first report did, as you say, report that Commonwealth agencies were poorly placed. At the time that report came out, we had done two monitoring surveys that indicated to us that the Commonwealth agencies were more

advanced than Gartner recognised, but largely that was a factor of timing. Had we gone back to the time when Gartner did their earlier work, most of the Commonwealth agencies were fairly fully engrossed in Y2K and were putting aside work on the GST. We found with successive monitoring that Commonwealth agencies were becoming well prepared for GST. The government expects all agencies to be compliant on 1 July, and in fact the latest Gartner report also reflects that improvement in Commonwealth agencies.

**Senator ROBERT RAY**—I think I also saw some publicity for the second one, but you are right, it probably was not as large as the first. You are saying that in their second report they have given a tick. Do they have any qualms in their second report?

**Mr Thorn**—I have not read the full report; I have only read what was in the paper. I did not bother going to the report because their coverage is quite small. They are picking up a very small sample, whereas we monitor all agencies.

**Senator ROBERT RAY**—When was the last time you did your survey?

**Mr Thorn**—Our last survey results were due on the 15th of this month. We are currently processing them.

**Senator ROBERT RAY**—If you are currently processing them, it must have been a different survey on which you made your earlier statement.

**Mr Thorn**—This is our fifth monitoring of the performance of Commonwealth agencies.

**Senator ROBERT RAY**—How is a survey conducted? Do you do it yourselves or are you using an outside group to do it?

**Mr Thorn**—We are using Deloitte Consulting. It is a questionnaire based survey that looks at the various threads of work that are involved in becoming GST compliant by 1 July. It asked a number of questions. We have modified the questionnaire as time progressed and put different weights on various aspects. Deloitte assess the questionnaire results with a view to determining those agencies that appear to be slow or in some difficulty.

**Senator ROBERT RAY**—When an agency is so identified, what is the process for notifying them of that and trying to get some remedial efforts put into them?

**Mr Thorn**—The first process is that the analysis of the survey indicates there might be a problem. Our arrangement with Deloitte Consulting is that the project manager within the organisation concerned will then be phoned and the results will be discussed. We are keen to see it as not just a questionnaire problem and that in fact the information that we are getting is reliable. Deloitte then make an assessment based on the questionnaire and the additional information as to whether there might be a problem. If there is a problem, then we follow it up.

**Senator ROBERT RAY**—What is the total cost of getting Deloitte to do this for you?

**Mr Thorn**—Together at the moment the contracted cost will run to about \$1.1 million. That includes some quality assurance work that we have been doing along the way to test that what we are doing is valid. That is out of a \$4½ million budget.

**Senator ROBERT RAY**—So it is about a quarter of your budget.

**Mr Thorn**—It is about a quarter of the budget. I think we will make some savings on the total budget, yes.

**Senator ROBERT RAY**—That will be good. Thank you.



**Senator SHERRY**—I have one issue I neglected to ask a couple of questions about involving the Veterans' Home Care Program. Can someone assist me in this area. It involves the transfer of responsibility for the provision of home care services for entitled veterans from the Home and Community Care Program, HACC, in Health and Aged Care, to the Department of Veterans' Affairs. I have a couple of questions there.

**Senator Ellison**—How does it fit in, Senator Sherry?

**Senator SHERRY**—We will see. I have only a couple of questions about it. It involves the issue of savings, which I think is relevant to Finance. I am not going to go through the program. There are only a couple of questions I want to put in relation to the savings issue.

**Dr Boxall**—Just to clarify this, that is a budget issue which is outcome 1, and we are now on outcome 2.

**Senator SHERRY**—I understand that, Dr Boxall.

**Dr Boxall**—Is that not an issue to raise with Health and Veterans' Affairs?

**Senator SHERRY**—It certainly will be, but there is an issue here of the claimed savings that I just want to ask one or two questions about.

**Senator Ellison**—Mr Chairman, I think we have to be careful about opening up a whole new area which really might be in the jurisdiction of another estimates committee. Senator Sherry, if you could keep it brief, we would appreciate it.

**Senator SHERRY**—It will be brief.

**CHAIR**—We will see how we go.

**Senator SHERRY**—In the transfer of the program to the Department of Veterans' Affairs, it is claimed in the forward estimates that there will be a saving of \$57 million by providing home services to 20,000 or more veterans. The figures are \$29.4 million in 2001-02, \$15.3 million in 2002-03 and \$18.9 million in 2003-04. Obviously this will have been checked off by Finance. My question is: how are these savings to be achieved by the transfer of this program from one department to another?

**Mr Murphy**—The service of home care to veterans or other people was under the Health and Aged Care portfolio. Where the savings arise which Veterans' Affairs have identified is that, by providing a more targeted service to veterans, the department considers that, instead of veterans ending up getting intensive treatment in hospitals, they will be able to provide a service of going into homes as such and providing preventative measures to keep people out of hospital.

**Senator SHERRY**—But presumably you check off these claimed savings with the department through your oversight process?

**Mr Murphy**—Yes.

**Senator SHERRY**—And you are confident that these savings will be met?

**Mr Murphy**—A lot of work was put into these savings and testing of the savings. We were satisfied that was a much more targeted approach to veterans, and that they would be able to recoup these savings from the system.

**Senator SHERRY**—Is there some sort of survey done of the use of hospitalisation and other health care services to presumably work out how it could be diverted to home and community care rather than these more expensive areas?

**Mr Murphy**—We went through numerous sets of figures with them and were satisfied that they could realise these savings. Realistically, to go into the detail you want, you should talk to the Department of Veterans' Affairs.

**Senator FAULKNER**—In relation to DOFA property assets and the domestic property task force, et cetera, does DOFA monitor the aggregate amount of rent that is paid by the Commonwealth for office space?

**Mr Bowen**—No, we do not, not for rent, other than that which is paid to DOFA.

**Senator FAULKNER**—Is there a reason for that?

**Mr Bowen**—The reason is that our responsibility relates to running the Commonwealth's non-defence property portfolio. It is a matter for individual agencies as to the rent that they pay to the private sector.

**Senator FAULKNER**—I appreciate those responsibilities, but I did wonder, frankly, if the Commonwealth aggregated this in some way.

**Mr Bowen**—No.

**Senator ROBERT RAY**—So the best way to aggregate it is if I put a question on notice across all departments, and I could get the figure in six months time.

**Mr Bowen**—It is a matter for individual departments.

**Senator FAULKNER**—You have told me that this is not being done. I appreciate that. Are you aware whether it has been done historically? Do you know if there is any historical data?

**Mr Bowen**—I am not aware of that.

**Senator FAULKNER**—In the situation where we have had a significant number of Commonwealth property sales over the past three or four years—there are more planned of course—is there any cost-benefit analysis of the overall strategy of selling Commonwealth properties that you might be able to point me to which would be useful background as I delve further into this arcane issue?

**Mr Bowen**—I think the rationale for the government's policy goes back to the Commonwealth property principles, which I think you are familiar with, and that is the basis on which we pursue the sales program.

**Senator FAULKNER**—Beyond that there is no other cost-benefit analysis or anything else?

**Mr Bowen**—Clearly, in the sale of any particular property we take into account normal commercial parameters, valuation hurdles—things of that nature—but that is the extent of our approach.

**Senator FAULKNER**—If I wanted to find an encapsulation of the Commonwealth's preference for being a tenant rather than a property owner, again would I go to the same source? Is that the best place for me to go?

**Mr Bowen**—Yes.

**Senator FAULKNER**—Is there any modelling on the relative merits of Commonwealth departments or agencies renting rather than owning office accommodation?

**Mr Bowen**—Again, the Commonwealth property committee, which was established and undertook its task a few years ago, did a range of analyses to identify the properties that should be sold. That is the basis on which we are working.

**Senator FAULKNER**—I am just trying to establish whether there is something out there in the ether that I am not aware of.

**Mr Bowen**—Not to my knowledge.

**Senator FAULKNER**—But I think that you have suggested to me that I might be aware of most of what is available. I raise one other issue. I noted in the *Canberra Times*—I am a regular reader of the *Canberra Times*—an article entitled ‘Russell buildings tipped in new defence sell-off’. There was an article quite recently—11 May—about the Russell buildings being part of the \$480 million Defence property sell-off. I do not know whether you are aware of the article itself.

**Mr Bowen**—It is not a matter that I can comment on. The Defence portfolio is quite separate from the DOFA portfolio.

**Senator ROBERT RAY**—Dr Boxall, are you aware of previous agreements entered into by the department of finance in regard to the sale of Defence land?

**Dr Boxall**—I am aware that there was an agreement between the Department of Defence and the old Department of Finance.

**Senator ROBERT RAY**—There were two, weren't there—one in 1999 and one in about 1993-94?

**Dr Boxall**—I am vaguely aware of those. There is a measure in the measures document—Budget Paper No. 2, page 177—which outlines the sale of Defence property, which probably includes the issues to which Senator Faulkner is alluding.

**Senator FAULKNER**—That is what I was alluding to. You are saying, Mr Bowen, that there was no department of finance involvement in this at all—planning, advice, wise counsel; nothing.

**Mr Bowen**—What I am saying is that I have no responsibility in the area of Defence property.

**Senator FAULKNER**—I understand that, as far as the statement goes.

**Senator ROBERT RAY**—That is essentially because virtually all those Defence properties are funded out of the Defence budget, not out of consolidated revenue like the rest of your properties. Is that right?

**Dr Boxall**—Questions with respect to Defence property sales are in the bailiwick of the Budget Group, which is outcome 1. But if you want to ask a question we will see how we go.

**Senator ROBERT RAY**—It was not a question I asked. Mr Bowen says that he does not have responsibility. We accept that. I am asking about the reason for his lack of responsibility here: it is not irresponsibility. Lack of responsibility—not irresponsibility—in regard to this is because, unlike all the rest of the Commonwealth properties, this is funded out of Defence funds, not out of consolidated revenue. I was just trying to establish that and help you out.

**Mr Bowen**—That is not quite accurate, for the record. The reason that I have no responsibility for Defence property is that I am charged with managing the DOFA property portfolio, not the Defence portfolio. They are two quite distinct portfolios.

**Senator ROBERT RAY**—And the reason the Defence property is not in the DOFA one is that they have paid for it themselves.

**Mr Bowen**—They do pay for it themselves, yes.

**Senator FAULKNER**—Having heard that, which I appreciate, I was going to move on and ask Mr Bowen: appreciating your responsibility, has there had been any interface between Defence and you in your DOFA role in relation to this proposed Defence sale?

**Mr Bowen**—I have had no interface with Defence at all on that matter.

**Senator FAULKNER**—Thank you. Therefore I could be satisfied, effectively, that DOFA has had no link with Defence.

**Mr Bowen**—I did not say that; I simply said that I have had no—

**Senator FAULKNER**—I heard what you said, and that is why I asked the subsequent question: could I be satisfied that that is the case more broadly for the Department of Finance and Administration?

**Dr Boxall**—No, Senator. What I was trying to point out is that these issues are covered in the Budget Group, which is outcome 1. Even though the staff have gone back to the department, we will make an attempt to answer the questions.

**Senator FAULKNER**—I do not believe in us spending time to go back to Budget Group, if that is the case. Suffice it to ask one small question, and we can follow it up at a later stage. Could you just give me a thumbnail sketch of the engagement and interface that DOFA has had with Defence, in a broad sense, and we can follow it up with Budget Group at a later stage. If they have gone home, I do not want to waste time now.

**Mr Murphy**—In the budget context, there was a review undertaken of Defence's properties, and it was a joint review with DOFA and Defence. This was in addition to Defence's ongoing property disposal program which they conduct out of the Defence Estate Organisation. The results of that review were reported to the government in the context of the budget process, and the outcome of that review is the measure that is in this year's budget, on page 177.

**Senator FAULKNER**—Thanks very much. Your group, of course, Mr Bowen, would not have been involved in that review.

**Mr Bowen**—No, it was not our responsibility.

**Senator FAULKNER**—We will leave that there. We might revisit it at some later stage.

**CHAIR**—I think that brings us to the end of outcome 2.

**Senator Ellison**—Could I ask that the officials who are related to outcome 2 be excused?

**CHAIR**—Yes, thank you, Minister.

**Senator FAULKNER**—I hope that we have finished.

**Senator ROBERT RAY**—If they want to stay and watch, they can help us.

**Senator Ellison**—I am just making sure that there will not be a requirement later on when people might say, 'we want to go back to it.'

**Senator FAULKNER**—I am sure Dr Boxall would tell us if we stray into outcome 1 or 2—not that anyone would ever understand what particular matters ought to be raised in which area, including some of those at the table.

[3.29 p.m.]

**Outcome 3—Efficiently, functioning parliament (Ministerial and Parliamentary Services Group)**

**Output group 3.1—Ministerial and Parliamentary Services**

**Dr Boxall**—I just want to clarify what the committee wants to do next. Is it 3.1?

**CHAIR**—Yes.

**Senator FAULKNER**—The answer to Dr Boxall's question is that Senator Ray's and my questioning, if it is any help, Mr Chairman, will be limited to output group 3.1 only.

**CHAIR**—Thank you.

**Senator ROBERT RAY**—Is the MoPS section GST ready?

**Mr Wight**—We will be. We are working towards that outcome.

**Senator ROBERT RAY**—In regard to one aspect of that, the staff travel budget: I am pretty certain the GST will put up the prices for cabs and air fares. Is the staff travel budget going to be adjusted for that amount?

**Mr Wight**—There is no need to adjust the staff travel budget for those areas. In respect of air fares and taxi fares, it is the ministerial and parliamentary services group that actually purchases those goods—pays the bills—and we will claim back any tax input credits, so the budget will be unaffected.

**Senator ROBERT RAY**—Doing it via other agencies like Jetset is not going to be a problem in this regard?

**Mr Wight**—No.

**Senator ROBERT RAY**—The easiest way to say it is that it is going to be tax neutral?

**Mr Wight**—That is correct.

**Senator ROBERT RAY**—Are there any other areas of MoPS going to be affected in price terms in terms of GST that will not be tax neutral in that sense you have described?

**Mr Wight**—On the face of it, we will be able to claim back the tax input credit for all of the services that ministerial and parliamentary services buys.

**Senator ROBERT RAY**—Have you an estimate of how much it has cost the MAPS unit to become GST compliant?

**Mr Wight**—At the moment, we are using departmental resources to become GST ready.

**Senator ROBERT RAY**—So there will be no breakdown of resources per output group?

**Mr Wight**—Most of our resources are in 3.1.

**Senator FAULKNER**—Senator Ellison, in response to a question I asked Mr Cochrane on 8 February, he said:

We are identifying all areas of potential risk or areas that certainly need to be looked at with the implementation of the GST on 1 July. Each of our areas, including ministerial and parliamentary services, is identifying a list of issues that requires to be worked through. That is one of the issues.

I asked could that list of issues be made available to the committee. The answer I got back was no.

My interest here was in relation to GST impacts in MAPS. I was surprised at that answer. Sometimes you cop these things sweet, but I did think it was a perfectly legitimate interest of the committee that the department's assessment of the impact of GST on members and senators might be made available at least in the form of a list. So I was a bit surprised. You could probably understand why I was surprised at that response, Minister. It seemed to be rather ungenerous. I wonder if you might just explain to me why I received the brush-off on that occasion. This is answer F&PA 147.

**Senator Ellison**—Senator Faulkner, I understand that, at the time, it was the subject of a working document. It may be that one of the officials might be able to assist a little further.

**Senator FAULKNER**—That is right. I quoted directly into the *Hansard* what Mr Cochrane said. So, yes, it was a working document. It said that. It identified a list of issues that were required to be worked through, including in MAPS. I asked whether the list could be made available. I was surprised at this answer because I thought this was one thing that could be made available.

**Mr Wight**—In relation to Ministerial and Parliamentary Services issues, those entitlements determined as allowances payable directly to senators and members are not subject to the GST. Those goods and services purchased by Ministerial and Parliamentary Services—in other words, paid on behalf of senators and members—will attract the GST, and the department will be able to recoup the tax input credit on those. That occurs in areas like air fares, postage, charter travel and so on. So the charge paid by us will include the GST and we will recoup the input credits. For the senator and member there is no difference in the amount available. So, if a charter allowance is currently \$10,000, it will remain \$10,000.

**Senator FAULKNER**—I remain perplexed as to why a list could not be provided to the committee. I think members and senators—maybe nobody else—would benefit from such a brief document. I found that quite extraordinary. Can you have another look at this one, Senator Ellison?

**Senator Ellison**—Yes, I will look at it. I think at the time it was a working document and there had not been a position arrived at for an answer.

**Senator FAULKNER**—But even if you had to create a document, I think the tenor of my question was pretty clear.

**Senator Ellison**—But I still think that at that stage—you are going back to 9 February—there were still things being worked on. It is now May and it is a whole lot clearer. We will take what you say on notice.

**Senator FAULKNER**—I am glad something is a whole lot clearer.

**Senator Ellison**—Mr Wight has indicated to you, in a quick description, how the GST applies across the entitlements he has mentioned. It follows on from what Senator Ray asked in relation to staff travel. The theme is that it will be tax neutral and the input credits will be claimed by the department.

**Senator FAULKNER**—There has been at least one document, has there not, that outlines some of the impacts of the GST on members, senators, their offices and staff and so forth? That is correct, is it not? There has been something available. Haven't I seen something?

**Senator Ellison**—It was not from MAPS, but there was something that originated from the Australian Taxation Office which might have been relevant.

**Senator FAULKNER**—I think that is probably right. I knew I had seen something. Would it not be sensible for MAPS to bring something together and provide it just as an information service?

**Senator Ellison**—We certainly would advise members and senators in relation to entitlements and how they might or might not be affected by the GST.

**Senator FAULKNER**—When are you planning to do that?

**Senator Ellison**—That is something that we will look at between now and the implementation of the new tax system.

**Senator FAULKNER**—What I fear is that, if I had not raised it here, it would not have been looked at at all. So planning was under way, was it?

**Senator Ellison**—No. You have the *SMOS News* that you get from time to time. It has up-to-date matters in relation to entitlements and other things. We put current subjects in that, and this would well be within that.

**Senator ROBERT RAY**—Whoever composed the plain English version of the recent rem tribunal report, did an excellent job of explanation in simple English. You might like to think about that.

**Senator Ellison**—I tend to agree with you. It was part of the announcement by the Minister for Finance and Administration that the determinations would be looked at with a view to making them more understandable. MAPS was providing invaluable support.

**Senator ROBERT RAY**—Absolutely.

**Senator FAULKNER**—Beyond the date when Mr Cochrane told us that this information would be able to be made available, could you look at providing this information in some reasonably accessible form for the benefit of members, senators and their staff, which I think might be a useful function that MAPS could perform? I just ask you to have another look at that, because it is a pretty disappointing response to a pretty sensible request.

**Senator Ellison**—We have not rejected what you say and we will take it on board.

**Senator ROBERT RAY**—I would like to congratulate the department for resolving the cost of MPs' home telephone rental. You will recall that, through the assiduous work of the department, they established that collecting this was far more than the revenue. Is the \$69,000 going to be reallocated to higher priority areas now that you have made that saving?

**Senator Ellison**—Perhaps we can go to another question.

**Senator FAULKNER**—We want an answer to this one.

**Mr Cramsie**—We are reallocating it.

**Senator ROBERT RAY**—It does not come into effect until this month, I do not believe.

**Mr Cramsie**—Yes.

**Senator ROBERT RAY**—But that will be reallocated within MAPS or will it go to some other area of Finance? There is a bit of conflict of interest at the table.

**Mr Cramsie**—Within MAPS.

**Senator ROBERT RAY**—You would agree with that, Dr Boxall?

**Dr Boxall**—Certainly, Senator Ray.

**Senator ROBERT RAY**—Excellent judgment. Minister, can I ask you a question about Senator Macdonald's foray into local government elections, on which you corresponded for the member for Rankin. In that letter you said the following:

There inevitably will be grey areas and there may from time to time be fine distinctions to be drawn. I think you are referring to the judgments applied to mail-outs, as to whether they are part of MPs' duties or ministerial duties, and blatant campaigning. Are you actually going to issue some explicit guidelines which would obviate the need for you to have to interpret things such as fine distinctions?

**Senator Ellison**—The problem—you find it in other areas too; we have discussed this on many occasions—is that the more you drill down into detail the more you find that there are exceptions and you exclude quite reasonable activities. It is a definitional problem. The rem tribunal itself has shied away from getting into the definition of what is parliamentary and what is electorate. The Australian Taxation Office has looked at it in relation to the electorate allowance. That has always been the problem. There always has to be, at the end of the day, the exercise of the judgment of the member or senator. I am not saying that you leave people out to swing in the breeze, so to speak. The MAPS section has a help desk, and we get a lot of inquiries from all sides about what is permissible in certain circumstances. In the circumstance that you mentioned, the action was not found to be infringing any entitlement.

**Senator ROBERT RAY**—So, when Minister Macdonald puts at the bottom of his letter:

PS: As Angela Owen-Taylor is your Liberal Candidate for Acacia Ridge and actually lives in the area, I have asked her to also come along so you can meet her too.

That is not campaigning?

**Senator Ellison**—You have got to look at the whole of his letter. This is one line in a letter. Can I say that Senator Macdonald is the minister for local government, and he was going to this meeting.

**Senator ROBERT RAY**—I think we are getting on even harsher ground. I was not going to introduce that element of him abusing his ministerial office.

**Senator Ellison**—No, he was not.

**Senator ROBERT RAY**—But this was sent out by him as a senator, wasn't it? It was not sent out as Minister Ian Macdonald; it was sent out as Senator Ian Macdonald.

**Senator Ellison**—Senator Macdonald has a long-standing interest in local government. It is something which he is quite entitled to have, and I think he was going there as a guest speaker, in fact. The fact that there is an inconsequential mention of someone in one line is—

**Senator ROBERT RAY**—Come on! I am not going to be that pernickety. There is no need to run this obstruction with me. Really! He has organised the meeting and support for it.

**Senator Ellison**—I can point to members on your own side who have done exactly the same thing.

**Senator ROBERT RAY**—Exactly. That is the point I was about to go on and make.

**Senator Ellison**—We can make that point. In relation to this, I can say that this is a question of the degree. It always is a question of degree in these matters. That rule applies across the board, and it always has done.

**Senator ROBERT RAY**—There is no rule—that is the point. And maybe there should not be. I am saying to you, Senator, that you should not have to make these fine distinctions.



When complaints come to you, especially about your colleagues or your political enemies, you should not have to rule on whether a letter is within the ambit of the interpretations. You are put in an impossible position. You say to me that it is very hard to think up a definition here; you cannot really put down criteria. You might as well just cut and run from it and say, 'Look, there is your entitlement. You're going to use it whichever way you like, other than for commercial purposes.' This letter from Senator Macdonald, as you pointed out—

**Senator Ellison**—is within entitlement.

**Senator ROBERT RAY**—It is totally blatant political campaigning, which a variety of people from all sides of politics have done. It is just time to front up honestly to it. A couple of years ago letters went out from your department to members of parliament for far less blatant things than this asking them to explain themselves.

**Senator Ellison**—Senator Ray, can I say that if a matter is brought to the attention of the department, the standard procedure is to follow that up. The department does not, in the first instance, act as judge and jury. You have not mentioned the details of the cases or who they involved, but I can tell you that, as a rule, if the department has a matter brought to its attention by virtue of a complaint, it writes to the person concerned. That does not necessarily mean the department thinks there is something untoward or not. It is simply a matter of procedure that it writes accordingly.

**Senator ROBERT RAY**—Can you honestly tell me that this is not a political letter? It is going out from a resident in Townsville, the minister for local government and a senator from Queensland, who is writing to a Brisbane constituency complaining about the fact that:

The Council Ward Office isn't even in your Ward,

The Local Library has been moved outside your Ward,

Local bus routes were changed without residents being properly consulted.

And he goes on to say:

I have organised an informal Residents Meeting ...

He was not invited to one; he has organised it. The response to the letter if you want to come is to Ms Angela Owen-Taylor on a specific phone number, and then we are told in the PS that she is the local Liberal Party candidate and actually lives in the area. It is as blatant as can be. I am not suggesting that you do anything about it; I am just suggesting that you cut and run, Minister, because if you have let that through I can send anything out to anyone.

**Senator Ellison**—That letter was primarily about a range of local issues which you have mentioned, which any senator is entitled to write to constituents about. The line you mentioned is just that. I could point to a number of your colleagues who have done a similar thing in their letters, and it has been held that that is within entitlement. And you are entitled to write about local issues. They do not have to be necessarily a federal, state or local issue; it can be about anything, and they are political issues.

**Senator ROBERT RAY**—So I can write to all the residents in my duty electorate. I can also highlight who the local endorsed Labor Party candidate is. That is fine, you say. I can do that?

**Senator Ellison**—It all depends on the degree to which you mention the person concerned or the purpose of the letter.

**Senator ROBERT RAY**—Explain to me what the degree is. How far can I go? Can I extol their virtues? Can I hand out their phone number? Can I give their electoral address, their post office box? How far can I go?

**Senator Ellison**—It is a case-by-case assessment.

**Senator ROBERT RAY**—By whom: by you?

**Senator Ellison**—No, the department makes an assessment.

**Senator ROBERT RAY**—Who in the department will judge this?

**Mr Gavin**—It is actually ultimately a matter for the courts.

**Senator FAULKNER**—But that is not the question, Mr Gavin. The minister said there is departmental judgment made. It might ultimately be a matter for the courts, but who in the first instance is advising the minister on what might pass muster and what might not?

**Mr Gavin**—Of recent times I have been the person signing off the brief. Any brief I sign off is usually not in terms of making a judgment on whether it passes muster or not, because the process is usually to recommend that the minister write to the senator or member concerned to allow them to give their account.

**Senator ROBERT RAY**—Did we write to Senator Macdonald?

**Mr Gavin**—In this case the advice I gave to the minister was based on my view that this one really did not require an explanation. This is as I recall.

**Senator ROBERT RAY**—So Senator Macdonald was not written to.

**Mr Gavin**—That is right.

**Senator ROBERT RAY**—I am trying to get the rules of the game here. I am entitled to write to my constituents on federal government, state government and local government issues. Is that right? Talking about the movement of libraries and responsibilities. I am entitled to do that.

**Mr Gavin**—The courts have not ruled anything. I am not wanting to be difficult, I am just saying it is a matter of judgment. There is certainly a respectable school of thought that says that 'electorate matters' picks up anything that is of concern to your constituents.

**Senator FAULKNER**—You used that word 'anything', which is exactly what Minister Ellison used. You can write on anything.

**Mr Gavin**—I also said it is a respectable—

**Senator FAULKNER**—Yes, but the minister said—he will check the *Hansard* record, no doubt—federal, state, local, anything. So you can write on anything, I assume.

**Mr Wight**—Under the Parliamentary Entitlements Act, it has traditionally been that these facilities can be used for parliamentary and electorate business but not party business. So in one sense it is really what is parliamentary and electorate business, and they are not further defined in the act.

**Senator FAULKNER**—It used to be, but Minister Ellison has just said 'anything'; anything goes.

**Senator Ellison**—No, I think you are again getting it wrong.

**Senator FAULKNER**—You check the record, Senator Ellison.

**Senator Ellison**—We will check it. We definitely will, Senator Faulkner. The point I was making was that as a federal politician you are not just constrained to federal issues. It is laughable to think that as a federal politician you cannot be concerned with anything, especially as a senator. Senator Ray mentions his duty to the electorate, or whatever it is. Your state is your electorate as a senator and you know that we get inquiries from constituents, which range from local government and state government to federal government. All of those areas, those jurisdictions, are relevant for us to concern ourselves with. In fact, when I say just those, there are also international matters too. I have had letters just recently on Zimbabwe and even Timor. The range of political issues that can concern a federal member of parliament or senator is very wide indeed, and quite appropriately so.

**Senator ROBERT RAY**—I am just trying to establish the rules here. There is no need to get too aggro on this.

**Senator Ellison**—No, I am not; I am enthusiastic.

**Senator ROBERT RAY**—Good. So our avuncular minister in charge of this says there is a wide range of public policy issues we can write on. All right, let us accept that. We accept that we can write on local government issues because we are so concerned about them, because they eventually have an effect. We can write on state matters because they are interrelated with federal ones. To what extent can we mention a political candidate? The tried and true method, as I understand it, is that you put at the bottom of the letter ‘and my local representative, the person that represents me in the area,’—he also happens to be the endorsed candidate but you do not say that—‘is so-and-so’. Do we agree that is okay?

**Mr Gavin**—Over a period there have been very clever ways of walking through the forest, yes.

**Senator ROBERT RAY**—The P.S. ain’t too clever, is it? It says:

As Angela Owen-Taylor is your Liberal Candidate for Acacia Ridge and actually lives in the area, I have asked her to also come along so you can meet her too.

That is not quite as clever as you are describing, is it? But that is okay too?

**Senator Ellison**—I think we have already answered that question. This is if you have a person who is merely a postscript in a letter and you say, ‘This person is assisting me on this issue,’ or ‘is a person’—as you have mentioned—‘who keeps me in touch with local issues.’ There are all manner of ways that we, as members of parliament, keep in touch with local issues.

**Senator ROBERT RAY**—Okay. We have established that it is okay for the person, even though the person does not work for you, to represent you; they are your eyes and ears in the electorate. Are you able to mention as well—so you are not being deceptive—that they are also the endorsed Labor or Liberal candidate for the area, as Senator Macdonald does?

**Senator Ellison**—I think that again it is a question of degree.

**Senator ROBERT RAY**—So I could say, ‘I think he might be’—just a possibility he might be an endorsed candidate?

**Senator Ellison**—No. It is a question of how you put that. You say, ‘You should vote for this person.’

**Senator ROBERT RAY**—No, I have not said that. I have not got that far.

**Senator Ellison**—You could well lay yourself open to criticism if you did not reveal that this person was involved in political life or was standing for political life. So either way you lay yourself open to criticism if you do not say it and criticism if you do. You have spent some time talking about the appointment of someone where you say there was not sufficient mention on his CV of his involvement with the Liberal Party. Members of the public may well want to know that this person is standing as a candidate for something.

**Senator ROBERT RAY**—Yes.

**Senator Ellison**—And if you did not, they could well be upset that they were not told.

**Senator ROBERT RAY**—Just to correct the record, Minister, I referred to a miserable failure at preselection who could not even beat Senator Tierney, so it was not their actual endorsement—okay?

**Senator Ellison**—No, you were talking about other matters being left off the CV.

**Senator ROBERT RAY**—Yes, but it was in that context—as long as you understand that.

**Senator Ellison**—Well—

**Senator ROBERT RAY**—This is the clearest picture—well done, Minister—I have ever had of this, so I really do appreciate what you are saying. Irrespective of Mr Gavin's ultimate threat that we might get dragged through the courts, you are saying that you can write on these broad public policy issues, you can mention your local contact in the electorate provided you are not soliciting for votes—I understand that—and it would also be your public duty to reveal the fact that they are endorsed candidates, because we would not want to be deceptive. Is that a fair summary?

**Senator Ellison**—I did not say it was a public duty, I said it would leave it open for you to be criticised for not telling the recipient this person's political aspiration, because people might want to say, 'If I had known they were standing for parliament or something like that, I would not be interested in talking to them.' You could well be criticised for that. I am not saying there is a duty of disclosure or there is a duty not to disclose, all I am saying is that that is a judgment at the end of the day which one has to make, and I am putting to you factors which could weigh on whether or not you make that disclosure.

**Senator ROBERT RAY**—I think that has helped us establish the ground rules for us communicating with the electorate at large. I think it has been a valuable discussion, Minister. It has certainly clarified it in my mind.

**Senator Ellison**—I hasten to add that there is always a question of degree.

**Senator ROBERT RAY**—You could never say we are not subtle. You mentioned that you cannot have anything overtly political in correspondence. When you say you cannot have anything overtly political, if you are sending out a whole range of material to people—I am not talking about 'how to vote' here—such as your speeches and areas of interest, and if you put in that envelope an ad for a local dinner dance, is that proscribed?

**Mr Wight**—It relates to use by senators and members of their facilities for carrying out their electorate and parliamentary business. The process that we have outlined in terms of where necessary approaching the senator or member recognises that parliamentary and electorate business is not further defined in the act.

**Senator ROBERT RAY**—Senator Macdonald has invited people to what is an obviously political function, but that seems to be okay, and I am not criticising that. If I am invited to the

‘Toot Garoot’ Labor Party dinner dance, can I send out invitations to that as an adjunct, not as a primary thing, in all the material I send out?

**Mr Gavin**—Is it an ALP fundraising type of thing?

**Senator ROBERT RAY**—I might not know. I do not know whether it is going to make any money or not.

**Senator FAULKNER**—Let us say it is.

**Mr Gavin**—If it were, I think it would be unsafe.

**Senator ROBERT RAY**—Is that if you sent it out to the general public or to anyone?

**Mr Gavin**—As Mr Wight said, ‘for parliamentary and electorate but not party business’ is the way, as I recall, the Parliamentary Entitlements Act refers to postage and indeed how the Remuneration Tribunal determination refers to the modern equivalent, which is the information service delivery entitlement. You only have to come to this place to realise that parliamentary business involves political business. Therefore, when it talks about party business it is more likely to refer to administrative and fundraising type considerations.

**Senator ROBERT RAY**—I think I understand that if you explicitly just send out a notice for a fundraiser, you are in breach. But what if it is incidental to the correspondence? That is what I am asking: what if, for instance, I want to circulate Senator Ellison’s views on direct mail to the constituency and at the back I put in that we are also gathering for so and so, just incidentally?

**Mr Gavin**—The incidental concept and, in fact, the 60-40 and 70-30 rule I think go back even to your time as minister, Senator. It has never been tested in the court but there are lawyers who see it as highly respectable.

**Senator ROBERT RAY**—This, of course, is use of your postal entitlement. You would not know if it were a stamp entitlement, would you? You could not tell.

**Mr Gavin**—The way that one tells is by what is in the envelope.

**Senator ROBERT RAY**—If it was sent out in a plain envelope and it was stamped, even though they were Commonwealth stamps, you would never know.

**Mr Gavin**—You would not know but you would wonder why the person concerned had not used their envelope provided by the parliament, wouldn’t you?

**Senator FAULKNER**—But even if they used their envelope—

**Senator ROBERT RAY**—But every member’s office has probably got plain envelopes because they do not want to mix up parliamentary and personal business. You cannot say any senator has not paid a bill from their office but they have used their own resources: plain envelopes, their own stamps, et cetera.

**Mr Gavin**—It would be a mistake to think that we see ourselves as police people.

**Senator ROBERT RAY**—I know you do not. We are just trying to get the interpretation right for the guidance of colleagues. It is much better to have them prepared or, if you like, forewarned on what they can or cannot do than being tripped up later and taken off to court or being admonished. We have been through an era in which we now believe that proper systems and proper knowledge are better than being caught out or exposed. We are all signed up to that. I am just trying to establish what the ground rules are so that people do not make mistakes.

**Mr Gavin**—This has been said before, but another way of saying it, I suppose, is that there is some business that is clearly parliamentary or electorate business that no-one in the community would object to. There is some business about which the average person in the street would likely object to public funds being used in that way, and in between that there are grey areas. It is unlikely that the use of a 45c stamp would ever lead to some kind of court action, but the other test is the test of public opinion and what you feel the average person in the street would think was a reasonable use of public funds.

**Senator ROBERT RAY**—Of course.

**Mr Gavin**—I would imagine some people in the street would be uncomfortable about some of the examples you have used.

**Senator ROBERT RAY**—Some people in the street would like us to walk to Canberra and not have a feed on the way.

**Mr Gavin**—That is right.

**Senator ROBERT RAY**—We just put up with that.

**Senator FAULKNER**—You may need to take this question on notice, but I wondered if you could give me the number of MOPS staff currently employed by coalition and opposition members or senators. I am interested in how many in both categories have been MOPS staff since 1996. I appreciate it is something that you cannot answer. I am just interested in the proportions and to see if we can establish a pattern of longevity of MOPS staff. That is not a highly partisan issue.

**Mr Gavin**—Including electorate offices, obviously.

**Senator FAULKNER**—Yes, I think so. That is why I have broken it up into those two categories. We could have thrown in Democrats, et cetera, but I think those two categories give a good balance. Thank you for that. With the increase of use of laptop computers, has there been an impact on telecard use?

**Mr Wight**—Not that we know of, but it would be reasonable to assume that, with more availability of laptop computers and with senators and members travelling, the expenses in that area could well go up.

**Senator FAULKNER**—I would imagine they would.

**Senator ROBERT RAY**—There goes my \$61,000 saving!

**Senator FAULKNER**—Does this mean you have not collected figures on telecard use?

**Mr Wight**—We have phone records, obviously, in the department because we pay the bills. We have collected phone records based on the electorate office phone, which would include the telecard component, in the same way that we would have it on senators' and members' mobile phone usage.

**Senator FAULKNER**—Yes, but you can disaggregate it for telecard use, can't you?

**Mr Wight**—It is possible to disaggregate the telecard, yes.

**Senator FAULKNER**—Have you done that?

**Mr Wight**—Can you go over the question for me one more time?

**Senator ROBERT RAY**—Before you do that: we may be under a misapprehension. Regarding the actual bill for a member of parliament's telecard, which is mentioned in the latest Remuneration Tribunal report, is that billed to an office phone number?

**Mr Wight**—That is correct.

**Senator ROBERT RAY**—So any calls made from that go to the one phone line or the one system?

**Mr Wight**—That is correct.

**Senator ROBERT RAY**—Does that go to the electorate office?

**Mr Wight**—Yes. That is the electorate office phones you are talking about?

**Senator ROBERT RAY**—Yes. Members never get to see that bill because you pay the lot.

**Mr Wight**—That is correct. They do not see the bill as such. They see the figures in monthly management reports, but they do not see the bill.

**Senator ROBERT RAY**—But that telecard bill can be disaggregated out.

**Mr Wight**—Yes, Senator.

**Senator ROBERT RAY**—We were not clear on that. We just wanted to make sure we were not under a misapprehension.

**Senator FAULKNER**—What I have asked is: have you disaggregated telecard usage?

**Mr Wight**—We certainly do not do that systematically, but we would have that information that you are talking about.

**Senator ROBERT RAY**—But have you done it recently?

**Mr Wight**—Yes, we have.

**Senator ROBERT RAY**—For all members and senators?

**Mr Wight**—Yes.

**Senator ROBERT RAY**—When did you do that?

**Mr Wight**—In the last couple of weeks.

**Senator FAULKNER**—Why did you do it?

**Mr Wight**—We are looking at senators and members accountability issues and we have addressed this issue and a number of others. We are looking at improving accountability.

**Senator ROBERT RAY**—There was some mention of this, was there not, in the Remuneration Tribunal? Do you have what I call the plain English Remuneration Tribunal explanation? If you look on the last page or the second last page you will see there are two elements to the phone. One we have already dealt with. There is a quote in there, isn't there? Can you read that out?

**Mr Wight**—This is the italicised part, Senator?

**Senator ROBERT RAY**—Yes.

**Mr Wight**—It says that it may only be used by the senator or member personally to make calls on parliamentary or electorate business.

**Senator FAULKNER**—A telecard has a PIN number, hasn't it?

**Mr Wight**—Yes.

**Senator FAULKNER**—The PIN number would be known only to the member or senator, wouldn't it?

**Senator ROBERT RAY**—Or it should only be.

**Mr Wight**—I think that is reasonable to assume.

**Senator ROBERT RAY**—Is there a danger to the PIN number now that if it is associated with a laptop it is often preset within the laptop—that you might well have a dial-in number, a telecard number, a PIN number and then the parliamentary network, which is the way of getting in? It is all in the machine. Is there a security problem there?

**Mr Wight**—I do not know the details.

**Senator ROBERT RAY**—I understand that it is more a PISO issue.

**Mr Wight**—I just do not know.

**Senator FAULKNER**—Mr Wight, can you take on notice the total costs of telecard use by members and senators aggregated for the years 1996 to the end of 1999—calendar years? That is for each individual member and senator, if I have not made that clear. I thought I did.

**Dr Boxall**—I am sorry, Senator, but I do not think that was clear.

**Senator FAULKNER**—I apologise. I would like the total costs of telecard use by individual members and senators, aggregated for the years 1996 to the end of 1999.

**Dr Boxall**—Per annum?

**Senator FAULKNER**—No; just an aggregate.

**Dr Boxall**—You want me to add across the years.

**Senator FAULKNER**—Yes. I want to get a four-year total for each MP.

**Dr Boxall**—Yes, we can take that on notice.

**Mr Gavin**—May I make one point of clarification: there will be some former senators and members in that otherwise picked up. Do you want them in or out?

**Senator FAULKNER**—For the purposes of comparison, it is probably better to do this for those who have been in parliament for that period. I do not think you get comparative statistics otherwise.

**Senator ROBERT RAY**—It is also easier for current members and senators to be accountable than former ones.

**Dr Boxall**—Okay.

**Senator CALVERT**—That would include overseas calls as well, because they can be made on telecard as well, can't they?

**Senator ROBERT RAY**—Yes; that is the point. Most of them are overseas. There is very little use within Australia, because of mobile phones.

**Senator CALVERT**—That is right.

**Senator ROBERT RAY**—Was your attention drawn to an article in the *Queensland Times* of 9 March this year headed 'Staff cared for MP's' kids? I cannot tell you what page it was, unfortunately. The story purports to say that the member for Blair issued duty statements to his staff instructing them, 'Where necessary on occasions facilitate the electoral and



parliamentary duties of the member and his family by minding children (office hours only).’ Has that article been brought to your attention?

**Mr Miles**—I have seen that newspaper article.

**Senator ROBERT RAY**—If that quote is correct, does it run contrary to the staff agreement as it affects MoPS staff?

**Mr Miles**—Sorry, Senator. The question again?

**Senator ROBERT RAY**—If the quote is right that the member for Blair has put in the duty statement, ‘Where necessary on occasions facilitate the electoral and parliamentary duties of the member and his family by minding children (office hours only)’, does that run contrary to the staff agreement covering MoPS?

**Mr Miles**—The staff agreement does not have a prescription as to the duties of electorate officers.

**Senator ROBERT RAY**—Minister, I am not asking whether it is appropriate that an MP’s staff mind children, because it may often be done in a voluntary and enthusiastic way. But do you think it is proper for a member or senator to direct staff as part of their duty to do child minding? What are the legal consequences of that—the compensation possibilities?

**Senator Ellison**—The reticence I have in relation to this matter is that it has been confirmed that it could be the subject of proceedings in industrial action. I do not think I could really comment on this while these proceedings are on foot.

**Senator ROBERT RAY**—That is not mentioned in the article. Certainly we will not be looking at the circumstances of the member for Blair. I am entitled to ask you, as a general government policy matter, even though there is a conjunction between the two which we will try to dismiss.

**Senator Ellison**—It might be easy for us to dismiss it, but others might not be so constrained. Speaking generically, if we can—

**Senator ROBERT RAY**—That is what we want to do.

**Senator Ellison**—It is difficult to get into the detail you are speaking about here. The duties that can be agreed between a senator or member and their staff are flexible. I think that if you took that away members and senators would be the first to object, because there are obviously different duties or different modes of structuring your office, and I think that it has to be so. As to whether or not this is permissible, I do not think I can comment in view of the circumstances of this case. It is really a judgment for each member and senator to make. We have, of course, recognised more formally that some members and senators do need the assistance of a carer. On your side of politics, Senator Collins has acknowledged this and on my side there is an obvious example with one minister who has just had a child whilst in the position of a minister. The rem tribunal has recognised this in formulating its latest determination. I think that will assist in obviating the need for people to look to having this sort of thing incorporated in an agreement.

**Senator ROBERT RAY**—The rem tribunal is fair enough, but it is not really relevant to staff employment. What I am trying to get at—not going back to this case that may be subject to some sort of legal remedy—is not whether some electorate staff from time to time may help out with some child care on a voluntary basis but whether any MP or senator is entitled to put it in their duty statements. I would not have thought electorate staff were ever granted for that purpose or that it was ever conceived that they could be directed. I am wondering

about the legal position. If children have to be given care—not mentioning any case—until 11 p.m. at night, where does that leave the Commonwealth? I think you have to show a bit of leadership here, Minister, and get on top of this issue.

**Senator Ellison**—With the current situation we are constrained in what we can say, and I think we have to let that case take its course. I understand that this is salient.

**Senator ROBERT RAY**—If you feel constrained by this current case, when it is over, will you give this broad issue your consideration with a view to making some sort of a ruling or a judgment on it—not on this specific case but on the broad area?

**Senator Ellison**—The question of caring for children is an important one, and we of course will give it our consideration.

**Senator ROBERT RAY**—You also have a duty of care to the staff for whom your department is responsible—not in a direct sense but in an indirect sense—for employing, and it has never been conceived in the history of the MOPS staff that they be childminders.

**Senator Ellison**—I think the best I can say is that we will look at this case, as we are looking at other matters that are pending before the courts, and we will address it at the conclusion of that—this and some other related matters.

**Senator FAULKNER**—I read an article in the newspaper about performance pay for members of parliament and that the matter was being considered by the Remuneration Tribunal.

**Senator Ellison**—I made inquiries about that. I understand the article is totally wrong. There has been no statement at all by the Remuneration Tribunal on this subject. I think the article is up there with some of those you see from time to time which have no foundation.

**Senator FAULKNER**—You know the article I am referring to.

**Senator Ellison**—Yes, I do.

**Senator FAULKNER**—I appreciate that you may not necessarily know all the details of what the Remuneration Tribunal may not be dealing with, but you could tell me whether there is a government submission in relation to performance pay for members and senators. You would know that.

**Senator Ellison**—I do not normally comment on what the government's submission is to the Remuneration Tribunal, but I can say this much: I have been advised that the Remuneration Tribunal is not considering this issue. I think that addresses your question.

**Senator FAULKNER**—It does not answer the question precisely, but it stops me asking any further questions about it. It makes it pretty clear.

**Senator ROBERT RAY**—We worked so hard to get Senator Heffernan 22 grand, didn't we? We did not want to blow it in the first year. I put a question on notice—question 1126—regarding removal and transfer expenses of staff under the MOPS Act. Can the department confirm that in the life of the 38th Parliament the total cost was \$706,144?

**Mr Wight**—I have not got the figure in front of me, but I understand the answer has been tabled.

**Senator ROBERT RAY**—Yes. I thought you may have done a more accurate add-up than I. I am right in saying that the cost of removal was \$446,938.76? You do not have the answer with you, so you are at a disadvantage.

**Mr Wight**—We do not have it in front of us.

**Senator ROBERT RAY**—The question was very well conceived, but it was a bit deficient in one or two areas. You provided me with information on which members of parliament had staff move, what the total costs were and every individual movement. What I should have asked you as well was how many staff per member moved. Can I do that on notice? If it can be in by 28 June that will be great, but I realise it may not be the highest of your priorities. I would just like to see it at some stage.

**Mr Wight**—We can take that on notice.

**Senator ROBERT RAY**—There were 68 coalition members and staff moves, 17 Labor and six others. I would like them attributed, because it is possible Labor had multiple ones and the Liberals one, or the other way round. That is a 4:1 ratio, Minister. Do coalition staff move around a bit more?

**Senator Ellison**—For a start, there are more coalition members and senators than opposition ones.

**Senator ROBERT RAY**—That is true.

**Senator Ellison**—And there certainly were in the previous government.

**Senator ROBERT RAY**—That is not 4:1, though.

**Senator Ellison**—There are all manner of reasons as to why that might be the case.

**Senator ROBERT RAY**—So you cannot assist there.

**Senator Ellison**—One thing that has been brought to my attention is that a lot of that movement related to the start-up of the parliament—members taking on new staff.

**Senator ROBERT RAY**—There is a bit of that, but it is surprising how much of it there probably isn't when you look at the movements—Innisfail to Cairns, Innisfail to Ipswich. It is not as dominant, but it is a factor. It is not as dominant as I expected it to be.

**Senator Ellison**—I suppose that is a matter of opinion.

**Senator ROBERT RAY**—You have not looked at it, have you, so you wouldn't know.

**Senator Ellison**—I think that you would have to look at the ratio of the number of members and senators and one—

**Senator ROBERT RAY**—But you have not looked at this, have you?

**Senator Ellison**—I have not gone through those figures, no. What I am putting to you is not unreasonable.

**Senator ROBERT RAY**—I would have expected the number of transactions to Canberra to be about two out of three, and they are nothing like that. Can we just go to one aspect of it. I think it is fair to pay removal costs and the travel costs. The thing I am a little more concerned about is the total amount for temporary accommodation. You paid out \$223,961 for that over the life of the 38th Parliament. Has enough thought been given to trying to get people to organise their accommodation when they are transferring rather than stay, under your terms, for about 10 or 12 weeks at a motel or hotel?

**Mr Wight**—We certainly start from the position of the least expense to the Commonwealth in any relocation. There are circumstances where, for example, people with family

responsibilities may move at a different time to the rest of the family, and that may add to a temporary accommodation issue until longer term accommodation is found.

**Senator ROBERT RAY**—It seems a rather high figure to me.

**Mr Wight**—It certainly would be below the Public Service norm in this area.

**Senator ROBERT RAY**—I would expect so. I would expect it to be below the Public Service norm, because of the nature of the people we are dealing with. There is no thought that it may be just ramped a bit and rorted a bit?

**Mr Wight**—Not from my assessment of the material, Senator.

**Senator ROBERT RAY**—The minister kindly mentioned government staffing. In February, the last time we gathered together, the figure was 344.5—I am going to get corrected if I am wrong. Is that right?

**Mr Wight**—344.4, Senator. I cannot recall how we got the point 4.

**Senator ROBERT RAY**—You did explain it; I just rounded it up! Where are we at the moment?

**Mr Gavin**—347.9.

**Senator ROBERT RAY**—Really! Another jump. Even I can work out that that is 3.5. Isn't that right? Where have they gone?

**Mr Gavin**—There is a consultant for the Prime Minister.

**Senator ROBERT RAY**—Who is that?

**Mr Wight**—Ms Angela Ryan.

**Senator ROBERT RAY**—Is that a full-time consultancy?

**Mr Gavin**—Yes, it is shown here as one.

**Senator ROBERT RAY**—So we have Ms Angela Ryan, a full-time consultant to the Prime Minister—that is one.

**Mr Gavin**—Plus one assistant adviser for the Prime Minister, minus 0.5 of an adviser for the Prime Minister, one assistant adviser for the Minister for the Arts and the Centenary of Federation, and a MOPS Level 1 parliamentary secretary to the Minister for Defence.

**Senator ROBERT RAY**—How many staff has the Prime Minister—either including or excluding the Cabinet Policy Unit, because that definition is difficult? We have an adjusted figure here of 1.5.

**Mr Wight**—Bear with me while I add it up, Senator.

**Senator ROBERT RAY**—While you are doing that, when did these extra staff start? Did they start in February or March or April?

**Mr Wight**—My understanding is that the consultant started on 8 February, but I really do not know about the others. I will take on notice the question in respect of the others.

**Senator ROBERT RAY**—I think you can guess why I am asking: I just want to see whether or not they fit the March criteria.

**Senator FAULKNER**—What was the calculation of the opposition staffing entitlement for March based on?

**Senator ROBERT RAY**—It was probably 345.

**Senator FAULKNER**—What was the government staffing figure before the divisor was applied?

**Mr Gavin**—I was not involved, but according to these notes it was based on 346.9.

**Senator ROBERT RAY**—That in fact is going to tell us that one staffer started after March and the other two before the end of March. At least it tells us that.

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—Any further on adding up the Prime Minister's staff?

**Mr Wight**—From my quick additions, as at 31 May it is 38 people. That is 37 full-time equivalents.

**Senator ROBERT RAY**—We will go for not the number of people but the number of staff positions. You say that is 37.

**Mr Wight**—That is correct. And one vacant position makes 38 all up.

**Senator ROBERT RAY**—That takes it to 38. Did you include the people in the Cabinet Policy Unit in that 38? The Prime Minister signs all their paperwork and they work for him.

**Mr Wight**—Excluding.

**Senator ROBERT RAY**—It is only two now, though, isn't it?

**Mr Wight**—One or two.

**Senator ROBERT RAY**—It is two. It could be up to four, but I do not think they are all filled or intended to be filled. So the PM has 40 staff now. Could we have a breakdown of what the positions are, in terms of senior adviser, principal advices, et cetera, including the Cabinet Policy Unit and Mr McClintock who I think we heard was at band 3 level?

**Mr Wight**—I am going to have to refer to several parts of my booklet here.

**Senator ROBERT RAY**—No, take it on notice. You do understand the question. It is the various categories from principal adviser down, and who slots in.

**Mr Wight**—Yes.

**Senator ROBERT RAY**—Just the positions.

**Senator FAULKNER**—How many has Mr Ronaldson got over there at the Government Members' Secretariat?

**Mr Wight**—As at 1 May, two positions.

**Senator ROBERT RAY**—We will come back to it. You have misunderstood the question. While we are on the question of staff, does Senator Harris receive extra staff for being an 'independent'?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—At what level is that?

**Mr Gavin**—It is the standard level, which I think is personal secretary, for Independents.

**Senator ROBERT RAY**—Does that position have any additional travel rights over and above the normal electorate staff?

**Mr Gavin**—The additional position is created under part 3 for all Independents. They are able to travel with the member or senator concerned. In other words, they are not restricted in the same way as electorate staff.

**Senator ROBERT RAY**—Electorate staff can travel only to and from Canberra, can they not?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—This position can go interstate?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—Can they travel independent of the member or senator concerned?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—Can I have a full list of Senator Harris's extra staff members' travel going back to 1 July last year? You can take that on notice, of course.

**Mr Gavin**—Yes. The position does not go back to 1 July last year, as I recall.

**Senator ROBERT RAY**—Sensibly interpret that as to when you think it should start from.

**Mr Gavin**—Yes.

**Senator FAULKNER**—I have another staffing question that you might take on notice, Mr Gavin. I would like information setting out all the ministerial staff—I am talking here about levels, not names—in the office of the Minister for Defence. I would like to see what the pattern is in relation to numbers just in that one office as of 1 May 1997, 1 May 1998, 1 May 1999 and 1 May 2000.

**Mr Gavin**—We will take it on notice.

**Senator FAULKNER**—Of course.

**Senator ROBERT RAY**—What we were really referring to elliptically before is an updated list of who is employed in the Government Members' Secretariat. Do you want to take that on notice?

**Mr Gavin**—Do you want names on this occasion?

**Senator ROBERT RAY**—Yes.

**Mr Gavin**—So names and levels. Mr Chris Fry, who is the senior adviser; Mr Andrew Schuller, who is an adviser; Ms Belinda Copley, who is an adviser; Mr Keith Blyth, who is an adviser; Ms Dawn Crosby, who is an adviser; Mr Andrew Blyth, who is an assistant adviser; Mr Brendan Brien, who is an assistant adviser; Mr Reginald Chamberlain, who is an assistant adviser; and Ms Robyn Holden, who is a secretary.

**Senator ROBERT RAY**—I did not add those up. Is that about 10?

**Mr Gavin**—Nine.

**Senator ROBERT RAY**—It sounds a bit like Fiji: there are a lot of chiefs and not many Indians.

**Senator FAULKNER**—It was five advisers, was it?

**Mr Gavin**—One senior adviser, four advisers and three assistant advisers.

**Senator ROBERT RAY**—A bit top-heavy. You may want to take these on notice, Mr Gavin: what is the total salary bill, including MSA-ESA, for the secretariat? You can either give us the monthly average or 1 July through to 1 May, whatever is convenient. It is just so we can get a picture and do an extrapolation, if we need, of the salary bill. Is that okay?

**Mr Gavin**—Yes, of course.

**Senator ROBERT RAY**—Could we also have the total cost of air travel taken by members of the Government Members' Secretariat from 1 July to 1 May. Is that a suitable date, do you think?

**Mr Gavin**—Yes, that is fine.

**Senator ROBERT RAY**—In the period 1 July 1999 to 1 May 2000, what new equipment or replacement equipment has been provided to the Government Members' Secretariat? I am not talking about pencil sharpeners here but mobile phones, laptop computers—levels of equipment that would be over \$100, I suppose. One final question that again you might like to take on notice: were any members of the Government Members' Secretariat transferred to Melbourne at any time during the period August-September 1999?

**Mr Gavin**—We will take it on notice.

**Senator ROBERT RAY**—Thank you. In the section on overseas visits by ministers, I think this year the amount allocated is the same as last year. I think it was \$4 million. Does that ring a bell?

**Mr Cramsie**—It is \$4.5 million in the budget.

**Senator ROBERT RAY**—And was it the same for the current year?

**Mr Cramsie**—The same as the current year.

**Senator ROBERT RAY**—Will the Centenary visit put any pressure on that budget? How many of the 54 lucky campers are you going to have to fund out of that?

**Mr Gavin**—I think it puts about \$110,000 pressure on it.

**Senator ROBERT RAY**—So basically you are funding 5½ people out of it?

**Mr Gavin**—I do not know about 5½, but we are funding the former Prime Ministers as well as the Prime Minister and his personal staff.

**Senator ROBERT RAY**—Are you telling me it is \$110,000? Hold on, that is not within cooe of the million we have had from another committee.

**Mr Gavin**—I am sorry, the extra over and above a normal visit is the \$110,000 or \$120,000 for the former Prime Ministers.

**Senator ROBERT RAY**—Let us get it clear who you are funding here: the former Prime Ministers, of whom there are three still going, I think. Do you know if there are three or four still going?

**Senator FAULKNER**—There would be four.

**Mr Gavin**—I understood that there were four or five.

**Senator ROBERT RAY**—Four former PMs—so you pick up the tab for them?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—That is for airfares and accommodation?

**Mr Gavin**—Yes, and spouses of course.

**Senator ROBERT RAY**—Doesn't that run to about 20,000 a pair?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—And you pick up the Prime Minister and spouse?

**Mr Gavin**—Yes.

**Senator ROBERT RAY**—And Mr and Mrs Anderson?

**Mr Gavin**—I have been personally involved only with the former Prime Ministers—if you like, what is additional to the strictly ministerial part of this. I cannot answer your question. That is what I am trying to get to.

**Senator ROBERT RAY**—The point I am trying to get to is this: if the budget is the same this year as last year and you have to pay a big whack for the tourists going off to London, that might squeeze up the rest of the ministerial visits. That is really the point of it. This trip to London is going to cost roughly \$1 million. That is the estimate. I want to know how much you are going to have to pay of that \$1 million, given that some of them are being paid from elsewhere. Would you like to let us know at some later time today on that one or won't that help?

**Mr Gavin**—We will certainly try to get back to you later today, but it may well be tomorrow.

**Senator ROBERT RAY**—Just so you understand the question—we know of 54 going to London—how many of them are you picking up the tab for, what is the estimated cost and will it then squeeze up the rest of the ministerial travel budget, being a rather extraordinary item? We were notified that the monthly reporting system on MPs' entitlements was in the process of being changed and therefore a lot of them were not available for a while. Has that now concluded?

**Mr Cramsie**—We were having some troubles with the monthly management reports, but we are now back on track with those. We are now providing them within about 15 days after the end of each month.

**Senator ROBERT RAY**—The question was more did you change the system. Was that what caused the initial problems? That is the next question.

**Mr Cramsie**—The system is a new system in place and it is still having its teething troubles but, despite those teething troubles, we have overcome that part of the system which is causing the delays.

**Senator ROBERT RAY**—Will this new system assist at all in getting the six-monthly reports into parliament more quickly?

**Mr Cramsie**—Yes, it ought to when it is finally shaken down and in place in its fully functioning arrangement.

**Senator ROBERT RAY**—Minister, when would you expect the July-December figures from last year to be tabled in parliament this year?

**Senator Ellison**—It should be shortly. I checked on that the other day and it was going well.

**Senator ROBERT RAY**—Is it actually going a bit better than it was? It was quite a slow and tedious process.



**Senator Ellison**—It is a demanding task, but I think it is going better than it was. It is evidenced by the earlier tabling that we are now seeing.

**Senator ROBERT RAY**—Is there any thought of bumping it out to a yearly one with a set date?

**Senator Ellison**—You raised that before, I think, Senator Ray.

**Senator ROBERT RAY**—Yes.

**Senator Ellison**—It is something which the government is not minded to adopt at this stage, but I do appreciate the argument you put forward on that.

**Senator ROBERT RAY**—On the six-monthly tabling statements, are you getting fewer corrections and amendments as the system beds down?

**Mr Cramsie**—We are getting fewer corrections. We have not done a complete analysis of that yet, but early indications are that this current tabling is more successful than the one before it, on the basis of the reduction in amendments, et cetera.

**Senator ROBERT RAY**—It is still going to be almost six months after the period, isn't it?

**Mr Wight**—It is within six months. I think the last one was tabled in early December.

**Senator ROBERT RAY**—And is this one again just going to be within six months?

**Mr Wight**—Yes.

**Senator ROBERT RAY**—You may need to take this question on notice, too. Have there been any requests from the Prime Minister's office to the minister or the department for information about MPs' use of entitlements?

**Senator Ellison**—There is no request made from the Prime Minister's office direct to the department. That is your question, isn't it?

**Senator ROBERT RAY**—No. I will repeat my question. Have there been any requests from the Prime Minister's office to the minister—that is you—or the department for information about MPs' use of entitlements? In other words, have they asked you to check up on anyone?

**Senator Ellison**—Certainly from the department's point of view there has been no contact. I am advised by the department that there has been none. For my part, there has been no contact from the Prime Minister's office in the manner that you have indicated.

**Senator ROBERT RAY**—That is good. Thank you. I have asked this question before, by the way.

**Senator Ellison**—There is nothing untoward about it.

**Senator ROBERT RAY**—I did not get such a positive response previously. How is the Jetset contract going? I have not had any complaints at all. It seems to be going well, but is that the case?

**Mr Wight**—Yes, the Jetset contract has been indeed going well.

**Senator ROBERT RAY**—When is it up for either extension or renewal?

**Mr Wight**—Later this year.

**Senator ROBERT RAY**—Has the department received any complaints about misuse of frequent flyer points from a ministerial staffer who was once an MP in this place?

**Mr Wight**—Not that I am aware of.

**Senator ROBERT RAY**—My source for this is a very disreputable computer site, so I wondered whether someone had actually formally passed on a complaint of frequent flyer points misuse. You are saying no?

**Mr Wight**—Not that I am aware of.

**Senator FAULKNER**—There are a lot more of these web site comments on parliamentary entitlements issues in general. I raise this only because I note Senator Ray's comment there. On one web site an allegation was raised about Senator Tchen. Have we been able to correct the record on that one? Have you seen that?

**Mr Wight**—No, I have not.

**Senator ROBERT RAY**—What was that one?

**Senator Ellison**—Where is the web site?

**Senator ROBERT RAY**—We will certainly give it to you. I do not think we should advertise it.

**Senator Ellison**—We do not go trawling through the Internet.

**Senator ROBERT RAY**—We should not advertise it, but we will give you the site.

**Senator FAULKNER**—I am surprised that you are not aware of it, because a number of coalition senators and members have pointed it out to me.

**Senator ROBERT RAY**—What was the problem?

**Senator Ellison**—I do not think, if it is unsubstantiated, it is fair to Senator Tchen to raise this.

**Senator FAULKNER**—That is what I am saying. I am putting the question in the terms: has there been an opportunity to correct the record? I am happy to provide you with a copy of this and you can respond to me privately if you would prefer. There are a number of examples of this sort of material coming through the Internet. I am surprised that it has not been drawn to your attention. All your colleagues seem to know about it.

**Senator Ellison**—Certainly we will take you up on that.

**Senator FAULKNER**—I am happy to do that.

**Senator Ellison**—Mr Chairman, the officials have been here now for three hours without a break. I wonder whether we could have a comfort break. Some of them are not as free to come and go as perhaps members of the committee are.

**Proceedings suspended from 4.56 p.m. to 5.17 p.m.**

**CHAIR**—We will recommence our examination of output group 3.1.

**Senator FAULKNER**—I have a couple of quick questions on the Remuneration Tribunal. I did note in the 1998-99 annual report of the tribunal that 'from time to time members of the tribunal absent themselves from discussion of certain agenda items where there is a possibility of a real or perceived conflict of interest'. That is always to be acknowledged as appropriate. What was not entirely clear to me was in what particular circumstances a Remuneration Tribunal member might feel there was a conflict or a perceived conflict. I just wondered whether anyone could explain that to me. I am not critical of what has been suggested. It

seems to me, as I said, to be quite appropriate, and the tribunal members acting in that manner are to be congratulated. It still, however, begs the question of why a conflict would be likely.

**Dr Boxall**—We do have the officers here to answer these questions. It is actually in outcome 2, but fortunately the officers are here.

**Senator FAULKNER**—I thought we had decided a couple of estimates hearings ago to deal with the rem tribunal with MAPS. That was my understanding as to how we were going to deal with it. Didn't you suggest that would be appropriate, given the—

**Senator Ellison**—I cannot remember it. It does not matter; we have the officers here.

**Senator FAULKNER**—I might be wrong about that. I thought that was what we had decided.

**Dr Wright**—It is generally up to the board appointees to determine whether they consider there to be a conflict of interest. There may occasionally be conflicts where there are considerations on similar matters or where there is a board appointment and that conflicts with an issue that is being considered by the Remuneration Tribunal. It is really no different to company directors who would self-determine when they have conflicts of interest.

**Senator FAULKNER**—It is still not clear to me in what sort of circumstances a tribunal member might absent themselves. What code of conduct governs the behaviour of tribunal members here? I stress that I am not being critical of the tribunal members; this is obviously a very worthy practice, and they are to be congratulated. But it was stressed in the Remuneration Tribunal's annual report, and I just wondered why.

**Dr Boxall**—We are seeking to clarify this now, Senator Faulkner.

**Mr McGuinness**—The kind of situation that might occur is where a tribunal member is involved in the banking industry, for example, and the tribunal has before it matters concerning the remuneration of a regulatory authority for which the tribunal is required to make remuneration determinations.

**Senator FAULKNER**—I understand. That is helpful, and thank you for that advice. I appreciate it because it gives me a better understanding. In the annual report it is noted that members of the tribunal have a range of business and private interests. Of course they are part-time tribunal members. This approach in these circumstances is to be commended, and there should be no question about that at all. But I wondered how precisely it might impact on the Remuneration Tribunal. I also wanted to ask something in a general sense about the Remuneration Tribunal, if I could. I note that the web site is replacing the annual publication of tribunal decisions and reports that used to be published and distributed through AGIS. Do you know the background to that decision and when it was made?

**Dr Wright**—We have found that it is a much more effective means of providing timely advice and communication to office holders, rather than the annual very lengthy report. We have certainly received excellent feedback and have had a very large number of hits on the web site—and people can print it off if they want to have hard copy. So it has been an evolution, rather than a decision, in the means of servicing more effectively.

**Senator FAULKNER**—I hear what you say about timeliness. That is obviously a positive development. I suppose most of those who have an interest—office holders, as you mentioned—would actually have access to the Internet. The only reason I raise the issue is that I wondered if there were any people who have a genuine interest in this but do not have Internet access. That was the only question that was raised in my mind when I read it.

**Dr Wright**—We do take telephone inquiries as a matter of course, and we are happy to provide hard copy as well.

**Senator FAULKNER**—I appreciate the point you make about the amount of positive feedback you have had. That is good to hear. Have you had any negative feedback at all?

**Dr Wright**—Not to my knowledge.

**Senator FAULKNER**—That is good; I am pleased to hear that too. Moving on to the issue of Commonwealth cars, I know that Mr Justice Barblett was involved in preparing a review of Comcar. I know that because I spoke to him. The fact that that review was being undertaken was public. There was also another report on Comcar, from Mr Shott. Could you give me a bit of background in that second report.

**Ms Burns**—Yes, there was a report into work scheduling which was commissioned as a result of discussions between the Transport Workers Union and me, to try and develop better ways of work scheduling for drivers to suit the needs of both Comcar's work and the drivers. The timing of the report was such that it fed nicely into Mr Justice Barblett's review of Comcar. Then it became part of those review papers.

**Senator FAULKNER**—Mr Shott's report was limited to work scheduling?

**Ms Burns**—Yes.

**Senator FAULKNER**—It has now been integrated as part of Mr Justice Barblett's report, has it?

**Ms Burns**—Yes.

**Senator FAULKNER**—So it is a subreport?

**Ms Burns**—He has taken into consideration the recommendations that Mr Shott made.

**Senator FAULKNER**—What is Mr Shott's background?

**Ms Burns**—I do not know his background in detail. He is the managing director of a consulting group called Macquarie Consulting.

**Senator FAULKNER**—Minister, was it your decision for Mr Shott to do the work scheduling report or was it a departmental decision?

**Ms Burns**—It was a departmental decision.

**Senator FAULKNER**—Was that a comparatively brief consultancy?

**Ms Burns**—That is right.

**Senator FAULKNER**—Given that you have told us that Mr Shott's report has been integrated into Mr Justice Barblett's report, I will just ask a number of questions that apply to Mr Justice Barblett's report. I assume Mr Shott's work has been completed.

**Ms Burns**—That is right.

**Senator FAULKNER**—Has Mr Justice Barblett's report been completed?

**Ms Burns**—Yes.

**Senator FAULKNER**—So it is with you, Minister?

**Senator Ellison**—Yes, it is. We will shortly be releasing the recommendations.

**Senator FAULKNER**—What is the process from hereon in?

**Senator Ellison**—We will release the recommendations and consider the government's response to those recommendations.

**Senator FAULKNER**—Are you going to make Mr Shott's report public?

**Ms Burns**—Yes, we are.

**Senator FAULKNER**—When is it planned to make that public?

**Ms Burns**—That will be released when the Barblett recommendations are released.

**Senator FAULKNER**—So it is not Mr Shott's recommendations that are being made public; his report is being made public. Is there a distinction here?

**Ms Burns**—Because Mr Shott's report goes into some detail about drivers' hours and working conditions, it is actually being made available to drivers once it is available.

**Senator FAULKNER**—So that whole report is being released.

**Ms Burns**—That is my intention.

**Senator FAULKNER**—That is fine. I am just trying to establish what is going on. Minister, you said that you talked about the recommendations that Mr Justice Barblett has made to government being released. Does that mean that only part of his report, namely recommendations, will be released and not the substantive report.

**Senator Ellison**—Yes.

**Senator FAULKNER**—Why have you taken that decision? First of all, who has taken that decision? Was that you?

**Senator Ellison**—It a decision I have made and it is one the government has made. I believe that the report itself is not really the main interest, if you like; it is the recommendations that flow from it. Justice Barblett spoke to a lot of people, and I think that from that he has distilled his recommendations. I do not think it advances anyone for the report to be released. It is not unusual for governments not to release reports of this nature and to simply release the recommendations. The recommendations are, after all, what we are going to be responding to and what other people will be interested in reading. On that basis I think that it is appropriate that the recommendations be released.

**Senator FAULKNER**—When are you planning to release the recommendations?

**Senator Ellison**—Shortly—in a matter of days.

**Senator FAULKNER**—I heard you say 'shortly' before. I wondered what that meant.

**Senator Ellison**—A matter of days.

**Senator FAULKNER**—What is your timetable for the response to Justice Barblett's report?

**Senator Ellison**—It is hard to put a time frame on it, Senator Faulkner. We have the Olympics which have to be attended to, of course, but I would expect a response in some months.

**Senator FAULKNER**—You do not think there are some Comcar issues that might be better sorted out pre-Olympics than post-Olympics?

**Senator Ellison**—I think that is something we could look at in the lead-up to the Olympics, but we are concerned with the Olympics and dealing with it.

**Senator FAULKNER**—From a provision of Commonwealth transport perspective, you mean?

**Senator Ellison**—Yes, and meeting the needs that are required of us. When you are involved in an exercise of this sort, it is difficult to be making changes on the run to something like the Olympics, but that is something I want to sit down and have a look at on these recommendations. You always run the risk, if you do it piecemeal, of it becoming a bit messy. I think governments generally, when they respond to reports, do so as a whole, but that is something I will have a look at.

**Senator FAULKNER**—But Mr Justice Barblett's report does not go to issues relating to the provision of Commonwealth transport during the Olympics, for example.

**Ms Burns**—I believe Justice Barblett simply makes the recommendation that the Olympics be accorded appropriate priority in Comcar's provision of service. But his recommendations in the broad are not specific about how we might provide services for the Olympics.

**Senator FAULKNER**—I am just trying to understand the timing issues involved. The minister is saying, 'We will deal with this after the Olympics,' and I am wondering if some of the imperatives are pre-Olympic imperatives from the point of view of the provision of transport at that time—which I think you would acknowledge is pretty significant.

**Senator Ellison**—I did not say we would necessarily deal with it after the Olympics. I just said that the consideration of the Olympics is foremost in our mind, and I cannot give any cast-iron guarantee as to when the response will be forthcoming. I have said some months. Without pre-empting recommendations, Justice Barblett mentioned the Olympics as a priority. That is something we have done already. We are according it priority status; there is no question about that. If there is anything that can be usefully done for the Olympics, of course we will look at that, but the Olympics are creating a somewhat unusual environment, and when you are looking at the running of a service such as Comcar you want to look at it in the main and how it is going to function outside of this sort of environment. I guess that is as best I can answer your question, unless you have anything else.

**Senator FAULKNER**—I do have. That is not the sharpest answer I have heard at a Senate estimates committee on a question like that. Are you satisfied that preparations are well in hand in the provision of Commonwealth transport for the Olympics? Can you satisfy the committee on that point?

**Senator Ellison**—Yes, I am.

**Senator FAULKNER**—Thank you.

**Senator Ellison**—Officials here can give you further detail if you need it.

**Senator FAULKNER**—No, I just want to understand that you are satisfied that that matter is well in hand.

**Senator Ellison**—I actually visited Homebush and spoke to the transport people in New South Wales about this, and I am satisfied that Comcar is ready for the Olympics, or will be.

**Senator ROBERT RAY**—Would you encourage and expect members of parliaments visiting Sydney at the same time as the Olympics, because of the pressures and all of the people you have to look after, to use cabs and Cabcharge to get around to take the load off Comcar? Is that a good idea?

**Senator Ellison**—Yes, I would encourage members and senators to do that where possible. We have a priority for our drivers, obviously. We have heads of state. What is the latest number we have?

**Ms Burns**—Prime Minister and Cabinet, which is responsible for handling visiting dignitaries, has asked us to provide a number of vehicles.

**Senator ROBERT RAY**—But it has no idea who is coming, from other evidence?

**Senator Ellison**—We will get a better idea closer to the day, but that is our priority. Obviously there is a limited number of drivers and cars.

**Senator ROBERT RAY**—To follow that up, Minister, it is a bit early now but would it be a good idea in July to maybe drop a note to all members and senators suggesting that as a course of action from 15 September through to at least 1 October? I am not sure whether there will be the same demand with the Paralympics.

**Senator Ellison**—It is certainly something that I had in mind. Generally, committee meetings and things of that sort were looking to be held elsewhere other than Sydney during the Olympics for that reason, and for other reasons such as accommodation and logistics.

**Senator ROBERT RAY**—But people will be in Sydney in any event for different things, if not for the Olympics. I think a note to that effect would be helpful.

**Senator Ellison**—We will try to accommodate as much as possible our normal entitlees.

**Senator FAULKNER**—So we have a situation, Minister, where the recommendations of Justice Barblett are going to be dealt with, you said, by government. Does that mean it is likely to receive scrutiny at the cabinet level? Do we know that yet?

**Senator Ellison**—No, I would have to take that on notice at this stage.

**Senator FAULKNER**—Do you mean no decision has been made about it yet?

**Senator Ellison**—No decision has been made.

**Senator FAULKNER**—So the report has been finalised. How long have you had this report from Justice Barblett?

**Senator Ellison**—I think it was in late March that I got that report.

**Senator FAULKNER**—So that was provided to you in late March. Is it still in your office?

**Senator Ellison**—I have of course consulted with my portfolio minister on this, for obvious reasons, and it is going to be released from my office in a matter of days.

**Senator FAULKNER**—I understand the process. You have not developed a cabinet submission on this or anything. Basically you have received the report, you have consulted with Minister Fahey, the report has been at the level of your office and you are going to release the recommendations in a matter of days. At the moment that is where it is up to.

**Senator Ellison**—Yes.

**Senator FAULKNER**—It has not gone any further—that is what I am trying to establish.

**Senator Ellison**—No.

**Senator FAULKNER**—Thank you.

**Senator Ellison**—I have advised the Prime Minister and the Treasurer of the report as well.

**Senator FAULKNER**—We will look at the recommendations in a few days and no doubt they will be of interest to many people in this building. I read an article in the newspaper talking about ‘High-tech PM keeps track of his top team’. It is a pretty misleading headline calling it a top team. Anyway, this is about the Prime Minister’s capacity to access instant report cards on his ministers, detailing trips to marginal electorates and so forth—the Mobile Minister package. Do you know about this? Has MAPS dealt with this issue?

**Senator Ellison**—Mr Chairman, are we finished with Comcar, or do we need to keep the officials here further?

**Senator FAULKNER**—I only wanted to get an update on those two reports.

**Senator Ellison**—If there are no other questions for Comcar, those officials could be released. Can I ensure that Senator Murray, who has an interest in Comcar, has no questions of Comcar?

**Senator MURRAY**—I asked in the previous estimates about whether the decision of the department to put through retrenchments prior to the Olympics and prior to CHOGM was unwise, given the stress of those occasions and the need for experienced drivers at that time. In your answers to Senator Faulkner, I think you have clearly indicated an understanding that the uncertainty which affects the security and morale of Comcar drivers needs to be dealt with and that the sooner Justice Barblett’s report comes down and the sooner the government makes a response the better it will be for those persons. I think you are also aware that I believe the response on Comcar issues has to be regionally generated rather than national, because different capital cities and regions have different needs and stresses. Those are observations rather than questions. I have appreciated your interest and your perspective on it.

**Senator Ellison**—We will keep those comments in mind.

**Senator FAULKNER**—The newspaper article was about palmtop computers, and it was a matter that was canvassed in PM&C estimates, though I was not present when it was canvassed. I assume provision of this would be a matter for the relevant portfolio minister’s department—the provision to the Prime Minister, for example, of a palmtop computer—and would not be something that would necessarily come across your desk, Mr Wight.

**Mr Wight**—That is correct. MAPS does not fund any such equipment for anyone.

**Senator FAULKNER**—My question was really whether there has been any provision of palmtop computers by MAPS at all.

**Mr Wight**—That is my understanding.

**Senator FAULKNER**—I am sure you would know, so that is helpful. That is all I wanted to know. Thank you.

**Senator ROBERT RAY**—We asked some questions about the Government Members’ Secretariat. I note that a request has gone out from the Prime Minister’s office to coalition MPs asking that they keep a tally of every Labor promise made in their own electorates—obviously in a run-up to an election you keep a tab and do a bit of ‘oppo’ research. Is the Government Members’ Secretariat having any role in collating this material?

**Senator Ellison**—I do not have responsibility for the Government Members’ Secretariat. I could not tell you; it is a question for the Whip.



**Senator ROBERT RAY**—Would you like to ask him to come to estimates? He is never going to. This is the difficulty. The reason I suspect the Government Members' Secretariat was moved out from people such as Mr Jull, Senator Minchin and you was so that we could not ask any questions. I think you could at least take it on notice, seeing that you represent their entitlements and conditions here. I acknowledge that you are not responsible for their direct actions, but doesn't it leave an absolute black hole?

**Senator Ellison**—They are subject to scrutiny in their employment, and they have been subject to questions from you and Senator Faulkner about their travel, their duties and where they have gone, so they are not exactly without accountability.

**Senator ROBERT RAY**—Well, let's bring that accountability to bear.

**Senator Ellison**—How they service government members really is inappropriate to go into. If you are going to drill down into the detail of what they have done for member X or senator Y—

**Senator ROBERT RAY**—I do not intend to, but you yourself mentioned that what has been discussed at this committee before is their duties. Let me rephrase the question to meet your criteria: is it within their duties to collate material on what could be deemed an opposition election promise, remembering that previously it has been stated at this committee by Senator Hill that they are not involved in any media monitoring activities? I will take that at face value. Within their duties, will you take on notice whether they are the collating agency for this request from the Prime Minister's office?

**Senator Ellison**—I will take that question on notice.

**Senator ROBERT RAY**—I want to return to one we did in general. We were talking this morning, during general questions, about the covering of compensation or medical expenses of members of parliament on overseas delegations. I think you were commenting on it, Mr Gavin. I think the suggestion was made in the Senate estimates that travel insurance is taken out. Was that taken out for the delegation that ended up in Tanzania?

**Mr Gavin**—I do not know, I am sorry.

**Senator ROBERT RAY**—You might like to get back to me on that. Would you refresh my memory as to what extra expenses were involved in repatriating Mr Schultz back to Australia?

**Mr Gavin**—The medical costs were incurred in Africa. As I understand it, there was a helicopter charter to move him back to Nairobi, and then there was a return to Australia which involved a nurse.

**Senator ROBERT RAY**—Does anyone know where this unfortunate accident occurred?

**Mr Gavin**—No, I do not, but it was in the course of a parliamentary delegation visit in Tanzania.

**Senator ROBERT RAY**—I want to get this delineated because I have gone back and checked the Senate evidence from yesterday, and it is a little confusing. Your responsibility is to virtually automatically fund these trips. You do not get a say in the structure of the trips or where they go or who goes on them or anything else; you only fund the normal entitlements. Is that right?

**Mr Gavin**—That is true.

**Senator ROBERT RAY**—So you would be paying for the airfares and the incidental allowances—if there is a food allowance or whatever. That is just an automatic transaction from you, isn't it?

**Mr Gavin**—Except, as I said, for the IPU and the CPA. They are normally funded by the relevant chamber department or by the PRO—certainly by one of the parliamentary departments.

**Senator ROBERT RAY**—So in this case the trip had dual funding and you would do a pro rata.

**Mr Gavin**—It is not unusual that there is piggybacking. The accident occurred on the leg of the visit which was, if you like, part of the parliamentary delegation as distinct from the IPU—which we went through this morning, as you know.

**Senator ROBERT RAY**—So if it had happened on the previous leg, the IPU leg, the Senate, the House of Representatives or both departments would have had to pay, do you think?

**Mr Gavin**—I would have thought so. The issue arose, as I recall, over a weekend, and there was a great emergency. The decision to take the action that was taken was on the basis of the High Commissioner's assessment, based on two pieces of medical advice. The issue of who would pay in those circumstances was somewhat secondary. In the scheme of things, I would have thought that it was reasonable that the extra costs that were incurred overseas should be borne by the agency that was responsible for that particular leg.

**Mr Wight**—Could I add that, from my memory, this is the same as past practice on this issue. The last occurrence like this that I can remember is when a former member for Oxley fell ill in about 1994 and the department provided assistance.

**Senator ROBERT RAY**—I have a much better corporate memory than that of some of the problems that people have gone into and the sicknesses that have occurred. The irony is that some of them really fought hard to go on those trips. The all-up cost is \$38,000 in medical costs and transport, I take it?

**Mr Gavin**—Of that order.

**Senator ROBERT RAY**—It is just the irony of Mr Fahey being so generous, giving such great pastoral care to the member for Hume. I am impressed.

**Senator Ellison**—I do not think that is relevant.

**Senator ROBERT RAY**—I think this is great.

**Senator Ellison**—Any other questions?

**Senator ROBERT RAY**—No, I think they can go.

**CHAIR**—If there are no more questions for outcome 3, we will call questions on Employment National.

### **Outcome 1—Sustainable government finances**

#### **Output group 1.1—Budget**

**Senator Ellison**—Whilst officials are coming forward on that, Mr Chairman, I have an opening statement to make in relation to this part of the estimates. I think I alluded to it earlier when you asked me if I had an opening statement. I said that I would reserve my comments in some respects.

**CHAIR**—Yes.

**Senator Ellison**—I am making a statement in my capacity representing the Minister for Finance and Administration. At the last hearing, the general tenor of a number of the questions appeared to suggest that the shareholder minister ought to have provided Employment National with some assistance or made special representations to the Department of Employment, Workplace Relations and Small Business to assist the company in succeeding in the Job Network tender process.

**Senator ROBERT RAY**—Where is the source for that?

**Senator Ellison**—I wish to make clear that, as a matter of policy, the government would never take such an interventionist step to assist a government business enterprise. It is simply not appropriate for the government to intervene in negotiations between, for example, Telstra and a Commonwealth agency to help the company achieve a favourable tender outcome. Similarly, the government would not intervene in the department's selection process for legal advisers to favour the Australian Government Solicitor. Any such intervention is highly inappropriate and amounts to unprofessional interference in competitive processes. It is government policy that government businesses compete on their own merits.

I would like to make it clear that the government was extremely disappointed with the outcome of the second Job Network tender for Employment National. Due to Employment National's relatively poor performance in the provision of intensive assistance employment services, it lost the majority of these contracts. The outcome placed the company in a tenuous position. The last hearing saw a range of questions alleging that somehow it was improper or inappropriate for the government to have provided Employment National with a letter of comfort and ministerial directions.

I wish to make it clear that it was and is the government's view that Employment National continues to have a role to play in the Job Network as a national government owned provider. I note that its good record in providing job matching services was rewarded with an increased share of those contracts in the second Job Network tender. Job seekers deserve continued access to Employment National's quality job matching services. Accordingly, the government made the decision to stand behind the company. This decision was reflected in the budget with the extension of equity support in the order of \$56 million over three years.

I trust that this statement of government policy will assist senators in their understanding of the approach by the minister. According to normal commercial and legal practice, where the shareholders in a company wish that company to carry on loss making operations, it is entirely appropriate for them to extend a letter of comfort to the company and its directors so that the company can continue operations. Simply put, without the direction from the Minister for Finance and Administration and the accompanying letter of comfort, both of which were provided after legal advice was obtained, together with the equity support provided in the budget, Employment National would have been left with no business such that there would have been no choice other than to wind it up. I find it difficult to believe that senators think that this fate should have been thrust upon the company by the government. The process that unfolded following the tender announcement was an extremely difficult one for the company and its staff. It is unfortunate for the company that public attention drawn to events now in the past continue to hinder its future.

That is the opening statement. I think Ms Coombs had some matters from the last hearing which needed—

**Senator ROBERT RAY**—We will get to that in a moment. You have read the statement out. The very start of it says that senators implied that the minister should have improperly interfered in the tender process. Would you like to source that to the last Senate *Hansard* of these hearings, or do you want to withdraw it?

**Senator Ellison**—If we can be provided with the *Hansard* from the last hearing, we will go through that and provide it to you.

**Senator FAULKNER**—It is online. It is quite clear it was not read by the person who prepared the statement.

**Senator ROBERT RAY**—You were not ever asked, the minister or anyone else, to improperly interfere in the tender process. Talk about knocking down some straw men!

**Senator Ellison**—We will get back to the committee on that. In the meantime—

**Senator FAULKNER**—No. You just asked for the *Hansard* and Senator Ray—

**Senator ELLISON**—We are going through it. If you want to wait, we are going through it now.

**Senator FAULKNER**—That is fine. You have made the statement. You back it up.

**CHAIR**—Perhaps we could hear from Ms Coombs in the interim.

**Ms Coombs**—I would like to provide further information on two issues of evidence given by me to the committee at the last estimates hearing on 2 May 2000. The first relates to evidence, starting at the *Hansard* for the Senate Finance and Public Administration Legislation Committee, page 45, on the issue of whether Employment National raised concerns with the shareholder on the design of the second Job Network. In that evidence I indicated that I was aware of one letter from the company. A thorough review of departmental records indicates that there were three occasions on which concerns were raised with the shareholder. The first was in a letter dated 24 February 1999 from the chairman of the company to shareholder ministers. The second was in a letter dated 28 April 1999 from the chairman of the company to shareholder ministers. The third occasion was a letter dated 29 April 1999 from the managing director to Minister Fahey.

The second matter of clarification relates to my evidence in Senate Finance and Public Administration Legislation Committee *Hansard*, page 61, on the issue of what advice DEWRSB gave DOFA on the issue of tenders' non-compliance with the GST. At the time I believed that legal advice obtained by DEWRSB on the issue fell within the purview of probity advice. A review of my notes from conversations, meetings and emails indicates that DEWRSB advised DOFA that, in checking for conformance to tender conditions, they discovered that a number of service schedules for intensive assistance contained bids to deliver services at prices below the revised minimum prices as set out in the July addendum. My notes indicate that the probity advisers in the tender process, Blake Dawson Waldron, indicated that, as the bids were non-compliant, they could not be considered. DEWRSB then advised me that they had obtained legal advice from Mr C.M. Maxwell QC and Mr Gray and further advice from the Commonwealth's Chief General Counsel. Those advices confirmed that the affected bids should be rejected as non-conforming under the tender conditions.

**Senator FAULKNER**—Ms Coombs, when was that prepared statement that you read out finalised?

**Ms Coombs**—I prepared this statement after I got a copy of the *Hansard* and started to read through it. I have actually got an annotated copy of the *Hansard*. As we started to go

through the questions on notice, I realised that, potentially, I had misled the committee and I drafted it at that point.

**Senator FAULKNER**—Would you be able to give us a date of drafting?

**Ms Coombs**—I could check the time when I created the document, but I do not have that with me.

**Senator ROBERT RAY**—But it was over a week ago, was it?

**Senator FAULKNER**—An approximate date.

**Ms Coombs**—It would have been the week after the last estimates.

**Senator FAULKNER**—Minister, obviously committee members like ourselves are at a disadvantage when there is a correction made to the record that is not provided at the earliest possible opportunity. It does seem from what I have heard that this has not been provided at the earliest opportunity. We have had you read a prepared statement. We have had Ms Coombs correct the record, which of course she is obligated to do—we all understand that—but she is also obligated to correct the record at the earliest possible opportunity, and I do not believe that has been done. Minister, could the committee be provided with copies of the written documentation that has been read into the *Hansard* by both you and Ms Coombs, please? And I mean now.

**Senator Ellison**—Yes.

**Senator FAULKNER**—It is not unique that at times in Senate committees officers find that they have not given complete information or have given inaccurate information in answer to a question. But I would make the point, Dr Boxall, that I think the obligation in that instance is on the department to correct the record as soon as possible so that senators, for example, coming to this meeting, have the advantage of having that material before them so we also have our own *Hansard* records. We are those on this side of the table who are asking the questions who are receiving answers that have been corrected at a later stage. I make the point to both of you that that is not good enough. It is simply not good enough.

**Senator Ellison**—I might make the point that it would assist officials in the way questions are put to them. As I mentioned earlier, at the last estimates in relation to this matter, over 130 questions on notice were taken.

**Senator FAULKNER**—That is because you and the officers at the table were not able to answer them, Minister.

**Senator Ellison**—No. A lot of those questions really should have been directed to another estimates committee.

**Senator FAULKNER**—Wrong!

**Senator Ellison**—I understand that, in relation to the company, when I appeared in the old DETYA estimates, Employment National was there and it was asked questions. I understand it has been invited to appear at the DEWRSB estimates, and at the outset I would say to this committee that there are questions which can be put and should be put to the company in that estimates hearing. There is also the manner of some senators in referring to documentation, copies of which are not provided to the person giving evidence. There were a number of documents which I do not recall being put into evidence last time. When you question officials on letters and documents and it is complicated, you have an unsatisfactory situation where those officials could inadvertently give a wrong answer. It is just a question of how you

put questions to officials. I have raised that at these committees before. So I do not think Senator Faulkner's comments are justified at all, and I say so for the reasons I have outlined.

**Senator ROBERT RAY**—Mr Chairman, that requires a response. At the very first hearings on Employment National we were at a major disadvantage. We asked questions, we did not get necessarily accurate or informative answers but we did not get inaccurate ones, because we did not have source material, and it was thought that we could be fobbed off with simplistic answers—'It cannot be done anymore'. As for the point Senator Faulkner was making, we have had this year, probably on three or four occasions, corrected evidence sent to us at our electorate offices because of mistakes made. There were at least one or two in PM&C that I recall. We do not take those issues up and complain about the wrong evidence and I do not do so on this occasion. The point Senator Faulkner made is that the normal traditions—which may not have been understood so we are reinforcing them—are that when the error is found you notify the secretary of this committee, who notifies us, and that is that. We do not go back and say, 'Look, witness, did you lie to us or deliberately mislead us?' We accept, especially in a long, intensive round of questioning, that mistakes will be made. As long as they are corrected on time, that is fine. The reason you have rubbers at the end of pencils is that people make mistakes. That is the point Senator Faulkner has been making: the record should be corrected at the earliest possible opportunity. I hope you will take that on board.

**Ms Coombs**—Mr Chairman, I acknowledge Senator Ray's point and I will certainly keep it in mind. I apologise, but it does reflect my lack of experience of estimates processes. I will ensure that if there are any further clarifications arising out of today's hearing I advise the secretariat of them as soon as possible.

**CHAIR**—Thank you, Ms Coombs.

**Senator FAULKNER**—Thanks for that, Ms Coombs, but can I now press the issue of asking for the material that was read into the *Hansard* and your statement to be provided, to give us some chance to have a look at the detail. This is the issue. With a statement being read like that, obviously the senators on this side of the table are at a massive disadvantage, particularly when evidence is being changed. We will have depended on the previous evidence that was given for further questions that we might care to ask at this hearing. If that could be provided to the secretariat, that would be appreciated.

**Senator Ellison**—To save the secretariat doing that, I have given instructions for those to be photocopied and brought back as soon as possible.

**Senator FAULKNER**—I appreciate that. Thank you.

**Senator ROBERT RAY**—I know that Senator Sherry has a considerable block of questions that I think he will ask in a continuous way. Dr Boxall, I want to take you back briefly to your evidence on page 55 of *Hansard* of Tuesday, 2 May 2000. I hope we have the same text. This is the big test, Dr Boxall. I have probably taken *Hansard* off the computer and you have probably got the printed *Hansard*, so we will just see if they match. At the very top Dr Boxall says, 'Senator Ray, I and two of my staff members were briefed by Dr Shergold and some DEWRSB staff members,' and you responded. I want to take you down about two questions, where I asked you:

When was Minister Fahey first briefed about the outcome of JN2 as it affected Employment National?

I did not ask when you briefed him; I asked when he was first briefed. Your answer was that he was advised some time after 12 November. You thought 15 November. Has anything been brought to your attention, Dr Boxall, that you would like to correct the record on at this stage?

**Dr Boxall**—Not that I am aware of, but if you have something that you think I should know about, I would welcome hearing about it.

**Senator ROBERT RAY**—I did not pick it up at the time, obviously. But going back and reading the rigorous cross-examination by Senator Collins of Dr Shergold, he says that Ministers Fahey and Reith were briefed on 10 November.

**Dr Boxall**—I distinctly recall being briefed by Dr Shergold, as is outlined on page 55 of the senate estimates.

**Senator ROBERT RAY**—That is not in contest.

**Dr Boxall**—Let me get to the point. That was a Friday, and we briefed Minister Fahey on Monday. We sent up a brief. As far as I can recall, that is the first time that I am aware of that Minister Fahey was briefed.

**Senator ROBERT RAY**—Dr Shergold says in his opening treatise—the PhD thesis at the start of the very first estimates—that ministers Fahey and Reith were briefed on 24. But then later, after some questions, he suddenly remembers that that is wrong and corrects the record. Senator Collins may remember it better than me, but he said they were briefed on the 10th and that you were briefed on the 12th because the ministers had been briefed on the 10th, and they did not want you to be playing catch-up.

**Dr Boxall**—That is not my recollection. I do not know what Dr Shergold did before the 12th, Senator Ray. I just simply do not know.

**Senator ROBERT RAY**—You gave us a definitive answer not knowing that was the problem.

**Dr Boxall**—The question was:

When was Minister Fahey first briefed about the outcome of JN2 as it affected Employment National?

**Senator ROBERT RAY**—Exactly. Not when you first briefed him; when was he first briefed? That was the question.

**Dr Boxall**—I see the point you are driving at. I am quite happy to say that the first time that I am aware of his being briefed was the 15th.

**Senator ROBERT RAY**—Has anyone from your department read through the DEWRSB evidence because of the cross-over?

**Mr Fullam**—I have read about half of one of the DEWRSB hearings page by page. I believe it was in February. I can go and check my records if you like.

**Senator ROBERT RAY**—Minister, we are reluctant to put a lot of questions on notice, but can we put on notice—because Dr Boxall has limited knowledge in this area—when Minister Fahey was briefed on the outcome of JN2? You will understand that we have raised the question—and it has never been answered—of why he was briefed when no other shareholder of any other company was briefed and whether it was only done on the basis that it was government owned. That is the relevance of the dates of the briefing. We want to know when he was first briefed.

**Senator Ellison**—I will take it on notice.

**Senator ROBERT RAY**—That would be helpful. I do not think Dr Boxall can answer that now, because he has gone to his own knowledge. I am not saying Dr Boxall has misled us, but inadvertently that was the effect, because the question was when Fahey was first briefed, not by DOFA. Thank you, Chair. I just wanted to get that out of the road.

**Senator FAULKNER**—Could we go back to the first issue that was raised in relation to the suggestion that members of this committee might have improperly implied certain matters during questioning at the last round? I know you have not been able to establish this in the *Hansard*, but now might be an appropriate time to apologise for the opening statement, Minister.

**Senator Ellison**—I think it is still being looked at, and we can come back to that later.

**CHAIR**—You will have to wait for that, I think, Senator Faulkner. I think it is being investigated at the moment.

**Senator FAULKNER**—It is a pretty serious imputation and I would have thought, given that you cannot back it up, you ought to withdraw it.

**Senator Ellison**—We are having a look at the *Hansard*. Often you say yourself, Senator Faulkner, ‘Let’s look at the *Hansard*.’

**Senator FAULKNER**—I have had it checked already. It is pretty easy to do with *Hansard*, as you know. Pity you didn’t do it.

**Senator Ellison**—That does not bear out at all. You did not even know what I was going to say, Senator Faulkner. How could you have checked it?

**Senator ROBERT RAY**—If you are going to make a pre-emptive strike statement, make it a bit better.

**Senator Ellison**—There is no pre-emptive aspect in this. At least we are providing you with copies of what we are saying, which is more than was done last time when questions were asked.

**Senator FAULKNER**—No, you have not. I have asked for copies to be provided—

**Senator ROBERT RAY**—You will not provide anything.

**Senator Ellison**—We are providing them now. They are being photocopied at the moment.

**Senator FAULKNER**—Because I asked for them.

**Senator ROBERT RAY**—Do you want to provide all the correspondence and files on these matters? You are not going to provide us with anything. Are you going to provide us with the letters of comfort?

**Senator Ellison**—You know very well, with your experience, the point I was making about questioning officials and referring to documents as you question officials.

**Senator ROBERT RAY**—But if we ask you to provide those documents, are you going to provide them? No.

**Senator FAULKNER**—My suggestion, Minister, if you have any complaints about the last hearing, is: stay awake—point one—which you did not do at the last hearing.

**Senator Ellison**—With your questions it is very hard to, Senator Faulkner. It is a cure for insomnia.



**Senator FAULKNER**—Second, have a look at the dispatches on the estimates hearing, which was described by at least four media outlets as probably the most humiliating performance ever seen at Senate estimates.

**Senator Ellison**—It was not and you know it.

**Senator SHERRY**—I did find it a bit rich and rather incredible for Senator Ellison to claim that the officials at the table were at a disadvantage on the last occasion when, firstly, they were given notice that we were going to be asking questions about Employment National. Secondly, you would expect the officials to be able to access all the files and documents that they would have available and therefore be able to answer a far greater proportion of the questions that we put to them, rather than taking so many on notice. Finally, it is inferred by Senator Ellison that we are almost abusing process because we happen to have some access to documents on which we could base our questions. I just find it an incredible attitude.

**Senator Ellison**—It is a question of how you conduct yourselves in these committees and how you ask a question of someone when you have a document in front of you and do not give them a chance by showing them the document and the context of the quotes you make.

**Senator FAULKNER**—You just try to keep up with the play.

**Senator Ellison**—It is an old thing, and that is why courts do not allow it. It is trying to ambush a witness to deliberately lead them astray. That is why it is not allowed in any decent forum.

**Senator ROBERT RAY**—Witnesses appearing in a court case do not have a department behind them and a whole series of confidential files that we cannot see. What an idiot.

**Senator Ellison**—You know what I am getting at, Senator Ray.

**CHAIR**—The cards are on the table. Let's move on.

**Senator SHERRY**—If the department wants to put all the documents on the table—

**Senator FAULKNER**—You just try to keep up with the game, for a change.

**Senator SHERRY**—I think it is unfortunate that we do not have at least some of the answers to so many of the questions that went on notice. It would have expedited our questioning.

I want to go to the financial position of Employment National in a number of its aspects. On the level of financial reporting from Employment National to the Commonwealth shareholder, were their regular financial reports—for example monthly, weekly or quarterly?

**Ms Coombs**—As previously given in evidence, Employment National reported monthly to the shareholder. Since January, the company has been reporting weekly.

**Senator SHERRY**—Do you have any further information, beyond that which was given last time, about the form of those reports? Were they simply cash flow statements? Were they profit and loss statements? Were there other comments on the financial reports?

**Ms Coombs**—Included in the monthly reports which Employment National has provided since it was established is a full set of financial statements as well as matters of significance that the board and management wish to bring to the shareholders' attention.

**Senator SHERRY**—Were those financial statements simply cash flow?

**Ms Coombs**—They were accrual financial statements.

**Senator SHERRY**—Including profit and loss?

**Ms Coombs**—That is right.

**Senator SHERRY**—When did they commence? Was it when the company was first set up and operating?

**Ms Coombs**—I believe the monthly reports commenced after the company started trading. So the company was established for a number of months before it commenced trading.

**Senator SHERRY**—Do you have an approximate date?

**Ms Coombs**—The company commenced trading in the Job Network in May 1998, so I can only presume that the reports commenced at that date.

**Senator SHERRY**—It is common in the financial markets, and amongst financial analysts who examine the financial health of companies, to use a number of different financial ratios. By way of example, some of the common yardsticks that are used are: return on assets; return on equity; earnings per share; net tangible asset, known as NTA, per share; dividend per share; dividend cover; and, debt to equity. They are the sorts of formulas that are used to examine the financial status of companies. Can you indicate whether any of these sorts of financial ratios or formulas were used to examine the financial health of Employment National?

**Ms Coombs**—We certainly used ratios to undertake financial analyses. The last number of ratios that you mentioned, like earnings per share, net tangible assets per share and dividend cover per share, are generally used for corporations listed on the Stock Exchange. So they are difficult to apply to companies that are not listed on the Stock Exchange. They are used, as you would know, as a benchmark. We certainly used things like turnover margin and return on equity. Return on assets we found to be less useful in the case of service businesses, largely because they do not have a large asset base. It is more relevant to infrastructure based businesses, but yes we did use ratio analysis.

**Senator SHERRY**—Was it Employment National that carried out this ratio analysis or the finance department or both?

**Ms Coombs**—It probably would have been both. Clearly management and the board would have been interested in certain ratios for the company, and from the shareholder perspective we would analyse their results as well. So it would have been both.

**Senator SHERRY**—So what financial ratio analysis did the department of finance carry out, and when?

**Ms Coombs**—The financial reports were submitted on a monthly basis. Without having all the information available to me about specific dates and times that we carried out analysis, I assume that we carried out the analysis once we received the report.

**Senator SHERRY**—You did mention one area which you believed was valid and on which analysis was carried out: the issue of a return on equity. Did the finance department analyse return on equity?

**Ms Coombs**—Yes, we did.

**Senator SHERRY**—What were the results?

**Ms Coombs**—I do not have that information with me.

**Senator SHERRY**—Unfortunately I think we are going to be faced with a somewhat similar situation to the last time. I am surprised, given that this is the third estimates where we have asked questions and this is the second occasion on which, very clearly, you were going to be facing questions about Employment National. This is an important financial ratio, and you do not have the information available for us tonight.

**Ms Coombs**—That is right. I do not have every piece of financial analysis that the department undertook with me this evening.

**Senator SHERRY**—I am not suggesting that you should have every piece of financial analysis, but you have admitted the validity of return on equity financial ratios. It is an important piece of analysis of the financial health or otherwise of a company: net operating profit to shareholder equity. As I said, I am surprised that you do not have that information, but nevertheless I will soldier on. We have taken some advice in terms of a return on equity, which is net operating profit to shareholders' equity. Could I have your response, please, to our analysis in this area which indicates that the net operating profit to shareholder equity was about 138 per cent? Do you have a response to that analysis?

**Ms Coombs**—No, not without checking our analysis.

**Senator SHERRY**—Whilst we should always be cautious about a financial analysis, a return on equity of 138 per cent is a very strong result. Would you accept that that is a very strong result?

**Ms Coombs**—Could you give me the date on which that analysis was done? At what point in time was it 138 per cent?

**Senator SHERRY**—It is a net operating profit in shareholding equity as at the year ending 30 June 1999. I do not recall that this analysis was contained in the annual report, but nevertheless we have attempted to come to some sort of yardstick. Just to go back to my earlier question, this indicates a very strong result. A return on equity of 138 per cent is my understanding. Do you have a response to that?

**Ms Coombs**—Just doing a rule of thumb calculation, that does appear to be in the ballpark and it reflects the fact that the company had a strong operating profit before income tax at the year ended 1998-99 that exceeded the Commonwealth equity that was in the company.

**Senator SHERRY**—You are right. Our analysis shows that. If we look at the return on assets, similarly there is a remarkably strong result, by our calculations, of 105 per cent. Just to give you a couple of other calculations that we have carried out—

**Ms Coombs**—Sorry, Senator, can we just address the return on assets issue? As I have mentioned in previous evidence, we have found in the Shareholder Advisory Unit, when we analysed the results of service companies, that they often have very high returns on assets because they often have a small asset base.

**Senator SHERRY**—I would accept that we have to be careful with that particular financial ratio but, regardless of the caveat that you put on that financial ratio, it does indicate a very strong return on assets. I do not want to go through all the figures we have had prepared, but I did refer earlier to a number of financial ratios. On the net tangible assets per share, our calculation is \$2.24 per share. That was done after the share buyback, the \$40 million return to the Commonwealth. On the earnings per share, known as the EPS, operating profit over number of ordinary shares is \$5.86; the dividend per share is \$1.05 per share; the dividend cover is 5.58 times; and debt to equity, which is total liabilities to shareholder equity,

is 0.84. All of those ratios show a remarkably strong financial performance, by any benchmark criteria. Do you have any of your own analysis in these areas to compare against the calculations that we have been able to have done?

**Ms Coombs**—As I have mentioned, I do not actually have the analysis that we have undertaken here with me, so it is difficult to make a comparison, but I do not think we would argue with the analysis that you have had done.

**Senator SHERRY**—Given Employment National's remarkably strong financial position, and your acceptance that at least in some areas financial ratio analysis was carried out and you had monthly financial reports, was that material used in order to at least in part determine whether or not a \$40 million buyback should occur?

**Ms Coombs**—Clearly the company's financial performance would have been a factor that was taken into account in relation to the share buyback. A review of our files indicates that probably from October 1998 the company had cash reserves that were much higher than expected, and that would have been another factor.

**Senator SHERRY**—Sure. If you are operating in a highly profitable situation, I cannot think of a circumstance where your cash reserves would not be increasing. It may depend on repayment of borrowings et cetera, but clearly it is a very strong position. Just going back to the monthly financial reports that were given by Employment National to the department, were these reports passed on to the minister or his office?

**Ms Coombs**—The reports were actually provided directly to the minister, so they were signed off by the managing director, generally, to the shareholder.

**Senator SHERRY**—Did you get copies, or did the minister's office send them on to the department?

**Ms Coombs**—The minister's office sent them on to the department.

**Senator SHERRY**—So clearly the minister had first-hand knowledge of the financial strength of Employment National on a regular monthly basis.

**Ms Coombs**—That is right.

**Senator SHERRY**—Were there meetings between the finance department and Employment National to discuss the financial strength of Employment National?

**Ms Coombs**—There were regular meetings between the management of Employment National and the Commonwealth Shareholder Advisory Unit, yes. We consider that to be an important part of being able to advise the minister on the performance of the businesses we oversight on his behalf.

**Senator SHERRY**—Do you have a record of those meetings with Employment National?

**Ms Coombs**—I do not believe I have a full record of the meetings that we have had with Employment National, but there would be records of the meetings on departmental files.

**Senator SHERRY**—Are you aware of the minister's office having meetings with Employment National about the financial strength of Employment National?

**Ms Coombs**—In the answers to questions on notice at the first additional estimates hearing, we provided a list of meetings that the minister had had with the board of Employment National.

**Senator SHERRY**—I recall that, now you have mentioned it. One of the difficulties is not having the answers to questions on notice. There is going to be some crossover. I do recall your answer, however. Thank you for reminding me of it.

**Ms Coombs**—This was the first hearing I attended in February.

**Senator SHERRY**—Yes, I do recall that now. What is the finance department's view of the profitability of Employment National? You have to make calls and comments about various government business enterprises. What was your view of its profitability and its financial strength?

**Dr Boxall**—At what point in time?

**Senator SHERRY**—Let us say November last year.

**Ms Coombs**—Looking back on past performance in November 1999, my view would have been that the company had performed strongly. The difficulty was in forming a view on future performance, given we were awaiting the outcome of Job Network 2.

**Senator SHERRY**—We will get to that. Clearly it was obvious that was going to have an impact. Did the finance department do any comparative analysis of the financial performance of Employment National as matched against other government business enterprises or companies in which the Commonwealth is or was a major shareholder?

**Ms Coombs**—We do not tend to make comparisons between the government business enterprises, largely because it is quite difficult. They operate in different industries. They undertake different activities. We do, however, do some benchmarking work against businesses in the same industry which are not government owned. In the case of Employment National it was quite difficult, largely because a lot of the other Job Network providers are part of an amalgam of a number of businesses, so it was very difficult to make direct comparisons with Employment National. But we did that.

**Senator SHERRY**—Just so I am clear on that answer: was there any comparative work done?

**Ms Coombs**—Yes, in relation to other businesses in the recruitment and employment services market. But, for example, making a comparison between Employment National and Sydney Airport would be unreasonable.

**Senator SHERRY**—Yes, that is understandable. What were the results of that analysis?

**Ms Coombs**—I do not have the information with me, but I believe the comparison was favourable; Employment National was doing quite well.

**Senator SHERRY**—This comparison was with other employment providers. Are you able to tell us whether or not it was the top performer by normal financial measurement or in the middle rank. Can you give us some indication of its placement?

**Ms Coombs**—I would have to check our analysis to see exactly where it was panning out. I have mentioned the difficulty in comparing one Job Network provider to another one. Let me pick an example: Mission Employment, which I believe is a subsidiary operation of Mission Australia, does not produce a separate annual report, so what you get is Mission Australia and it is very difficult, for example, to isolate the employment services component of that operation. So it was quite difficult but we can have a look at our analysis.

**Senator SHERRY**—If you could take that on notice. I appreciate the difficulty because many employment service companies have different capital bases, different customer bases

and different geographic ones. There is a range of issues that can impact on these comparisons, nevertheless it is, as you said, really the only area to validly compare with. We have done some analysis of the sort of capital required that would normally be expected to generate returns of, say, eight to 12 per cent, which would be regarded by financial analysts generally as a reasonable rate of return on capital. As for the valuation of Employment National prior to the contracts being finalised late last year, we have come up with a value—and this can only be approximate—of Employment National at that point in time of between \$400 million and \$500 million. Do you have any response to that figure?

**Ms Coombs**—In my view, a business valuation of Employment National would have been impossible to undertake. As you are no doubt aware, business valuations depend on forecasts of future cash flow. As a business participating in a competitive tendering process for the vast majority of its business beyond 27 February 2000, the company would have had great difficulty in forecasting its expected cash flows. In fact it did: they were only able to produce an interim corporate plan in respect of 1999, which went up to 27 February 2000. In any event, even if they could have forecast their future cash flows, the inherent uncertainty associated with the achievability of future cash flows, given the outcome of the competitive tendering process, would have resulted in the use of a very high discount rate resulting in a very low business valuation.

**Senator SHERRY**—I think you are moving on, and I was going to get to some of those matters. But isn't it true that with companies which are operating in the same market as Employment National financial analysts, in some cases the stock market, do make a financial judgment about the value of those companies?

**Ms Coombs**—I am not aware of any Job Network providers that are listed on the stock exchange and I am not aware on what basis they would be able to make those valuations. My understanding is that the only way that you can value a business is to look at future cash flows and the certainty of those future cash flows. In Employment National's case, you could not have done either.

**Senator SHERRY**—I would dispute that. I do not think that is the only way you can value a business, by looking at future cash flows, but we will get to the issue of future cash flows shortly. So you do not accept our analysis that Employment National, given a reasonable rate of return on capital, was worth between \$400 million and \$500 million at that point in time, which was November last year, prior to the finalisation of the contracts?

**Ms Coombs**—Sorry, can you clarify how the valuation was done?

**Senator SHERRY**—We looked at the pre-tax profit of \$62.8 million and at what would be regarded as a reasonable return of eight to 12 per cent on capital required to generate that sort of pre-tax profit. Being reasonably conservative, frankly, we have come up with a figure of between \$400 million and \$500 million.

**Dr Boxall**—I do not see how you can make a valuation like that. You cannot just take the net profit of the year before and assume that will continue when most of their revenue is yet to be secured, because they have yet to get the results from the job tender network. That is just not sensible.

**Senator SHERRY**—I do not agree with you, but we will get to that issue shortly, and we did have a long discussion about that. That analysis, as I understand it, is standard along with the other financial ratios.

**Dr Boxall**—It is not standard analysis to take the profit from the previous year, when you know that a large amount of their business—in this case the bulk of their revenue—is dependent on the job tender outcome. It is essentially assuming that they will continue to get the same contracts, and that is not an assumption that even Employment National themselves entertained. It is just meaningless to do that.

**Senator SHERRY**—I do not agree with you. You want an argument. You put forward your view; I do not agree with you and I will get to the reasons why—and we did traverse this on two previous occasions—the contracts were lost. We have had lengthy questioning and answering on that and I have not got to that point yet. I do want to get to that point but I do not accept your comments. We have financial advice from people who are experienced in this area and the valuation put on Employment National, up to just prior to the contracts, is between \$400 million and \$500 million. We just have to agree to disagree, I am afraid, Dr Boxall. You have your view, we have ours; you obviously do not agree.

**Mr Murphy**—Senator, if I may explain this to you, what you probably find difficult to understand is that it does not matter what the forecast is: if the business is not there, you are just not going to make that profit.

**Senator SHERRY**—We will get to the point shortly about why the business was not there. We are dealing with the point up to the finalisation of the contracts.

**Senator MURRAY**—It is probably a good time to stop.

**Senator SHERRY**—Yes, it is probably a good point to stop.

**CHAIR**—Dr Boxall?

**Dr Boxall**—Thank you, Mr Chairman. Earlier in the evening, Senator Ray raised the issue, in clarification of some evidence provided by me, concerning when Minister Fahey was first briefed on the outcome of Job Network 2 and he was wondering, I think, given the evidence from DEWRSB, if it took place before 15 November. I would like to report back to the committee that I am advised from Mr Fahey's office that he was not briefed earlier than 15 November. As for the date—I think it was 10 November—that Senator Ray mentioned, I am advised by the office that Minister Fahey was not briefed on 10 November.

**CHAIR**—Thank you, Dr Boxall.

**Proceedings suspended from 6.48 p.m. to 7.49 p.m.**

**CHAIR**—We will now reconvene. For the record, let us note that Senator Crossin has forwarded some questions relating to the Office of the Status of Women that relate to the proceedings of last night. I note that for the record.

**Senator SHERRY**—Before I get to my questions, has the minister checked the record and has anything further to add on the conversations that occurred earlier in the proceedings?

**Senator Ellison**—Yes. The statement that was read, the first paragraph, the part that was the cause of concern, said:

... the general tenor of a number of the questions appeared to suggest the shareholder minister ought to have provided Employment National with some assistance or made special representations to the Department of Employment, Workplace Relations and Small Business to assist the company in succeeding in the Job Network tender process.

The statement said the 'tenor' of it, and we have to look at questions as a whole. Firstly, I would refer you to pages 60 and 61.

**Senator SHERRY**—Is this the Senate proof?

**Senator Ellison**—Yes, and that is Tuesday, 2 May. At the bottom of page 60, following on from a question about the tender and the technicality of that GST aspect of it being factored in, Senator Sherry stated:

...You were told by DEWRSB one set of 'facts'; Employment National was claiming another set of contradictory facts that was critical to the survival of Employment National. Why didn't you take that matter further?

Dr Boxall then said:

There is a whole probity process surrounding the letting of the contracts, and this is an issue that clearly falls within that. It is not for DOFA to intervene in the probity issues before the announcement of the—

Then Senator Ray intervened and said:

That is true. But the context of these questions is that you were able to raise them post 3 December when DOFA, or whoever it was, went and raised a few concerns that EN had passed on with DEWRSB. That occurred, but we are really trying to seek whether it was raised at that point.

That set the scene for a conflict between DEWRSB and Employment National and the role of DOFA in the middle, if you like. Further down Senator Ray said:

Do you think it an unusual practice for a department not to notify a bidder of a minor technical breach in their tender, especially as it relates to a later clarification of contract conditions by the customer?

What we are talking about there is this GST being factored in. Dr Boxall said:

That is an issue between DEWRSB and Employment National. In answer to the question, in a sense, what I think about it is not relevant.

Then Senator Ray says:

It is relevant if you are a conspiracy theorist, which you are clearly not—and I always try to resist.

He goes on to a passage—which was then cited by Laura Tingle in the *Sydney Morning Herald*, in an article dated 20 May—in which he talks about DEWRSB possibly having a role in stitching up Employment National and says:

Here is a classic case where they have done it.

What is being said there is that there was a conflict between DEWRSB and Employment National, and that questions were asked of the department of finance as to why it did not intervene. This is taken up by Laura Tingle, who followed this closely:

From this point, EN faced a short future. Estimates Committee evidence makes it clear the paperwork was being put in place to consign EN to the scrapheap well before the tender results were announced on December 3.

She talks in her article about a conspiracy theory, saying:

The conspiracy theory about EN is that the Government set up EN to fail—via instructions given to the bureaucracy on tender design—with the aim of giving its business share to more favoured job agencies (particularly the churches) and to get more agencies into the politically sensitive bush.

What the government has said in the statement is that the tenor of questions was that there was this conflict between DEWRSB and Employment National. The questioning very clearly



says, ‘What did DOFA do as a result of it?’ and Senator Ray goes further to talk about a conspiracy theory—which is taken out by the press.

What we are saying is that that is begging the question of why the minister did not intervene to sort out DEWRSB, which was biased against Employment National. Later on in the transcript you can see questionings about Dr Fleming’s letter and whether it was passed on to Minister Fahey. It was there that Dr Fleming made allegations about bias in relation to DEWRSB, and again the question was raised of whether this was passed on to the minister, whether the minister was aware of this. There were questions on meetings between DEWRSB and DOFA officials, again raising the question of whether there was something done by DOFA/the minister to assist Employment National. The remainder of the hearing, or a good portion of it, is dealing with the innuendo that the minister and the government set out to junk Employment National, and that is clearly the take-out of the press in the article by Laura Tingle.

That is where we say that there is an assertion that the minister should have assisted the company, not worked against it. That was clearly an ambit in the line of questioning in relation to the proceedings on 2 May. In fact, at one stage, there was a comment dealing with the restructuring of the company. Down the bottom on page 72 of the Senate estimates proof, Senator Sherry said to Dr Boxall:

You are the shareholder. Why should we wait?

This was in relation to some information. He went on:

Why shouldn’t this committee now know what actions a responsible finance department has taken to protect the financial position of a company that it owns?

That is just part of a line of questioning. I concede that this related to a different issue from the GST being factored into the tender flaw. We have said ‘tenor’. We have not placed it any stronger than that because the line of questioning gave rise to the inference that the shareholder was, firstly, not acting in the interests of Employment National, which was something which was taken out by the press from those hearings, and, secondly, in any event should have been proactive in assisting that company. The particular reference I make to DEWRSB speaks for itself. All of those points are borne out in the article by Laura Tingle on 20 May.

**Senator FAULKNER**—Minister, I did not hear most of your statement. I did not realise you were commencing with another statement. Are you referring to Ms Tingle’s article, ‘A conspiracy of dunces’?

**Senator Ellison**—That is the one.

**Senator FAULKNER**—I suppose it has hurt your feelings.

**Senator Ellison**—No, it has not.

**Senator FAULKNER**—There were quite a number of articles about the performance of yourself and the department at the last estimates round. There were quite a number of newspaper articles referring to how humiliating the performance was. I do not know if you saw all of them. I certainly had them drawn to my attention. I am not surprised that you have reacted the way you have. If you have issues you want to take up with the journalist concerned, then you can do so. I am pleased that certain members of the press gallery are taking an interest in the evidence being adduced at these hearings. Having heard only part of

your statement, I cannot comment on the earlier part of it, but as far as I am concerned I will feel at perfect liberty to draw certain conclusions after the information gathering and evidence providing process has been completed. I think you are just getting very sensitive because of the shocking mentions in dispatches you have had in a range of newspaper articles. Most of us do not react that way.

**CHAIR**—Senator Faulkner, I should say that Senator Ellison's comments were in answer to a question from Senator Sherry rather than a statement.

**Senator SHERRY**—Yes, because he did indicate he was going to make an opening statement. He was asked by us to clarify it.

**CHAIR**—I am sorry. That was quite right.

**Senator FAULKNER**—The only conclusion I can come to is that Senator Ellison has made that statement in answer to Senator Sherry's question because of the sensitivity that he feels about the coverage of the last estimates committee. If I was Senator Ellison—and one of the others who had been at the table—and had read the coverage, I would be sensitive too. That was the only point I was making.

**Senator Ellison**—This was directed to comments made earlier pointing in the *Hansard* of the last proceedings as to how we were entitled to make that statement.

**Senator FAULKNER**—I am sorry, when I came in you were quoting from the article, 'A conspiracy of dunces'.

**Senator Ellison**—And the *Hansard* but you were not here for the majority of the quotes.

**Senator FAULKNER**—No, I appreciate that. As I said, I came in late and I heard only the ending when you were quoting from articles by journalists.

**Senator Ellison**—And a commentator viewing what she thought was the take-out from those proceedings, which corroborates the first paragraph of the statement I have made.

**Senator FAULKNER**—She was not alone. I did not hear the first part of your statement so I cannot comment. I will look at it later in the *Hansard*. I am saying that there was no positive reporting that I read in any newspaper article, or in any other media outlet, of yours and officers' performance at the estimates committee. It was universally described as a humiliation for all concerned.

**Senator Ellison**—I rest my case in relation to the allegations made earlier.

**Senator FAULKNER**—Whatever your case is, thank heavens you are resting it so we can get on with it.

**CHAIR**—We will proceed with questions.

**Senator JACINTA COLLINS**—Just while we are dealing with the preliminary statements, my question is in relation to Ms Coombs and matters for clarification.

**CHAIR**—Thank you.

**Senator JACINTA COLLINS**—Ms Coombs, following from your indication of the letters you were aware of, were you aware whether Minister Fahey responded to those particular correspondents?

**Ms Coombs**—Minister Fahey certainly responded to the first letter dated 24 February 1999.

**Senator JACINTA COLLINS**—And the other two?

**Ms Coombs**—Not that I am aware of.

**Senator JACINTA COLLINS**—He did not respond?

**Ms Coombs**—Not that I am aware of.

**Senator JACINTA COLLINS**—Thank you.

**Senator SHERRY**—Senator Ray might want to make a comment because I think some of the comments that Senator Ellison made went to comments and questions—highly relevant and pertinent questions they were too—from Senator Ray, spot on. Senator Ellison was reacting in part, at least, to media coverage. These journalists are independent, they are at arm's length and I think they are very perceptive, frankly. It is very important that the journalists, and I wish there were more of them, took such an interest in what are at times very lengthy and exhausting proceedings before our estimates committees. I really do think it was probably an over-reaction, as Senator Faulkner has indicated, and understandable, given the negative coverage of the government's and the department's performance in this area. I propose to press on, if I may.

**CHAIR**—Yes.

**Senator SHERRY**—Prior to the dinner adjournment we were having more in the nature of a discussion rather than questions and answers about the evaluation of Employment National and its super profitability. I have a couple more questions in this area and I know my colleague, Senator Collins, has some further questions. I will leave it at that for the time being once I have dealt with this area.

I want to indicate further, in respect to the financial performance of Employment National, that it is a fact that the government received a dividend of \$8 million on 7.8 million shares, which is a return of \$1.05 cents per share. That is a very positive dividend return, isn't it?

**Ms Coombs**—I do not believe it is easy to make those kinds of comparisons. You would actually have to have a valuation of the share to do a dividend per share comparison.

**Senator SHERRY**—And it is very positive if you do that analysis. We did touch earlier on the value of Employment National—

**Dr Boxall**—Excuse me, there is no evidence at all that that is a very positive dividend return.

**Senator SHERRY**—We will have to disagree again, I am afraid, Dr Boxall, on that along with the other very positive financial results and financial position of Employment National. Did the Finance Department have a valuation done of Employment National prior to November of last year?

**Ms Coombs**—No, we did not. As I mentioned in evidence before the break, I believe it would have been virtually impossible to undertake because of the uncertainty relating to future cash flows.

**Senator SHERRY**—That is your opinion, but I am interested as to why you did not seek a valuation?

**Dr Boxall**—Ms Coombs has just told the committee why the department did not seek a valuation.

**Senator SHERRY**—Employment National had an operating cash flow surplus on a consolidated basis of \$102 million at 30 June 1999. We are now in a position today, a very unfortunate position looking at the portfolio budget statements, where it now needs an equity injection of \$35 million in 2000-01, \$14 million in 2001-02 and \$7 million in 2002-03. That is a dramatic turnaround in the financial position of Employment National, isn't it?

**Ms Coombs**—Yes.

**Senator SHERRY**—Were the figures contained in the portfolio budget statements on the equity injections that will be required over the next three years to enable the company to survive available at that point in time? We did ask for some information in this area at our last estimates round, and you were not able to provide us with any on that occasion.

**Dr Boxall**—The last estimates round was before the budget. These figures are announced in the budget. There is no way that officials of the department of finance or any other department can announce figures which are in the budget before the budget.

**Senator SHERRY**—I beg to differ. In this case we asked for a considerable range of financial information, including the degree of financial support that would be required for Employment National to continue. I do not see why the equity injections that have consequently been disclosed could not have been given to us at that time.

**Dr Boxall**—Mr Chairman, I put it to you that it is completely inappropriate to ask officials to divulge budget measures before the budget. This measure is on page 179 of Budget Paper No 2. If the government wants to divulge budget measures before the budget, that is their decision. But it is inappropriate, Mr Chairman, I put it to you, to be asked these questions before the budget. Now the budget is over, we are quite happy to answer these questions.

**Senator JACINTA COLLINS**—With respect, Chair, I do not think that was actually the question. The question Senator Sherry is asking is not a matter of government policy as to what level of injection they are prepared to make but, rather, what level of funds is required for Employment National to continue.

**Senator SHERRY**—The viability.

**Senator JACINTA COLLINS**—Yes, not the budget measure.

**Senator SHERRY**—With due respect, through you, Chair, that was not your claim at the last estimates hearings; that it was all budget-in-confidential and you could not disclose it. You did not know and therefore took it on notice, as I recall. You did not mention anything about the budget measures.

**Senator Ellison**—In fairness, Mr Chairman, when matters are taken on notice often the point of whether it is commercial-in-confidence or cabinet-in-confidence is not argued. Taking a matter on notice never, ever means that you will necessarily answer the question or that there is no problem with cabinet-in-confidence or those other principles. I do not believe that conclusion can be drawn. I think the question asked before the budget was one the officials could not answer; now that it is being asked after the budget, it can be.

**Senator SHERRY**—We have part of the answer. Dr Boxall, when we last met and we were asking questions about the disastrous financial position of Employment National, did you have figures available at that time? You did not give us any of that information.

**Dr Boxall**—Senator Sherry, if you are asking was I aware—

**Senator SHERRY**—Was it because you did not have the figures then?

**Dr Boxall**—Senator Sherry, if you are asking whether I was aware that there was going to be a budget measure on this issue, the answer is yes, I was aware there was going to be a budget measure on this issue.

**Senator SHERRY**—That is not what I asked.

**Dr Boxall**—What are you asking?

**Senator SHERRY**—On the previous occasion we asked a range of questions about the perilous, disastrous position that Employment National was in financially. You were unable to give us the vast majority of the information requested. Was it because you did not know that information at that time?

**Dr Boxall**—I will have to check the *Hansard*.

**Senator SHERRY**—I certainly do not recall asking about budget measures and equity injections. I think the range of questions that I and my colleagues asked went to a whole range of financial matters that would need to be looked at in the context of Employment National. I notice in the portfolio budget statements there is a reference to an equity return of \$50 million in 2000-01. How is that equity return to take place and when?

**Ms Coombs**—Could I just clarify the question as I am a bit confused. Are you talking about the \$56 million equity injection by the government into Employment National or is it something else?

**Senator SHERRY**—No. It is on page 21 of the portfolio budget statements—that is what I am looking at at the moment. What is that reference to the department, which says ‘will also be making an equity return of \$50 million in 2000-01 in the form of surplus cash’?

**Dr Boxall**—That is a completely separate issue.

**Senator SHERRY**—Fine. I thought it related to Employment National, but it does not. We have had some question-answer discussion about the financial strength of Employment National up until November last year. Then we came to the very sad fact that there is now a requirement for equity injections, because it looks as though the whole thing will be insolvent if there is not such an equity injection. How does such a disastrous turnaround with a very profitable, strongly trading company occur? It was highly profitable and within six months we are getting equity injections drawn down on the budget with a significant cost to the taxpayer. How does this occur?

**Dr Boxall**—We know how it occurred, because Employment National were unsuccessful in winning business in Job Network 2. As a matter of fact, they lost 90 per cent of their business. It is not surprising that they went from a situation of being profitable in 1998-99 to having financial difficulties in 1999-2000. It is not surprising at all if a company were to lose 90 per cent of their business. I might add that the Minister for Finance and Administration was inquiring of Employment National through calendar year 1999 with respect to issues about their financial viability and how they would shape up in terms of the Job Network 2 and various inquiries like that. So rather than painting a picture of a highly profitable organisation—it is true that they made a profit in 1998-99—the Minister for Finance and Administration was already inquiring of them about the future. This gets back to the point that was made before the break—that it is nonsensical to try to value an organisation based on past earnings when they are about to enter a tender round which accounts for most of their business.

**Senator SHERRY**—I now think we are getting to the crux of the dramatic turnaround, and I did want to go to that. You have led into that, Dr Boxall, and Ms Coombs was leading to that prior to the break. I just want to go to the clarification, Ms Coombs. In your last paragraph, there is this reference:

A review of my notes from conversations, meetings and e-mails indicates that DEWRSB advised DOFA that in checking for conformance to tender conditions they discovered that a number of Service Schedules for Intensive Assistance contained bids to deliver services at prices below the revised minimum prices as set out in the July addendum.

Do you know on what date that occurred; that is, the discovery that ‘a number of service schedules for intensive assistance contained bids to deliver services at prices below the revised minimum prices’?

**Ms Coombs**—No, I do not know the date. That would be a question for DEWRSB. In reviewing my notes, they did not indicate when they discovered it. I can tell you on what date I asked DEWRSB for the advice—it was 2 December—but I cannot tell you when DEWRSB may have discovered the non-compliance.

**Senator SHERRY**—That is an issue that can be pursued with DEWRSB. I wanted to check whether you have knowledge of that. Your clarification then goes on:

The probity advisers in the tender process Blake Dawson Waldron indicated that as the bids were non-compliant they could not be considered. DEWRSB advised that they then obtained legal advice from Messrs C M Maxwell QC and P R D Gray and further advice from the Commonwealth’s Chief General Counsel. Those advices confirmed that the affected bids should be rejected as non-conforming under the Tendering Conditions.

Do you know whether this advice went to the rejection of these non-conforming bids prior to the close of the bid process and the public announcement?

**Ms Coombs**—No, I do not. That would be a question you would have to ask DEWRSB.

**Senator SHERRY**—You are here making a clarification. Are you aware of the contents and have you read this legal advice that you have referred to in your clarification?

**Ms Coombs**—I believe I may have a copy of the second legal advice from the Chief General Counsel.

**Senator SHERRY**—Do you have a date for that?

**Ms Coombs**—No, I do not—not with me.

**Senator SHERRY**—You will take that on notice?

**Ms Coombs**—I can.

**Dr Boxall**—It is a question for DEWRSB to answer.

**Senator SHERRY**—I do not agree. We are not going to cop this flicking of things over to DEWRSB. Ms Coombs has indicated she has the letter. I do not see why she cannot indicate the date—take it on notice.

**Dr Boxall**—But this is a question of our being asked to give the committee dates which are basically dates on material that is pertinent to DEWRSB’s conduct of the job tender.

**Senator SHERRY**—Chair, I disagree with Dr Boxall. The fact is that we know that Ms Coombs has a copy of the letter. I am not going to the other estimates. Given that she has a copy of the letter, this committee should receive an answer—albeit on notice—to my question about the date of that advice when she has a copy of it.

**Senator JACINTA COLLINS**—I do attend DEWRSB estimates. On the last occasion, on at least one matter appraised as being a matter for DEWRSB, DEWRSB's response was that it was a matter for DOFA.

**Senator SHERRY**—Really, this has to end, Dr Boxall. Trying to cover up by flicking back and forward from department to department is just not on.

**Senator Ellison**—There is no attempt to cover up here, Mr Chairman. We are not rejecting the question; it will be accommodated. This is not something which is earth shattering, but it does highlight the fact that there are things which are in the domain of DEWRSB and also the company which, I understand, has been invited to attend those estimates. If Senator Collins has mentioned that DEWRSB has rejected a question which was not in its jurisdiction then I would like to know so we can deal with it. Perhaps you could let us know which one they flicked back.

**Senator JACINTA COLLINS**—Minister, the one that they flicked back relates to these matters of clarification, if I recall correctly, but I would need to check the *Hansard*. It did go to DOFA's and, in this case, Ms Coombs's awareness of various issues where DEWRSB essentially said it was matter for DOFA.

**Dr Boxall**—That is a separate issue from the current question.

**Senator JACINTA COLLINS**—It depends on how you consider, Dr Boxall, that the current question has been framed. Senator Sherry is going to the department's knowledge of various issues in terms of its dealings with, as the shareholder, Employment National. That is what the question is, that is its context and it is quite appropriate that it be dealt with here.

**Dr Boxall**—With respect, the question that Senator Sherry was asking Ms Coombs was for a date of advice that that was given to DEWRSB—

**Senator JACINTA COLLINS**—Yes: was she aware of the date of that advice?

**Dr Boxall**—No. We can check the *Hansard*, but my recollection is that Senator Sherry was asking Ms Coombs to take on notice the date of a document which is a DEWRSB document. That is different from the issue that you have raised, which is: was Ms Coombs or anybody else aware of an issue. It is a separate issue, I thought.

**Senator JACINTA COLLINS**—With respect, it is not only a DEWRSB document. Ms Coombs has indicated that she had a copy of one set of advice. What might be quite relevant here is whether she is aware of the date of that advice in terms of how she has dealt with Employment National in her role.

**CHAIR**—In relation to the letter, however, the minister indicated that they will accommodate the committee's request for that date.

**Senator Ellison**—Yes, we will take that on notice. But can I just say that the committee could be careful in its questioning to realise that there are some areas which fall within DEWRSB jurisdiction. This is a document which may well be a DEWRSB document but which Ms Coombs might have some access to. But that may not always be the case, so this is not a precedent for asking questions on DEWRSB matters.

**Senator SHERRY**—I do understand that there is a blurring of issues across two committees here, and that is not easy. However, I am going to correspondence which Ms Coombs has referred to herself in her clarification to correct the record earlier this evening. She has raised this correspondence today and I am going to question her quite legitimately, I think, on this matter.

**Senator Ellison**—Well, we have taken that on notice.

**CHAIR**—Thank you, Minister.

**Senator SHERRY**—Thank you. On the issue of legal advice—and we did touch on this, I am sure, at the last estimates—I understand that Mr Storey, Managing Director of Employment National, wrote to Dr Shergold drawing attention to what was referred to as an insignificant error—the matter of the GST considerations which meant that Employment National underbid by 0.76, in one instance, and 0.75 in respect to its tender documents. Do you recall the discussion we had about that at the last estimates committee?

**Ms Coombs**—Yes, I do.

**Senator SHERRY**—Of course, as a consequence of what is referred to as an insignificant error, Employment National were knocked out of the game almost totally, weren't they?

**Ms Coombs**—I am sorry, could you clarify the reference to 'an insignificant error'. My recollection of the correspondence from the chairman to the minister called it 'an inexcusable error'.

**Senator SHERRY**—The correspondence I have refers to the correction of 'an insignificant error'. I would have to look through the letter to see if the word 'inconsequential' is there. It may be. Did you say inconsequential?

**Ms Coombs**—Inexcusable.

**Senator SHERRY**—I am sorry. I notice the word 'inconsequential' is there.

**Ms Coombs**—Could I clarify who the letter was sent to?

**Senator SHERRY**—If you tabled your letter we would be able to—

**Ms Coombs**—My understanding, from going through the *Hansard* of the last hearings, was that there were two letters. One was written by the chairman of Employment National informing the shareholder minister of the GST error on 2 December. I understand from *Hansard* and Senator Ray's subsequent questioning that there was a second letter written by Mr Storey to Dr Shergold in DEWRSB. We do not have a copy of that letter.

**Senator SHERRY**—I am referring to a letter which refers to an insignificant error. We have the details of the very minor under-tendering, or tendering below the floor price of \$0.76 and \$0.75. You have confirmed that. Apparently, Employment National sought legal advice in respect to contract law about this matter of the error that occurred in its tender. Did the department of finance seek any legal advice on this matter?

**Ms Coombs**—No, we did not. That is a matter for the company.

**Senator JACINTA COLLINS**—Ms Coombs, did you ever see this legal advice that Employment National required?

**Ms Coombs**—No, I didn't, Senator.

**Senator SHERRY**—The position of Employment National is very clear in this letter. It reserves all its legal rights in relation to this issue following receipt of legal advice on the tender process. Are you aware of that?

**Ms Coombs**—No, Senator, as I have mentioned, we do not have a copy of that letter.

**Senator SHERRY**—Are you aware of whether the minister's office has a copy of the letter?



**Ms Coombs**—To our knowledge, they do not have a copy of the letter.

**Senator SHERRY**—Can you take that on notice to check?

**Ms Coombs**—Are we talking about a 2 December letter that was from Mr Storey to Dr Shergold?

**Senator SHERRY**—Yes, that is the reference to the insignificant error. I see it as a legitimate threat about reserving their legal rights to take legal action if they are excluded from the tender process as a result of the insignificant error.

**Ms Coombs**—I will take that question on notice and ask the minister's office if they have seen a copy.

**Senator SHERRY**—And whether they were aware through any other form of correspondence that Employment National had taken legal advice about its position.

**Ms Coombs**—I can answer that now.

**Senator SHERRY**—Thank you.

**Ms Coombs**—You would be aware from the line of questioning at the last hearing that the former directors certainly raised in their letters to the minister that they had taken legal advice on that issue.

**Senator SHERRY**—I think you answered earlier whether or not the department took legal advice on this issue—the law of contract matters surrounding the tender process in respect to the claim that an insignificant error had occurred.

**Ms Coombs**—We did not take legal advice on that.

**Senator SHERRY**—We then had a series of actions by the minister. I am not intending to go into them in great detail tonight. We did go through those actions in some detail on the last occasion. Isn't it true to say that a number of the actions of the minister, including dismissal of the board, appointment of a new board and new rules for the company et cetera, effectively prevented the original Employment National board from exercising the legal rights they had been advised they had in respect to the tender process?

**Mr Murphy**—Can we just clarify the dates of the legal advice and the change in the board of directors. Is that what you are implying, that there was some connection there?

**Senator SHERRY**—Let me rephrase this: you know and we know that the board of Employment National received legal advice that they had legal rights in relation to challenging the tender process because of what they regarded as an insignificant error. Isn't it true that the then process the minister engaged in such as the dismissal of the board, a new board and new rules—there was a whole series of actions that occurred after 2 December—prevented the board of Employment National from taking any legal actions in respect of the tender process?

**Mr Murphy**—No, I would not say that; I would not read it that way. I have not seen the correspondence. If the board had legal advice to say that they could potentially take action to challenge the tender process, that advice would go to the board at that time and would still be pertinent to the new board—or to any changes in the board—and it would be the duty of the directors, whoever they may be, to act in the best interests of the company as a whole. If the advice were given, it would be a matter for the directors at the time, when they examine the advice, to decide whether or not they should proceed on that advice.

**Senator SHERRY**—This is an excellent track we are heading down, and I do want to follow through on what you are saying. It is true that the original board, the first board, up to the time some of them were dismissed and others were simply not reappointed, at that point in time, had not acted on that legal advice about taking legal actions.

**Mr Murphy**—They may have decided not to act on that advice.

**Senator SHERRY**—Does the department of finance know that?

**Mr Murphy**—No, I do not know that.

**Senator SHERRY**—Will you take that on notice?

**Senator Ellison**—That is a question for Employment National, Mr Chairman.

**Mr Murphy**—I think we have this problem with distinction—that is, the role of the minister, as a shareholder, vis-à-vis the role of the company to run the business of Employment National. We continually blur the distinctions between these two roles. Whether action is taken on the tender or what tender documents were put in or whether there were errors in the tender documents by not taking account of GST—things like that—are clearly matters for the board of Employment National. They are not the responsibility of a shareholder. The board is appointed to run the business of the company.

**Senator SHERRY**—As at 14 December, I am inclined to accept that the minister is not a director. After that date, I will be arguing that he is a director, effectively. We will come to that issue a bit later and also to the issue of what his responsibilities and duties are. Up until the date of the dismissal of the directors, you are not aware that they had put into action a legal challenge to the tenders?

**Dr Boxall**—We are not aware. Moreover, that is a question for Employment National and Employment National has been invited to one of the other committee hearings. That is an internal Employment National issue. The directors have requested the legal advice, and it is their responsibility to either act on it or not.

**Senator SHERRY**—Again, I think we are getting into a blurred area. But I contend that it is relevant to this committee, because it goes to the issue of the very survival of Employment National and what I would assume would be the concern of the department of finance about the survival of Employment National and how it was to survive. We have had various indications of information provided. You say you do not have information in this area; is that what you are saying?

**Dr Boxall**—No, I did not say that. I said that it is an issue for the directors to act on. You asked us whether we know whether they acted or not: as far as we know they did not. That is their prerogative, and I do not see the blurring because it is quite clear in the guidelines for the governance of government business enterprises that the shareholder—in this case Minister Fahey, in other cases they are other ministers—is to act at arms length.

That is made quite clear. It has been well established for a number of years, in this government and possibly even in the previous government. In this government it has been made quite clear. I do not see the blurring here. That is clearly a question for Employment National, and Employment National has been invited to attend one of the other committees.

**Senator JACINTA COLLINS**—Taking that issue further, Dr Boxall, because I do not think we have gone back to this. On the last occasion we asked you questions about why the minister was pre-briefed on the tender outcome. Excuse us if we are a bit blurred, but we still

have not had an adequate explanation about why pre-briefings occurred when that is not normally the practice in relation to GBEs.

**Dr Boxall**—That is a question to ask DEWRSBE. They offered the pre-briefing and we took it. That was established at the last hearings.

**Senator SHERRY**—I tend to finish at this point. There are some other issues that I want to come back to. The point I am getting to, the central point is this: a very well financially performing company up until the outcome of the tenders was known. After that it all changed, we are not disagreeing on that.

**Dr Boxall**—The question is that the basic premise to that question is not correct. The point was made before—

**Senator SHERRY**—Can I finish my question?

**Dr Boxall**—Sorry, I thought you had.

**Senator SHERRY**—I will start again. We had a very strong performing company, financially, up until the completion of the tenders and then everything changed dramatically. It lost a very significant proportion of its business. The central point which I will be coming back to a little later, further down the time line, is that Employment National—according to the correspondence that we have been able to read—had certain legal rights to challenge the outcome of the awarding of the contracts.

They obtained legal advice. Apparently you are not privy to that; apparently you did not seek legal advice on this matter. The actions of the minister in dismissing the board, I would contend, effectively prevented the old board of Employment National in exercising their legal rights to attempt to restore their business and therefore their financial position. Do you have any comments to make on that, Dr Boxall.

**Dr Boxall**—That is a question. The basic premise of the question is not correct. Employment National was not in a financially strong position. Because they earned a profit in the 1998-99 did not mean that they were going to go ahead and earn similar profits in the future years. Indeed, the minister had been raising with Employment National through calendar 1999 certain issues to do with their performance. That is one issue.

The second issue is that, as Mr Murphy explained, the board of Employment National, according to your questioning, requested legal advice and they did not act on it. There is not much else that the minister can do if the board of Employment National did not act on the advice that they requested.

**Senator SHERRY**—Really, Dr Boxall, turn it up! For you to claim that they were not in a strong financial position up until the completion of the tender process just defies all the evidence. I am sure if we go back through the conversation we had earlier, some of the comments that Ms Coombs made, and some of the officers made, about the return on equity, for example. It defies all the evidence. It defies their own annual report. It defies the evidence that you took back \$40 million in an equity buy-back. It defies their profitability. It defies their cash flow. I do not see how a responsible officer like you can make that type of claim, I really do not.

**Dr Boxall**—For exactly the same reason, Senator Sherry, as the discussion we had before the break when you were putting forward issues about the valuation of Employment National, we were putting a case which you said you disagreed with, which is obviously your prerogative—

**Senator SHERRY**—I disagreed with some of your comments.

**Dr Boxall**—You said you disagreed with our comments on these matters, and that is obviously your prerogative. The fact is that the financial viability of a company is based on the future earnings, not an extrapolation of past earnings, especially in an environment where most of the business is hanging on an outcome of a job tender. My comments just now are consistent with the comments made before the break. They may be comments with which you disagree, but they are internally consistent.

**Senator SHERRY**—I will finish on this point because I know my other colleagues have some questions.

**CHAIR**—Mr Murphy, did you want to say something?

**Mr Murphy**—Senator Sherry, in response to the point you are making to the secretary, we must make the point that Employment National was a service business and, like it or not, the result of that second tender was that they lost 90 per cent of that business.

**Senator SHERRY**—Yes.

**Mr Murphy**—It would not matter how well they were performing preceding that, even though we are saying that our minister was questioning them, the fact of the matter is they just did not have a business to go on with.

**Senator SHERRY**—We are now, as we have done on previous occasions, going to the reasons for the loss of that business, but to claim that Employment National was not in a strong financial position up until the loss of the contract just defies the annual report, all the financial evidence, and discussions we have had earlier. And Dr Boxall, with due respect, if you think that, I just do not see how you can come to that conclusion on the evidence. But I will pass over to my colleagues so that we can move on.

**Dr Boxall**—Mr Chairman, the point is that the valuation of a company depends on the future business and, prior to the letting of the job tender in early December, in the event one was having a go at valuing the company in November—and we have just said that we thought it was too difficult to value because you could not predict the outcome of the job tender—you would have to take account of the probability of Employment National winning any business, which means that it was not in a strong financial position. As I said before, you might disagree with that, but it is an internally consistent position.

**Mr Murphy**—Senator Sherry, on this point, I think the point is the fact that it was in such a parlous position—

**Senator SHERRY**—It is agree to disagree on some of these matters.

**Mr Murphy**—I would just like to make the point—

**Senator SHERRY**—I have not asked you a question so you are not going to make the point. My colleagues are anxious to ask questions.

**CHAIR**—You are quite right, Senator Sherry, but before I call Senator Collins, perhaps I could just ask the advice of my colleagues. With respect to the Australian Electoral Commission, will we need them later this evening, and at what time?

**Senator Ellison**—Mr Chairman, the AEC has been waiting here since this afternoon. There is a lot left over for tomorrow. I do not know what the timing is. I think we looked at it the other day. I would be loath to have them here and then at eleven o'clock send them home without them being asked any questions.

**Senator FAULKNER**—There is a risk of that, but we do want to get to the AEC.

**Senator ROBERT RAY**—We could ask them at the back of the room whether they would prefer to wait and not be questioned!

**Senator FAULKNER**—Are you suggesting there might be some way of fitting them in tomorrow?

**Senator Ellison**—No, I am just exploring. I have no better answers than anybody else. You know more of what you are going to ask in this matter. I do not. Looking at the time, I do not know how long you would be with the AEC. You could dispose of the AEC tonight and leave this in continuation, but that is messy. I do not know how much you have got for the AEC.

**Senator ROBERT RAY**—We are just checking up now.

**Senator Ellison**—We can always take questions on notice.

**Senator ROBERT RAY**—We might be able to give the Electoral Commission 45 minutes tomorrow and, in turn, we will give up the Public Service Commission.

**Senator FAULKNER**—But I think we might be able to give priority to the AEC. We probably can do the AEC relatively quickly and then give any balance to PSMPC but, failing that, we will just put the rest of any questions to PSMPC on notice. If that is acceptable, that is probably the way to go.

**Senator Ellison**—Thank you for that. AEC officials can go then.

**CHAIR**—Sorry, Senator Faulkner, I think I missed it. AEC at 5.45—

**Senator ROBERT RAY**—Replacing the Public Service Commission.

**CHAIR**—Replacing them?

**Senator FAULKNER**—Who we will try and get to if we can, but if we can't, we will put them on notice. That is the best we can do that.

**CHAIR**—Thank you for that. Do we still want the Public Service Commission to come?

**Senator ROBERT RAY**—Yes.

**Senator FAULKNER**—We might warn them that it is going to be tight at best and there will, unfortunately, on this occasion, need to be some questions on notice. They will understand that.

**CHAIR**—Thank you, Senator Faulkner.

**Senator JACINTA COLLINS**—I would like to go back to some other previous discussion about future cash flows and to pick up Dr Boxall's comments. I would like you to have a go at valuation in one area, where there have been some figures put on the public record, and I would like to know the assumptions and the basis for those figures. I am hoping you are aware of a question on notice from Mr Tanner to the minister on 6 March and the answer that was framed to that question. I am talking here about the value of the hand back of Job Network 1 intensive assistance contracts.

**Ms Coombs**—I do not have a copy of the answer, but I will try to answer your questions.

**Senator JACINTA COLLINS**—Let us see how far we can get. Mr Fahey says that neither his department nor he conducted a detailed assessment of the value of the intensive assistance contracts being handed back. It was his understanding, however, that there would be a net financial savings to Employment National by returning intensive assistance contracts, and

Employment National's assessment of the impact on future profitability outlined in a later question confirms this understanding. In that later question the minister then indicated that on a variety of assumptions Employment National advised that the potential revenue from the transition contract would have been in the order of \$8 million to \$12 million. Are you aware of that assessment, Ms Coombs or Dr Boxall?

**Ms Coombs**—The revenue associated with the contracts of \$8 million to \$12 million was advice provided by Employment National.

**Senator JACINTA COLLINS**—Have you seen the underpinning of that advice? What assumptions have been relied upon?

**Ms Coombs**—Yes. Perhaps you could confirm that we are talking about the same thing. The document says that the quantum of such losses is based on optimistic assumptions that Employment National's brand and image in the marketplace were not damaged; that the company's marketing activities and expenditure patterns were retained; the vacancy flow, volume and mix were sustained at pre-3 December levels; the company retained the experience and skilled staff required to deliver the results, and the conversion ratios for 13-week and 26-week outcomes were largely held at pre-3 December levels.

**Senator JACINTA COLLINS**—There is one further one, isn't there?

**Ms Coombs**—Not from the notes that I have, Senator.

**Senator JACINTA COLLINS**—The letter mentions the further assumption that the probability of gaining sustainable employment for persons under intensive assistance less than six months is greater than those more than six months. You did not have that one?

**Ms Coombs**—No.

**Senator JACINTA COLLINS**—I think they are saying there that, if these contracts were retained, you were likely to have a higher level of people who had been in the system for more than six months. The likelihood of placement of those was diminished in comparison to an earlier client mix. Are you aware of any of the other assumptions built in to reach these figures?

**Ms Coombs**—No, Senator.

**Senator JACINTA COLLINS**—You are not aware. I will ask you a couple of questions in relation to it and you might then be able to give me an indication. I have looked at those figures and tried to apply very conservative assumptions on what future revenue or classifiers you would anticipate on the basis of retaining that business. If we start from the basis that, as of February, there were 79,000 intensive assistance clients, the first question would be: in coming to those figures, what sort of base would you be looking at for the future projection to come to the eight to 12? How quickly is your base of clients going to diminish?

**Ms Coombs**—Senator, could I just clarify that? When you talk about base, are you talking about how many of those 79,000 existing intensive assistance clients you anticipated you would place in a job?

**Senator JACINTA COLLINS**—No. As of February, Employment National passed back 79,000 intensive assistance clients. You have to make certain assumptions about what the base number of clients would be after three months. You then move on to the next step which is: how many of those would be placed and attract the placement fee? How many of those would achieve 13-week outcomes and attract payments for those and how many would attract 26-week outcomes and achieve payments for both? They are fairly basic constructs to reach an

assessment of the future cash flow. What concerns me is that we have an answer from the minister saying a figure of \$8 million to \$12 million, but the underpinnings of how that is achieved are just unfathomable.

**Ms Coombs**—We can put that question to the company, because the company did the analysis of this.

**Senator JACINTA COLLINS**—Yes, but my concern is that nobody advising the minister actually had an understanding of these issues. Advising the minister in relation to this issue would require an understanding of how reliable any assessment actually is.

**Senator Ellison**—There is a bit of detail there which we will have to chase up. We will have to take that on notice.

**Senator JACINTA COLLINS**—My concern also, though, Minister, is the extent to which the department itself was on top of how these forecasts were actually calculated in advising the minister. I am concerned that it appears that that was not the case. When you take that on notice, there is another element of the potential future cash flow, and I will accept as a side issue here that there is actually an ethical issue about whether we would want Employment National to go down this path. But assertions within the industry would say that a business contemplating what to do at a stage where it has lost its intensive assistance contract would look at making sure that it diminished its non-serviced capacity to as low as possible so it had as many people signed up before the conclusion of that contract period. My assessment is in relation to Employment National and there were possibly up to 19,000 people under the non-serviced capacity area. Again, setting aside the ethical issue of whether it would be appropriate to follow up those people, just in terms of sign-up fees that represents a potential value of business of up to about \$34 million.

**Ms Coombs**—Can you explain the 19,000 figure? Are you suggesting that Employment National stopped signing people on?

**Senator JACINTA COLLINS**—No, I am saying that, at 24 February, they had 79,000 clients signed up. There is a forecast from a variety of industry figures that estimates that, at that point in time, Employment National would have had referrals from Centrelink up to an additional 19,000 people who were, as yet, non-serviced. Had they reached the decision to retain intensive assistance work until the last stage possible, under those circumstances the most economically rational decision for a company would be to try to sign up every potential client they could get their hands on. That potentially would have been up to another 19,000 people, which is another \$34 million—three times the maximum estimate that the minister has relied upon in terms of the data that was presented to him from Employment National. I would like you to take that issue on notice as well.

**Ms Coombs**—Can I clarify the question specifically. You are asking me to find out whether, if Employment National had continued to sign on clients until 27 February, which was the last possible date under Job Network 1, that could have given them potentially \$19 million in revenue.

**Senator JACINTA COLLINS**—No, an additional 19,000 clients, which I think has a potential of up to \$34 million in terms of sign-up fees, et cetera. The other area where we need some information on the underpinnings of figures that have been provided is the estimate of the cost of servicing the transition contract—which Minister Fahey, I think on the advice of Employment National as well, has indicated would be close to \$22 million. We have none of the underpinnings to that, but you might be able to enlighten us further now.

**Ms Coombs**—I do not have it with me. I will check with the company. You would like to know what makes up that \$22 million?

**Senator JACINTA COLLINS**—Yes. Ms Coombs, can I ask, just in terms of comparisons between different committees, why is it that you do not have this type of data with you?

**Ms Coombs**—It was advice that we took from Employment National. We would have to go back and ask Employment National how they came up with the \$22 million.

**Senator ROBERT RAY**—The problem I have here is that on certain matters you take advice from Employment National but on other occasions you go to KPMG. It seems that you will take their advice on some matters and not on others.

**Senator JACINTA COLLINS**—There is also a further issue here. It has been a matter of extreme public scrutiny that we are pursuing many of these issues. This was a question that Mr Tanner put on notice to the minister. It is one of the issues we have been pursuing through the estimates process. I am surprised that you do not have this sort of detail in your folder.

**Senator Ellison**—I have mentioned previously that there would be questions which relate to Employment National, the company, and we would submit that this is one of them.

**Senator JACINTA COLLINS**—With respect, Minister, this is not a question about Employment National as a company. This is a question that Senator Ray alluded to, as to what advice the minister has sought in answering. In this case, it was a question asked on notice by the shadow minister. As Senator Ray has said, in some circumstances it seems that the minister seeks additional advice; in others, he does not or perhaps seeks internal advice from the department. That is what I am trying to get to the bottom of. If you did not seek additional advice and just accepted all of these assumptions on face value without further inquiries, I am a bit concerned.

**Senator Ellison**—The minister is not duty-bound to take advice from the company in every instance.

**Senator JACINTA COLLINS**—I appreciate that, but if you go back to Ms Tingle's article, even if you do not regard the issue as a conspiracy, there is the other end of the scale which is just as concerning.

**Senator Ellison**—As I say, Senator Collins, not on every occasion would the minister necessarily take the advice of the company for a whole range of reasons.

**Senator JACINTA COLLINS**—But this is one occasion where he seems to have.

**Senator Ellison**—I do not think we can take the matter any further.

**Senator JACINTA COLLINS**—I will then wait in anticipation for the response on notice.

**Senator ROBERT RAY**—At the end of the last session of estimates we were discussing what is described as the letter of comfort. When was the letter of comfort despatched?

**Ms Coombs**—There was a letter of comfort despatched on 22 December. A revised letter of comfort was despatched on 23 December.

**Senator ROBERT RAY**—Sorry?

**Ms Coombs**—A revised letter of comfort was despatched on 23 December. The first was on 22 December and a second one on 23 December.

**Senator ROBERT RAY**—There are quite substantial differences between the two letters of comfort, aren't there?



**Ms Coombs**—Yes, in relation to time frames.

**Senator ROBERT RAY**—Who drafted the first letter of comfort that must have been not too good if it had to be withdrawn?

**Ms Coombs**—The Shareholder Advisory Unit drafted the letter in consultation with Phillips Fox.

**Senator ROBERT RAY**—So the first letter was drafted by your unit, but with advice from Phillips Fox?

**Ms Coombs**—That is right.

**Senator ROBERT RAY**—That was despatched on the 22nd?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—I assume prior to the board meeting?

**Ms Coombs**—It was actually received during the board meeting.

**Senator ROBERT RAY**—I see. And that was signed by the minister?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Phillips Fox, of course, did not charge separately for this advice—it is just part of their retainer, is it?

**Ms Coombs**—I am sorry?

**Mr Fullam**—It is all aggregated in the one bill. They do not have a retainer arrangement.

**Senator ROBERT RAY**—Nevertheless, they have assisted you in drafting the letter of the 22nd.

**Senator FAULKNER**—Are you sure a bill like that is not disaggregated?

**Mr Fullam**—It is to some extent—

**Senator FAULKNER**—I bet it is.

**Mr Fullam**—but not to the extent that you could split out between the 22nd and the 23rd, on that sort of day-by-day basis—I do not think; I could go back and check.

**Senator FAULKNER**—I would like you to check it, please.

**Senator ROBERT RAY**—Have I got the sequence right here: the drafting of the letter of comfort followed the board's rejection of the 21st? Remember, there were two board meetings, the 21st and 22nd.

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—The board—the new board, to use that terminology—refused to sign on the 21st. Did that prompt the drafting of the letter of comfort or was that already under way?

**Ms Coombs**—The drafting of the letter was already under way.

**Senator ROBERT RAY**—Had the board of the 21st been given an indication that a letter of comfort was being drafted?

**Ms Coombs**—Not at the board meeting of the 21st, no.

**Senator ROBERT RAY**—That is logical, because they knocked back a decision to sign. So both Phillips Fox and your unit drafted the first letter of comfort. That was despatched, presumably in the afternoon, to the board whilst the board was meeting?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Then the board made its decision to sign the contracts on the basis of this?

**Ms Coombs**—No, it did not. At the board meeting on the 22nd they considered the letter of comfort. They indicated, because there were specific time frames mentioned in the letter of comfort, that they could not enter into three-year contracts with that letter of comfort. As a result, we revised the letter of comfort. The minister signed it and it was despatched to the board on the 23rd. But at, I believe, the meeting on the 22nd, the board resolved to sign the contracts on the basis of a ministerial direction, provided the letter of comfort was appropriately redrafted.

**Senator ROBERT RAY**—Who redrafted the letter of comfort?

**Ms Coombs**—Phillips Fox.

**Senator ROBERT RAY**—You went back to the people who mucked up the first version?

**Ms Coombs**—I think that is a little unfair. We drafted the first letter together and Phillips Fox was clearly acting on the drafting instructions of the department.

**Senator ROBERT RAY**—Were the only amendments made as to timing? There are other amendments, aren't there?

**Ms Coombs**—We would need to compare the drafts of the letter, Senator, but I do not believe so.

**Senator ROBERT RAY**—For instance, in the letter of the 23rd, the third paragraph starts, 'Without limiting my rights'. That certainly was not in the third paragraph of the first letter.

**Ms Coombs**—We will just clarify the draft, Senator.

**Senator FAULKNER**—Did Phillips Fox receive drafting instructions for the second letter of comfort?

**Ms Coombs**—Yes.

**Senator FAULKNER**—From the Shareholder Advisory Unit?

**Ms Coombs**—Yes.

**Senator FAULKNER**—And only the Shareholder Advisory Unit?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Having issued the first letter, was the letter recalled?

**Mr Fullam**—I am sorry; is this the letter of the 22nd?

**Senator ROBERT RAY**—Yes, was it recalled?

**Mr Fullam**—I do not believe so.

**Senator ROBERT RAY**—There was no request from your unit to recall the first one so they could issue the second?

**Mr Fullam**—Not that I am aware of, Senator. I was not involved with that. Ms Coombs was in the—

**Senator ROBERT RAY**—Hold on. Just say you were not involved and we can find out someone who is.

**Ms Coombs**—No, Senator, we did not request that the letter be returned.

**Senator ROBERT RAY**—I see.

**Senator FAULKNER**—What was its status then by the time the next letter of comfort had been sent on the 23rd?

**Ms Coombs**—It was overtaken by the second letter of comfort on the 23rd.

**Senator FAULKNER**—Are there two letters of comfort in existence or is there one, if the one of the 22nd has not been withdrawn?

**Ms Coombs**—My understanding from reading the letters is that their letter of comfort on the 23rd overtakes the one on the 22nd, because it has a much broader definition. The one on the 22nd refers to a transition period, which is the period until the end of the first Job Network. The second letter on the 23rd basically is for the period that EN continues in the business of operating and completing the second Job Network contracts.

**Senator FAULKNER**—There is no requirement, in your view, to withdraw the first letter?

**Ms Coombs**—Not that I am aware.

**Senator ROBERT RAY**—We know that the first letter went to the board and they signed the contracts in anticipation of the second letter. Correct me if I am wrong there.

**Ms Coombs**—Sorry, if I could correct you, Senator: at the board meeting of the 22nd, the board did not sign the contracts. They waited until they had received the letter of comfort on the 23rd before they did that.

**Senator ROBERT RAY**—Was there another board meeting on the 23rd, then?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—I think that is the first time I have heard that there was a board meeting on the 23rd. So they wait for the second letter of comfort before they sign the contracts on the 23rd?

**Ms Coombs**—That is right.

**Senator ROBERT RAY**—Did the letter of the 23rd reach them before the board meeting started?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—How did the board, on the 22nd, convey to you their disquiet about the first letter of comfort? Was that actually in writing?

**Ms Coombs**—The board advised me orally that they were uncomfortable with the first letter of comfort.

**Senator ROBERT RAY**—Did they indicate to you that they had legal advice that pointed to certain deficiencies in the first letter of comfort?

**Ms Coombs**—Not that I recall. I do not think they specifically mentioned legal advice.

**Senator ROBERT RAY**—So you took notes of this phone call so you could properly brief Phillips Fox on the new requirements?

**Ms Coombs**—Yes. I have notes on the issues.

**Senator FAULKNER**—What about your communication with the minister, given he was the signatory of the first letter of comfort? How did the department deal with that?

**Ms Coombs**—My recollection is that I called the office and advised them that in drafting the first letter of comfort we had made an error, and that we submitted a second letter of comfort, which the minister signed on the 23rd.

**Senator ROBERT RAY**—When you say an error, it was not an error. It was a conceptual mistake, wasn't it, rather than an error?

**Ms Coombs**—Yes, Senator.

**Senator ROBERT RAY**—An error might be that the date was wrong or a figure was wrong. It does change—not dramatically, and maybe 'substantially' is too strong a word—but in reasonable substance there are changes.

**Ms Coombs**—Yes.

**Senator FAULKNER**—Did these letters going to the minister for signature go accompanied by a brief from the Shareholder Advisory Unit?

**Ms Coombs**—I do not recall whether the second letter was accompanied by a brief on this occasion.

**Senator FAULKNER**—Was the first one?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Just for completeness sake: I only ever knew that originally there was a board meeting on the 22nd. Then we found out there was one on the 21st. Now we have found out there was one on the 23rd. Was there a board meeting on the 24th or 25th?

**Ms Coombs**—No, Senator.

**Senator ROBERT RAY**—So that is it? We have just got the three board meetings?

**Ms Coombs**—In that period of time, yes.

**Senator ROBERT RAY**—They all occurred in Canberra?

**Ms Coombs**—My recollection is that they occurred by telephone. Some directors were in Canberra; the company secretary and the managing director were in Sydney.

**Senator ROBERT RAY**—So on the first day—this is on the 21st—you have got two directors sitting in Canberra connected by phone to the third director, the managing director in Sydney, with the company secretary, who is not a director, sitting in at the Sydney end. Is that right?

**Ms Coombs**—That is my understanding, yes.

**Senator ROBERT RAY**—So that is on the 21st?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—On the 22nd you have two directors in Canberra at the start of the meeting, one director and a company secretary in Sydney and then a third director, Mr Prior, joins them either at the start or at the mid point of the meeting; is that right?

**Ms Coombs**—That is right.

**Senator ROBERT RAY**—And the meeting on the 23rd was the same arrangement— Mr Fisher, Mr Prior and Mr Harris—and it was here in Canberra, and the managing director and the company secretary were still in Sydney?

**Ms Coombs**—I do not have the details of the meeting on the 23rd.

**Senator ROBERT RAY**—Are you sure there was a board meeting on the 23rd?

**Ms Coombs**—I believe so, yes.

**Senator ROBERT RAY**—Could we be assured that all the directors were in attendance, either in person or by phone?

**Ms Coombs**—I would need to check the company records on that.

**Senator ROBERT RAY**—I think it is in the letter of comfort that Mr Fahey indicates he requires, if necessary, DOFA officials to be at future board meetings; is that right?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—But not at these three, because that has not been signed yet?

**Ms Coombs**—I believe I was present at the meeting on the 22nd. I do not actually have a record of a meeting on the 23rd, and that is why I would need to double check that. I do not have my notes with me, but it could have been that the directors on the 22nd resolved to accept the contract, subject to the letter of comfort issue being resolved. So there may not have been any need to have a board meeting.

**Senator ROBERT RAY**—That is precisely why I asked the question, because I would have thought that was a much more logical way of doing it, and I was very surprised when you told me about a board meeting on the 23rd. Would you like to let us know, on notice, what the situation is on the 23rd?

**Ms Coombs**—Certainly.

**Senator ROBERT RAY**—Can you tell me about the regularity of board meetings? Are they once a week, once a fortnight—I am not holding you to precise times? Let us say right through till the end of March, how regularly did the board meet?

**Ms Coombs**—In January the board met every week. In February they met every week. In March it appears that they were meeting either fortnightly or every three weeks.

**Senator ROBERT RAY**—Were these board meetings similar to that of the 22nd—that is, some of the board members met in Canberra and others were on a phone hook-up—or were they in person or were they a variation?

**Ms Coombs**—Combinations of both, Senator.

**Senator ROBERT RAY**—Was the board required to report to the minister basically on a weekly basis, or were you or your representative, as observers of the board meetings, required to do so?

**Ms Coombs**—There is a requirement that the company report on a weekly basis to the shareholder, and those reports come to me.

**Senator ROBERT RAY**—Did you attend all these board meetings?

**Ms Coombs**—Not all of them. Some of my staff attended some while I was on leave or unavailable.

**Senator ROBERT RAY**—But, if you were available, you would normally go?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Would you take other staff with you?

**Ms Coombs**—Yes, and I believe I gave that answer in evidence at the last hearing. I have taken other staff with me.

**Senator ROBERT RAY**—To these board meetings?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Even though you were there, their weekly reports would come back to you to be passed on to the shareholder?

**Ms Coombs**—I am sorry, Senator, I think you might be confusing the issue of weekly reports. The weekly reports provided by the company are actually formal written reports.

**Senator ROBERT RAY**—Yes, to whom?

**Ms Coombs**—To me.

**Senator ROBERT RAY**—Were they approved at board meetings? Would you be sitting there waiting for them to approve the written report?

**Ms Coombs**—The board did consider the weekly reports at board meetings.

**Senator ROBERT RAY**—It is not a discussion you would participate in, because that report is coming to you.

**Ms Coombs**—Did I participate in discussion on the weekly reports?

**Senator ROBERT RAY**—Yes.

**Ms Coombs**—Not generally, no.

**Senator ROBERT RAY**—Because the reports are then coming straight to you, aren't they?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—They are then forwarded onto the minister's office, I take it?

**Ms Coombs**—I brief the minister on them, yes.

**Senator ROBERT RAY**—You would brief the minister on the reports, not necessarily send the reports on to the minister?

**Ms Coombs**—That is correct.

**Senator ROBERT RAY**—In all the attendances at the board meetings, did it ever come to your attention that the board minutes were ever altered? I am not talking about typos, but were either decisions or elements of the minutes altered?

**Ms Coombs**—I am not quite sure what you meant by altered. The normal practice is that the minute taker at meetings, in this case the company secretary, would submit minutes to the chairman for approval. I think there were certainly discussions about the minutes.

**Senator ROBERT RAY**—Were there pieces of information removed from the minutes? This is only within your knowledge, I understand that.

**Ms Coombs**—Not that I am aware.

**Senator FAULKNER**—Did the company secretary submit copies of the minutes to the chairman of the board for approval, or to the board, or both?

**Ms Coombs**—Both.

**Senator ROBERT RAY**—You seem to hesitate a little when I asked the question: were minutes changed? You were probably thinking of the context of when a motion is moved that the minutes be received—that it might be at that point there is an alteration. I was not referring to that; I was referring to them being taken at one meeting and whether by the time they get to the next meeting any alterations had been made to minutes in that period—not so much when they were received by the board because they have the right to receive or alter them at that stage.

**Ms Coombs**—I am not aware of any occasion when minutes were altered.

**Senator ROBERT RAY**—You are not aware of any deletions of slabs of information from the minutes either?

**Ms Coombs**—Not that I am aware, no.

**Senator ROBERT RAY**—I want to return to page 44 of the previous *Hansard*. We were talking about the dividend. We have asked questions on this so I do not want to go over them repetitively. Is it correct, Ms Coombs, that in terms of setting the dividend there was a meeting between Minister Fahey and the chairman of EN, Mr Swan, in late September?

**Ms Coombs**—This is in respect of the \$8 million dividend payment on 1999-2000—

**Senator ROBERT RAY**—In respect to the level of the dividend, yes.

**Ms Coombs**—Yes, there was. Could you repeat the date?

**Senator ROBERT RAY**—In late September.

**Ms Coombs**—I am not aware of a meeting. I am aware that the minister wrote to the chairman in responding to the 1999 interim corporate plan. I do not have a meeting on that issue in September.

**Senator ROBERT RAY**—There were several occasions where you would have discussed with the managing director the level of the dividend?

**Ms Coombs**—I had a—

**Senator ROBERT RAY**—When I say meeting, I mean meeting or phone calls to discuss.

**Ms Coombs**—I understand what you are saying. In the context of the interim 1999 corporate plan I had two discussions. One was with the chairman of the board, Mr Swan, in the context of preparing a briefing for the minister's meeting with the board. In that telephone conversation the chairman raised the issue of dividends with me. I had a subsequent meeting in mid-August with senior management at Employment National that included the managing director and, as part of that, the dividend was discussed.

**Senator ROBERT RAY**—Are you saying to me that it was only on one occasion that you discussed the level of the dividend with Mr Storey?

**Ms Coombs**—That is my recollection and the departmental records indicate that as well.

**Senator ROBERT RAY**—Just getting back to the AGM of 18 November; I do not want to re-canvass all the issues here, but you represented the shareholder and suspended the meeting at some stage. Is that right?

**Ms Coombs**—That is right, Senator. We adjourned it.

**Senator ROBERT RAY**—You went to the meeting at that stage with full knowledge of the outcome of JN2 as it affected EN?

**Ms Coombs**—Yes, I did.

**Senator ROBERT RAY**—Yet the rest of the meeting had no such knowledge?

**Ms Coombs**—It would have been inappropriate for me to indicate to the board, Senator, so they had no knowledge at all.

**Senator ROBERT RAY**—We would have been asking awkward questions if you had and that was not the point. The point I am going to is that you had a state of knowledge about the future of EN that they did not when you moved for the suspension of the meeting.

**Ms Coombs**—That is right.

**Senator ROBERT RAY**—Do you want to tell us again why you moved for the suspension of the meeting?

**Senator FAULKNER**—I think it is on page 87.

**Ms Coombs**—Thank you.

**Dr Boxall**—Senator Ray, in the middle of page 87, we have answered that question.

**Senator ROBERT RAY**—I was going to ask another question but I just asked Ms Coombs to remind me of the reason she gave last time as to why she suspended the meeting so I could then follow that up.

**Ms Coombs**—I did not actually answer this question but I can read out Dr Boxall's answer in *Hansard*.

Our understanding is that there was a motion moved to postpone the annual general meeting, because there were issues on the agenda which would be better considered after the results of the second Job Network were known. Hence, rather than having an annual general meeting on 18 November when the results of the Job Network were about to be made known, it was decided it was best to have it afterwards.

Then you say:

It was nothing to do with the reappointment of two board members—even though that could be consistent in part with your answer?

Dr Boxall said:

That could well have been one issue.

**Senator ROBERT RAY**—Okay. That is Dr Boxall's view of why you suspended the meeting; now could I have your view of why you moved the motion?

**Ms Coombs**—My view is no different.

**Senator ROBERT RAY**—I see. Were you given any instructions by your departmental superiors or by the shareholder to do so?

**Ms Coombs**—As I represented the minister as his proxy, yes, that was his direction.



**Senator ROBERT RAY**—So the more accurate answer, but in no way reflecting on your previous one, is that you were directed by the minister to have the meeting suspended?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Did he give you reasons?

**Ms Coombs**—I do not have that information.

**Senator FAULKNER**—Do you know how he made his direction to you?

**Ms Coombs**—I do not have that information with me. I would need to check.

**Senator ROBERT RAY**—I am surprised that your memory fails you on that one. Was this the first annual general meeting of EN that you had attended?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Have you ever attended an annual general meeting of any other company—relevant to your portfolio; not if you are a shareholder privately; I am not interested in that?

**Senator FAULKNER**—Have you ever moved a motion at a board meeting before?

**Senator ROBERT RAY**—No, at an annual general meeting. Please, get it right.

**Senator FAULKNER**—At an AGM?

**Ms Coombs**—Yes, I have attended other annual general meetings.

**Senator ROBERT RAY**—Have you ever moved that the meeting be adjourned?

**Ms Coombs**—No.

**Senator ROBERT RAY**—That is why I find this hard to understand. I would always remember something like this, you see.

**Ms Coombs**—I do remember that I moved to have the meeting adjourned. I just do not remember how the minister communicated that with me, and I have said I will take it on notice.

**Senator ROBERT RAY**—Also take on notice if any reasons were given. Sometimes ministers explain their actions—not often. He might have said, ‘I want to do it for this reason.’ Do you realise our problem? The minister has knowledge of the JN2 outcome and you have knowledge of the JN2 outcome but no-one else there does. None of the board members or the company secretary know what is going on. Some unkind people would jump to the conclusion that it was put off so at some stage a purge of the directors could be run. That may not be right; it may be right. We do not know.

**Ms Coombs**—It is possible I gave it in evidence at the last hearing—I think I did—that it was with the prior approval of the chairman.

**Senator ROBERT RAY**—Yes, you certainly mentioned the status of the two, but you did not link that to any ministerial direction.

**Ms Coombs**—The issue is that I attended as a proxy of the minister.

**Senator ROBERT RAY**—I think that is quite clear. So the two remaining elements to be cleared up are how the minister communicated to you that he wanted the meeting adjourned and whether he gave you reasons for that—and he is within his rights not to give you a reason.

**Senator JACINTA COLLINS**—Did you provide reasons for your motion to adjourn at the meeting?

**Ms Coombs**—Yes, I did.

**Senator JACINTA COLLINS**—Do you recall those?

**Ms Coombs**—Yes. My recollection is that the shareholder was taking further advice on the remaining issues on the agenda.

**Senator JACINTA COLLINS**—And that was the only reason?

**Ms Coombs**—I believe that was the only reason I gave, yes.

**Senator ROBERT RAY**—That is not a reason; it is an explanation.

**Ms Coombs**—Yes. Sorry, I thought that was what Senator Collins was asking.

**Senator ROBERT RAY**—No, she asked for reasons when I think she meant to ask for explanations. I just want to make sure that you are not confusing the two.

**Senator JACINTA COLLINS**—Thank you.

**Senator ROBERT RAY**—I have a couple more minor issues just to rule them off from last time. On page 75 of *Hansard* is our discussion on golden handcuffs. Do you have any further information for us on this? This was the proposition that some senior executives in Employment National were offered extra remuneration not to jump ship immediately but to stay on to manage the 1,000 people who were losing their jobs and the 100 or so offices that were closing and to try to manage down the massive financial haemorrhaging that was occurring. Have you been able to find anything else about that since I raised it?

**Ms Coombs**—We have sought the advice of Employment National on that issue, and they are still to come back to us with a final answer.

**Senator ROBERT RAY**—Could you take that on notice? You may have already taken it on notice.

**Ms Coombs**—I took it on notice the last time.

**Senator ROBERT RAY**—Turning to page 84, I asked a question there whether the managing director of EN had refused to sign off Mr Grellman's expenses. Dr Boxall has very firmly denied that. Can I rephrase the question: did the managing director refuse to sign off KPMG accounts? That is a slightly different concept.

**Ms Coombs**—We took that question on notice at the last hearing. Again, we are waiting on final advice from Employment National. Their advice to me to date is that they cannot confirm that assertion, but they are continuing to check.

**Senator FAULKNER**—You took the original question, specifically in relation to Mr Grellman, on notice. What Senator Ray is doing here is—

**Senator ROBERT RAY**—Shifting the ground.

**Senator FAULKNER**—I was going to say broadening the ambit of his question.

**Ms Coombs**—The question that we put to Employment National is in relation to KPMG invoices, because Mr Grellman worked for KPMG.

**Senator FAULKNER**—You may have put that to them, but that is not what Senator Ray originally asked.

**Senator ROBERT RAY**—I think we have it covered off in that case.

**Senator SHERRY**—I want to come back to the letter of comfort, the letter of the 23rd. There are a number of stipulations in the letter of comfort and there are two I want to go to. One is the requirement, 'Expenditure by Employment National of amounts above \$200,000 on current commitments must be approved by me before that expenditure is made.' The second is, 'I also require that you seek my approval before entering into any new contracts, leases or other undertakings, whether written or otherwise, under which Employment National is to pay or receive an amount of more than \$100,000.' Have there been any such occasions when the minister has had to approve expenditures within those two limits?

**Ms Coombs**—In the letter of comfort the minister indicates that he may decide to delegate approval of those matters referred to to an authorised person. We gave evidence in the last hearing that the minister has delegated those authorities to myself and Mr Bartos of the department. My recollection is that there have been three such authorisations.

**Senator SHERRY**—Can you give us the details of those three delegations?

**Ms Coombs**—The three authorisations?

**Senator SHERRY**—Yes.

**Ms Coombs**—The first one related to a property rationalisation proposal to do with the sites where Employment National no longer had ongoing business. The second one related to an executive retention arrangement. The third one related to expenditure above \$200,000.

**Senator SHERRY**—Going to each of those authorisations, what is the detail of this property issue?

**Ms Coombs**—I do not have that with me, but basically it was a proposal to reduce their property liabilities where Employment National no longer had ongoing business. They had entered into negotiations with other Job Network providers to take over those sites.

**Senator SHERRY**—Why did that involve expenditure?

**Ms Coombs**—If you read the letter of comfort, Senator—

**Senator SHERRY**—I am just going to go back to it.

**Ms Coombs**—it is about paying or receiving an amount more than \$100,000.

**Senator SHERRY**—And you do not have further details on this here this evening?

**Ms Coombs**—Not with me, no.

**Senator SHERRY**—Would you take that on notice. What does the next authorisation, executive retention, go to?

**Ms Coombs**—I believe we have taken that on notice from the last hearing.

**Senator SHERRY**—Yes, there was some discussion of it earlier. And the expenditure above \$200,000?

**Ms Coombs**—In actual fact, just to correct the record, I believe it was expenditure above \$400,000. That particular issue was revised after we took on some advice from Ferrier Hodgson in relation to arrangements that would be put in place for companies under reconstruction in the private sector. So the amount was \$400,000 but it related to issues, for example, of salaries, group tax, superannuation, payments under IT.

**Senator FAULKNER**—Given that the second letter of comfort was not accompanied by a ministerial brief—and I think we all understand that there are certain time constraints here and that may well not have been possible; you might confirm that—how did the Shareholder Advisory Unit communicate to Mr Fahey, who had signed the letter of comfort approximately 24 hours previously, the need for a new letter of comfort, what the situation was that had led to that, the weaknesses in the previous letter of comfort and so on?

**Ms Coombs**—Senator Ray has already put that question to me this evening, Senator Faulkner. We can check *Hansard*, but I recall that my answer was that I rang the office to let them know that we had made—Senator Ray corrected me—an error of context, and we submitted a revised letter for the minister's signature.

**Senator FAULKNER**—I am aware of that. I am aware of the question. I am also aware of the fact that no brief went forward. What you are saying is that these issues were communicated in a department to ministerial office telephonic communication. That is what I am just trying to establish. Or you think that is the case and you are checking that for us?

**Dr Boxall**—That is Ms Coombs's recollection. I recall that that was the answer she gave Senator Ray earlier in the evening.

**Senator Ellison**—Mr Chairman, Ms Coombs has been answering questions for a couple of hours now, and I would request a break.

**Proceedings suspended from 9.48 p.m. to 10.00 p.m.**

**CHAIR**—We will resume.

**Dr Boxall**—Mr Chairman, we have an answer to one of the questions asked by Senator Ray before the break.

**Ms Coombs**—Senator Ray, you asked me whether there was a board meeting on the 22nd. Yes there was, and it was conducted by telephone hook-up.

**Senator ROBERT RAY**—So it was the same as the other two, basically.

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—We have a new managing director of Employment National. Is that Miss Susan Williams?

**Ms Coombs**—Yes, there is a new acting chief executive officer of Employment National and it is Miss Susan Williams.

**Senator ROBERT RAY**—So, that is an acting position?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—That was not advertised; that was a promotion up the ranks, wasn't it?

**Ms Coombs**—It is an acting arrangement rather than a promotion.

**Senator ROBERT RAY**—Is there a search on for a new managing director now?

**Ms Coombs**—There may ultimately be, yes.

**Senator ROBERT RAY**—But there is not right at this moment. You say it 'may ultimately be'.

**Ms Coombs**—Yes, that is right. Susan Williams is leading the company.

**Senator ROBERT RAY**—I assume that it would be a lot lower salary package than the previous MD, being a much smaller business.

**Ms Coombs**—That would be an issue that you would have to ask the company about.

**Senator ROBERT RAY**—You might take it on notice. Has there been a conscious decision not to put the acting managing director on the EN board?

**Ms Coombs**—Because she is only acting in the position, I am not sure that she can be formally appointed to the board. But there has certainly been no proposal coming from the company to seek the shareholders' endorsement of Miss Williams's appointment to the board.

**Senator ROBERT RAY**—I would have thought that was more likely. I would not see that being an acting managing director would be an impediment to being on the board, albeit a limited one. There is no direction anyway; there has been no request.

**Ms Coombs**—No—no proposal.

**Senator JACINTA COLLINS**—What was her previous position?

**Ms Coombs**—I will just check the annual report.

**Senator ROBERT RAY**—Her background was Commonwealth cars at one stage, wasn't it, or am I wrong in that?

**Ms Coombs**—Sorry—Commonwealth cars?

**Senator ROBERT RAY**—Didn't she work for DOFA at some stage?

**Ms Coombs**—No.

**Senator ROBERT RAY**—I am mixing it up.

**Ms Coombs**—Ms Williams was the General Manager, Operations at Employment National. I understand she has a background in the employment and recruitment industry with previous senior positions at Adecco and Manpower.

**Senator ROBERT RAY**—I see. Minister, can I ask you a question relating to Mr Fahey? Do you know if he was correctly quoted in the *Sydney Morning Herald* of 11 February when he said that selling Employment National had 'never been considered'?

**Senator Ellison**—I will just get a copy of the article.

**Senator ROBERT RAY**—I should have kept a copy myself. You should check that I am not quoting out of context, first of all, but I do not think I am.

**Senator Ellison**—I do not seem to have a copy of that article. I certainly do not have it in my brief.

**Dr Boxall**—Senator Ray, we have a transcript of a doorstep by Minister Fahey at 6.45 p.m. on Thursday, 10 February. So if the quote is in the *Sydney Morning Herald* on the 11th, it could well refer to this doorstep. There is an exchange here which I can read out. It states:

Journalist: Has privatisation been ruled out altogether now?

Fahey: The company will not be sold.

Journalist: Not ever?

Fahey: I don't want to speculate on the estimates that are there. I think it is important that having taken the decision—after considering all the options available to the government, after considerable

work, after receiving advice from financial experts over the past two months—we will go through the process of delivering on those contracts if Employment National is successful in the tenders that were announced at the beginning of December.

**Senator Ellison**—I think, Senator Ray, you are asking whether it had ever been contemplated. I cannot answer that question; I was not privy to any discussion on it.

**Senator ROBERT RAY**—I was just puzzled by that reference which was a direct quote—I do not think it came from a doorstep; I think it came from talking to a journalist—that it had never been considered, when cabinet on 6 or 7 February did consider EN's future. I would have thought sale was an option there, but he says that the selling of EN had never been considered. That is why it just—

**Senator Ellison**—I cannot say whether the quote is accurate or not. We only have what we have before us.

**Senator ROBERT RAY**—Yes.

**Senator FAULKNER**—Did your department, Dr Boxall, receive a copy of Dr Shergold's abusive letter to Mr Swan, who was the former chairman of the EN board? That letter was dated, I think, 22 December 1999, if I remember correctly.

**Ms Coombs**—No, we do not have that letter, Senator.

**Senator FAULKNER**—Didn't that letter go to current and past Employment National directors?

**Senator ROBERT RAY**—No, I do not think so. I think it may have just gone to Mr Swan.

**Senator FAULKNER**—I do not think that is right.

**Ms Coombs**—Senator, are you asking us if we have a copy of the letter?

**Senator FAULKNER**—First of all I asked you whether you had a copy of it, yes.

**Ms Coombs**—We do not.

**Senator FAULKNER**—Would you be aware, Ms Coombs, whether it went to all current and past Employment National directors?

**Ms Coombs**—I do not have a copy of the letter, Senator, so I am not aware.

**Senator FAULKNER**—If an officer of the Department of Finance and Administration who was also a director of EN received such a copy as a result of their EN responsibilities, how is that normally treated departmentally? Is it just something that is stuck on a file or—?

**Ms Coombs**—Can I just clarify the question, Senator? Are you asking if a member of the current board of Employment National had received a copy of that letter how it would be treated in the department?

**Senator FAULKNER**—I am interested to know, just to understand, what the processes might be. I believe that letter was copied to current and past Employment National directors. You cannot confirm that. I believe that that is the case. If it were the case, I wondered how this would be treated in terms of their responsibilities.

**Ms Coombs**—If departmental officers received a copy of a letter in the context of their duties as directors of Employment National, that would be a company document.

**Senator FAULKNER**—That would be treated as a company document?

**Ms Coombs**—Yes.

**Senator FAULKNER**—Even if it came from Dr Shergold?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—We have had a few hours of hearing on EN, coming shortly to an end, but there are actually two EN companies, aren't there?

**Ms Coombs**—There is Employment National Ltd and they have a subsidiary Employment National Administration Pty Ltd.

**Senator ROBERT RAY**—What is the purpose of Employment National Administration Pty Ltd?

**Ms Coombs**—I believe Employment National Administration Pty Ltd employs the staff of the company.

**Senator ROBERT RAY**—When was Employment National Administration Pty Ltd set up?

**Ms Coombs**—I would need to check the exact date, but I believe it was from the moment the company commenced trading, possibly even prior to that.

**Senator ROBERT RAY**—You said the purpose was to employ staff—was that the answer?

**Ms Coombs**—The subsidiary company employs the staff.

**Senator ROBERT RAY**—Why was there seen to be a need for a subsidiary company to employ staff?

**Ms Coombs**—I do not have the background to that issue with me here tonight.

**Senator ROBERT RAY**—But I assume Minister Fahey was informed of this?

**Ms Coombs**—He may well have been, but I do not have the information with me about (a), why it was done that way or (b), whether the minister was informed.

**Senator ROBERT RAY**—You would be aware that, until December 1999, ENA—if I can use that expression, Minister, to indicate the subsidiary company—shared the same directors and company secretary as Employment National?

**Ms Coombs**—Sorry, Senator, I can answer that earlier question about when the subsidiary company was established. There was a form lodged with ASIC to say that the date of commencement of registration was 18 September 1997.

**Senator ROBERT RAY**—Thank you for that. I subsequently asked, while you were getting that answer: up until December 1999, did ENA share the same directors and company secretary as EN?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Is it true that the five directors of EN who ceased their terms around 14 or 16 December also left the ENA board?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—When were new directors appointed to the ENA board?

**Ms Coombs**—If we can just check the ASIC forms, we should be able to give you an answer.

**Senator ROBERT RAY**—Take your time.

**Ms Coombs**—The dates that I have for the appointment of new directors to ENA are that Mr Richard Grellman was appointed on 16 December 1999, Mr Phillip Prior was appointed on 22 December 1999, Mr Roger Fisher was appointed on 14 December 1999 and Mr Peter Harris was appointed on 16 December 1999. That is from an ASIC form lodged—the date appears to be 15 March 2000.

**Senator ROBERT RAY**—And this is to Employment National—

**Ms Coombs**—Employment National Administration Pty Ltd.

**Senator ROBERT RAY**—When did you say this was lodged with ASIC?

**Ms Coombs**—The company secretary has dated the form 9 March 2000, but it appears to have been stamped—I presume by ASIC—on 15 March 2000.

**Senator ROBERT RAY**—Let us just go back a step, though. Let us go back to the appointment of these directors to EN. Were the same lodgment dates applying to them?

**Ms Coombs**—I will just check the record. I am reading from a form 304 lodged with ASIC on 7 March 2000 by the company secretary. That indicates—I think consistent with previous evidence given at the committee—that the dates of appointment for Employment National Ltd directors were: Mr Richard Grellman on 14 December, Mr Phillip Prior on 22 December, Mr Roger Fisher on 14 December and Mr Peter Harris on 14 December.

**Senator ROBERT RAY**—Fine. Now let us go to the question I asked. I know the appointment date of the EN directors. You have now given me information of the appointment date of ENA directors. I am asking when ASIC was notified of these.

**Ms Coombs**—I gave the answer to that. In relation to EN, I indicated that the form was dated 7 March 2000 and it has been stamped by ASIC on 10 March 2000.

**Senator FAULKNER**—I am sorry, did you say 7 March? I thought you said the 9th.

**Ms Coombs**—No, that was for ENA.

**Senator ROBERT RAY**—Do you know what the requirement is under Corporations Law for notifying ASIC? What is the time span from the appointment of directors to when ASIC has to be notified?

**Ms Coombs**—We understand that it is 28 days.

**Senator ROBERT RAY**—So you were outside that time for both?

**Dr Boxall**—Employment National was outside that time.

**Senator ROBERT RAY**—You have got a pretty heavy involvement in it at this stage. Nevertheless, I am just trying to get to the facts here. In the case of EN it took 51 days—is that right?—in some cases and a little less in others?

**CHAIR**—Mr Fullam, did you want to say something?

**Mr Fullam**—That is correct: by my rough guess, about 51 days and a little bit less for the other one. If I could just correct the answer that was given before: we have now checked the Corporations Law and I think it is 14 days for the forms to be—



**Senator ROBERT RAY**—Have we got any explanation as to why ASIC was not notified within the times?

**Ms Coombs**—We do not know. You would need to take that up with the company. It is the responsibility—

**Senator ROBERT RAY**—I see, except that you are sitting in on all the board meetings, the board is subject to ministerial direction, the board is under a whole range of controls from the minister with regard to expenditure. It seems to me that you want to have your cake and eat it here—I do not mean you personally, but the department.

**Ms Coombs**—With respect, Senator, under the Corporations Law the lodgment of documents with ASIC is the responsibility of officers of the company. The Department of Finance and Administration is not the company secretary.

**Senator ROBERT RAY**—But I would have thought it is the responsibility of not only the company secretary but the board to make sure these things are done. The board—a hand-picked board by the minister, having been purged of five other people—surely has got some responsibility, not just the company secretary, to make sure these things are done properly.

**Ms Coombs**—Senator, all that I can suggest is that you take it up with the company as to why they did not lodge the document—

**Senator ROBERT RAY**—Well, I might take it up with someone else if there have been breaches of the Corporations Law again.

**Senator FAULKNER**—Can I be satisfied, Ms Coombs or Mr Fullam, that there was no express direction or involvement of DOFA in relation to the timing of the lodgment of these ASIC returns? Could I just be satisfied on that point?

**Mr Fullam**—Senator, I do not have the paperwork here with me so I am going from recollection, but as I recall it I did ask to see the forms because we had legal advice that suggested there should be the same dates for ENA and EN Ltd, for the date on which the directors were appointed. I could not give you the exact date off the top of my head but we did receive a fax copy of a draft form from the company secretary—I think some time in January; I will have to check the exact date. Then, as far as I can recall, the next we knew of the matter was when we received, I think in early March, a fax, again from the company secretary. This time I believe the fax was copied to Ms Coombs, requesting information as to where the original consents to act—I think—they are the forms that are filled in by the directors when they volunteer—

**Senator FAULKNER**—Let us just explore this a little more if we can, Mr Fullam. So there is an involvement by officers of DOFA—

**Mr Fullam**—Senator, I have not finished my answer. I am sorry—if I could just finish—

**Senator FAULKNER**—Yes, sure. I apologise.

**Mr Fullam**—The second fax asked for, quite specifically—this is from Ms Lever—noted that she had I believe some—

**Senator FAULKNER**—I am sorry; I missed that name.

**Mr Fullam**—Ms Lever, Carole Lever, the company secretary. Again I am going from my recollection so I may have to go and check my documents. As I recall, the fax in March said that she had just received Mr Grellman's notice of resignation—that is a signed form from Mr

Grellman—that she needed the consents to act from two of the directors, could we forward those documents, and that she did not see any reason to delay—I am going from memory here. My recollection is that we immediately took the consents to the next board meeting.

**Senator FAULKNER**—Thanks for that. Let us go back to January where you started. You received a fax—you, Mr Fullam, from the evidence you have just given—

**Mr Fullam**—That is my recollection.

**Senator FAULKNER**—in relation to a copy of the forms that I assume were prepared for presentation to ASIC or lodgment with ASIC; is that right?

**Mr Fullam**—I believe they would have been ASIC forms. I cannot say for certain about that.

**Senator FAULKNER**—So you received those in January. Did you request those forms on the basis of legal advice that you had received?

**Mr Fullam**—Senator, as I recall, Ms Lever at one of the board meetings showed me the forms. I noted that the dates were different from the dates that we had expected to see on the forms and I asked her to fax a completed form to me. In fact, she did not do that. She sent through a draft form.

**Senator FAULKNER**—But who sought legal advice? You?

**Mr Fullam**—We had sought legal advice as part of the broader legal advice on the processes for appointment and removal and that had suggested certain dates at which appointment and removal would become effective. The form that was shown to me at the board meeting in January was at odds with the dates in that legal advice and therefore we asked to see a copy.

**Senator FAULKNER**—So you got legal advice. You asked for draft forms. They were sent over to—

**Mr Fullam**—Senator, I would like to just correct you. I did not ask for a draft form; I asked for the forms as they were lodged.

**Senator FAULKNER**—So the drafts arrived, not the forms. Drafts of the forms arrived.

**Mr Fullam**—That is correct.

**Senator FAULKNER**—So what did you do then? This is some time in January. Of course, the forms had been lodged at that point and they are likely to have conformed, given the dates, with the requirements of the companies law that you have just outlined. It is possible they would have conformed to that 14-day requirement. I do not know. I suppose it depends on when in January this occurred. What happened then between January and the next receipt of a fax in March?

**Mr Fullam**—I gave the forms to Mr Fisher, who was then the chairman, and, because they were draft forms, I left it for him to resolve with the company secretary.

**Senator FAULKNER**—Do you know when you gave them to Mr Fisher?

**Mr Fullam**—If not that day, it would have been very shortly thereafter, I believe.

**Senator FAULKNER**—So, effectively, you do not know anything more about this. Did you check the draft forms against the legal advice before you passed it on to Mr Fisher?

**Mr Fullam**—I did compare them to our legal advice, but it was not in the manner of checking the form to see what the correct dates were. From recollection, the company secretary also included a brief email of some legal advice that she had obtained about the dates and what was appropriate. I just passed it all to Mr Fisher because he was the chairman.

**Senator FAULKNER**—After passing the draft forms to Mr Fisher, you did not know any more about this until March.

**Mr Fullam**—It may have been mentioned, but I cannot recollect. I am sorry, Senator.

**Senator FAULKNER**—But then in March you received a fax about this, Ms Coombs, didn't you? I thought that is what you had said, Mr Fullam—that Ms Coombs received a fax.

**Ms Coombs**—Yes, I did, Senator.

**Senator FAULKNER**—What did you do as a result of receiving that fax with the material?

**Ms Coombs**—I sent a fax to the company secretary. I indicated that lodging documents with ASIC and ensuring that they were correct was the responsibility of the officials of the company and that DOFA had no role to play in this.

**Senator ROBERT RAY**—Let us just go back a little on this. We know when the directors of ENA were appointed.

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—We have put the heavy roller over that enough to go back to it.

**Ms Coombs**—Yes, we know.

**Senator ROBERT RAY**—I just want to go back and check the evidence you have already given. You also gave us identical dates—I think they are identical; correct me if I am wrong—for appointment of directors to ENA. Is that right? Let me put the cards on the table. I am advised that between 14 and 16 December last year and 21 January this year there was only one director on ENA. Am I wrong in that?

**Ms Coombs**—I am just clarifying those dates. Senator, could you just clarify which date you said there was only one director?

**Senator ROBERT RAY**—I just said I had information—I am not making it as an absolute assertion—that between 14 and 16 December 1999 and 21 January 2000 there was only one director of ENA, and that is notwithstanding anything that may be in the ASIC records lodged in March.

**Ms Coombs**—Could you repeat those dates for me?

**Senator ROBERT RAY**—It is 14 and 16 December—

**Ms Coombs**—Thank you, Senator.

**Senator Ellison**—That is one period and then 21 January—

**Senator ROBERT RAY**—No, sorry. That is the period in which some people were replaced and some people resigned. I thought that was understood.

**Senator Ellison**—And then it spans to—

**Senator ROBERT RAY**—The purge period—the three days through to 21 January.

**Senator Ellison**—The first instance sounds like you were citing two particular points in time.

**Senator ROBERT RAY**—It is a 36-day period, Minister, basically.

**Ms Coombs**—The records we have in front of us would indicate that there was more than one director on the 14th and that there was more than one director on the 15th and the 16th .

**Senator ROBERT RAY**—So we have got multiple directors up to the 16th ?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—You have a historical company extract from ASIC, haven't you?

**Ms Coombs**—I actually have a copy of a form 304 lodged with ASIC.

**Senator ROBERT RAY**—I have a historical company extract—Employment National Administration, 26 April. Under 'previous directors', on a very quick call of the cards, they have that Dr Fleming ceased on 14 December—this is of ENA—and that Mr Greg Harvey ceased on the 14th.

**Ms Coombs**—According to the form I have, Mr Greg Harvey ceased on the 16th.

**Senator ROBERT RAY**—This extract was obtained from the ASIC records on 28 April. It has Dr Fleming finishing on the 14th.

**Ms Coombs**—There is a form 304 lodged with ASIC on 15 March 2000 which relates to a change of office holders. I do note that we have a historical company extract dated 5 May where the dates are different. I am not sure why there is a difference.

**Senator ROBERT RAY**—We are dealing with Employment National Administration, not Employment National?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—In any event, two days may not make a difference. We may have to differ on the two. I am saying that Dr Fleming finished on the 14th; you are saying that it was on the—

**Ms Coombs**—I agree with you. The form 304 that I am reading from indicates that Dr Fleming ceased to be a director of ENA on 14 December 1999.

**Senator ROBERT RAY**—And Mr Greg Harvey?

**Ms Coombs**—Form 304 indicates that Mr Harvey ceased to be a director on 16 December 1999.

**Senator ROBERT RAY**—I have a two-day difference. And Mr Don Swan?

**Ms Coombs**—Form 304, again, indicates that Mr Swan ceased to be a director of ENA on 15 December 1999.

**Senator ROBERT RAY**—And Mr Andrew Kirk?

**Ms Coombs**—The form indicates that Mr Kirk ceased to be a director on 16 December 1999.

**Senator ROBERT RAY**—And Mr Harvey Parker?

**Ms Coombs**—It indicates that Mr Parker ceased to be a director on 16 December 1999.

**Senator ROBERT RAY**—I am not going to quibble about the two days or the one day in those instances. According to this historical extract, there are two current directors of ENA. No doubt you have something different there. Do you want to check my information first?

**Ms Coombs**—Again, my form 304 indicates that there are three current directors of ENA: Mr Phillip Prior, Mr Roger Fisher and Mr Peter Harris. That is on the form stamped 15 March 2000 lodged with ASIC. But I would note that a historical company extract on 5 May indicates that in fact the current directors of ENA are: Mr Richard Grellman and Mr Roger Fisher. Again, I cannot explain the difference between those two documents.

**Senator ROBERT RAY**—There is the possibility of ASIC error here, not ENA error, but that is certainly on my extract.

**Ms Coombs**—We have done a document search of ASIC in light of some of the questions that Senator Sherry asked at the last hearing. We have a copy of every document that the company ever lodged with ASIC, and I am reading from one of those documents here, which is inconsistent with an extract. I am not quite sure where the error lays, but I suggest it is probably with ASIC not updating its records.

**Senator FAULKNER**—Are you aware whether EN or ENA has ever been fined by ASIC for late lodgment of documents ?

**Ms Coombs**—No.

**Senator FAULKNER**—You are not aware of that?

**Ms Coombs**—We are not aware if they have been fined, no.

**Senator FAULKNER**—You are not aware either, Mr Fullam?

**Mr Fullam**—No.

**Senator ROBERT RAY**—All right, we are agreed that the ASIC record shows Mr Grellman and Mr Fisher as being the two, but I just want some reassurance that in this period ENA was not overlooked, that directors were appointed to EN and someone forgot to appoint them to ENA. I want some reassurance that that did not happen.

**Ms Coombs**—I do not believe they were overlooked. It goes to the issue that the minister appoints the directors of EN Ltd, but Employment National Ltd appoints the directors of Employment National Administration Ltd.

**Senator ROBERT RAY**—Does the letter of comfort imply that when ENA meets there should be a representative of DOFA or your group present at it?

**Ms Coombs**—Where are you referring to in the letter of comfort, Senator?

**Senator ROBERT RAY**—I think in the letter of comfort—I have not got it right in of front of me now, but I can dig it out—it is the minister's requirement that a DOFA official, he or his nominee, can attend board meetings. Is that right?

**Senator FAULKNER**—It is the last paragraph, isn't it?

**Ms Coombs**—That letter was directed to the board of directors of Employment National Ltd and, yes, it does say attendance of an authorised shareholder observer at all board meetings.

**Senator ROBERT RAY**—What I am asking now is whether that also extends to ENA?

**Ms Coombs**—The ENA board meeting is not the same board meeting, but as a matter of practice it is dealt with at the same time as the EN board meets. For example, they would have a meeting of the EN board, and then they would have a board meeting of ENA Ltd.

**Senator ROBERT RAY**—And you would have been present when these dual meetings occurred?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—So can you recall whether the ENA board was filled and had a proper quorum between 16 December and 21 January, or didn't they have a joint meeting in that particular period? I know you would not have a lot of meetings in early January and I accept that—I hope not.

**Ms Coombs**—I do not have my notes from the board meetings with me. My recollection is that they did have dual meetings, but exactly what days they had dual meetings I could not tell you without referring to my notes.

**Senator ROBERT RAY**—I wonder if you could go back and check—not just your own records—whether the directors of ENA were actually appointed on the dates that you read out before?

**Ms Coombs**—So you would like me to cross-check the company records?

**Senator ROBERT RAY**—You are relying on form 304, which you did not compile, as being an accurate form. I am just asking you to check to make sure that that information supplied to you was accurate. If you could that for me, I would appreciate that.

**Ms Coombs**—Certainly.

**Senator FAULKNER**—And, Mr Fullam, can you assure me that you never gave any indication or direction or instruction that lodgment with ASIC of EN or ENA documents ought to be delayed? I just want that assurance, that is all.

**Mr Fullam**—Not that I can recall, Senator.

**Senator FAULKNER**—No, I am just asking you to be able to give me that assurance.

**Mr Fullam**—That is my assurance.

**Senator FAULKNER**—Thank you.

**Senator ROBERT RAY**—I am still puzzled why you needed an ENA, Minister. You cannot throw any light on that?

**Senator Ellison**—No, I cannot. I have been thinking about that because it was around when EN used to appear with me in the old DEETYA estimates. I will take it on notice.

**Senator ROBERT RAY**—Yes. I cannot even think of a nasty purpose for it, such as leaving no money there so if it went belly up the employees got nothing. It is not even in that context.

**Senator Ellison**—The old PEPE, which they had before EN, might have been part of the transition but that would not warrant it being kept on afterwards. Look, I honestly cannot say. I remember, from a long time ago, a question being asked about why there were two. I will take it on notice.

**Senator FAULKNER**—Could I ask you then also, Senator Ellison, to take on notice whether EN or ENA have been fined by ASIC for late lodgment of documents?

**Senator Ellison**—I will take it on notice.

**Senator ROBERT RAY**—Whilst we are on board matters, we have got the new board up and running on 22 and 23 December. At which one of those meetings or subsequent meetings was the audit committee re-established?

**Ms Coombs**—We are not sure, Senator. We would need to check.

**Senator ROBERT RAY**—Has it been established?

**Ms Coombs**—Yes, I believe so.

**Senator ROBERT RAY**—I will wait until you have checked.

**Ms Coombs**—I believe Mr Prior is the head of the audit committee.

**Senator FAULKNER**—Do you mean the chair of the audit committee?

**Ms Coombs**—Yes.

**Senator ROBERT RAY**—Have we got that date?

**Mr Fullam**—I am sorry, Senator?

**Senator ROBERT RAY**—The re-establishment of the audit committee, have you got that date available?

**Mr Fullam**—No, I do not know, Senator.

**Senator ROBERT RAY**—But you do know it was established?

**Mr Fullam**—No, Senator.

**Senator ROBERT RAY**—You do not know. What about you, Ms Coombs?

**Ms Coombs**—I know. It has been established.

**Senator ROBERT RAY**—When was it established? Was it established immediately or was there some considerable delay in its establishment?

**Ms Coombs**—I believe there was a delay but I am not sure if it was considerable. That is why I would need to check.

**Senator ROBERT RAY**—The audit committee is a well established corporate government mechanism, isn't it?

**Ms Coombs**—It is, Senator, but when you have got a board of four you could effectively have the main board of Employment National also being the audit committee.

**Senator ROBERT RAY**—What about a remuneration committee? That is normal in these circumstances. Have you got a remuneration committee?

**Ms Coombs**—Not that I am aware, Senator.

**Senator ROBERT RAY**—It is typical of most commercial enterprises to have a remuneration committee. You do not have one?

**Ms Coombs**—Not that I am aware.

**Senator ROBERT RAY**—What about a corporate governance committee?

**Ms Coombs**—Not that I am aware, Senator.

**Senator ROBERT RAY**—Are you aware that the previous board, pre 14 to 16 December, had an audit committee, a remuneration committee and a corporate governance committee?

**Ms Coombs**—Yes, I am, from the annual report.

**Senator ROBERT RAY**—So you cannot think of a reason why those two committees are no longer extant?

**Ms Coombs**—No, I do not know.

**Senator ROBERT RAY**—Subsequent to the appointment of the new board, has the Australian National Audit Office been called in to conduct any audits of the previous board's management?

**Ms Coombs**—I believe I answered that at the last estimates hearing in relation to a question that Senator Collins asked at the end of the evening. I think my answer then was no. I believe the company has asked the ANAO who contracts out to Arthur Andersen, in the case of Employment National, to come in and do some scoped work on some balance sheet issues. But in relation to whether they have come in to conduct audits of the previous board's management of Employment National, the answer is no.

**Senator ROBERT RAY**—Right, that is good. Have DEWRSB asked for any audit of EN's JN1 performance?

**Ms Coombs**—Not that I am aware.

**Senator JACINTA COLLINS**—Ms Coombs, can you give us the detail of those scope investigations by Arthur Andersen?

**Ms Coombs**—Yes. As I indicated at the last hearing, and the page reference is 104 and I will read my answer:

You would understand that with a company under reconstruction there are going to be a lot of changes in its balance sheet, heading towards the end of the financial year. The board took a view that it would be best to start getting that accounting advice in now and work through the issues towards the end of the financial year, rather than to wait until the annual financial statements needed to be prepared.

**Senator JACINTA COLLINS**—Thank you.

**Senator ROBERT RAY**—Do we know if the AWA court case is finally concluded in regard to EN?

**Ms Coombs**—My understanding is that matter is still before the courts.

**Senator ROBERT RAY**—The potential rulings out of this case—that is, the AWA case—in terms of coverage: can they in turn have a reverberation, if you like, on that vexed question about the legality of Job Network and EN in terms of not having a legislative but an executive base? There is some suggestion that the AWA case, Minister, if it was taken in a certain direction, could well reflect back on those original decisions.

**Ms Coombs**—Senator, I answered questions that Senator Collins put to me at the last hearing. The *Hansard* reference is page 103. Senator Collins asked me about the AWA case and asked if some of the issues associated with the case overlap with the contentious issue of whether EN had a sufficient legislative base on which to operate, to my knowledge. I indicated then—and the position has not changed—that I was not into the details of the case and the nexus between the issue of the legislation base and the AWA case.

**Senator ROBERT RAY**—All right.

**Senator SHERRY**—I would like to go right back to the beginning—

**Senator FAULKNER**—That should please everyone!



**Senator SHERRY**—for one question. The establishment of Employment National as a company under Corporations Law—wasn't the purpose in taking this course, rather than under legislation as a GBE, to ensure that it operated fully as a commercial enterprise at arm's length from government and with the board taking the proper responsibilities for its operations?

**Ms Coombs**—Yes. The governance arrangements for GBEs, first of all, indicate that, as a matter of preference, government business enterprises should be companies, and they indicate that there should be an arms-length relationship.

**Senator SHERRY**—Why has the minister, as a shareholder, taken an action which places him as a shadow director of the company, and places the directors of the company potentially at risk of breach of their fiduciary duties under the Corporations Law?

**Ms Coombs**—Perhaps I can address first the second part of your question, which relates to the fiduciary duties of the board to the company and whether they are at risk under law. My understanding is that they are not at risk under law. The letter of comfort arrangements are in place, which indicate that the government, as owner, is going to stand behind the company, so the directors are not in breach of Corporations Law. On the issue of shadow director, we did take that question on notice at the last hearings. We are just digging out that information for you.

Senator, we took a question on notice at the last hearing, where you asked us whether we had got legal advice on the issue of whether the minister was a shadow director. Yes, we have. Our understanding is that the minister is not a shadow director. The advice that we have is that the question of whether the minister becomes a shadow director of EN is a question of fact to be determined by whether the directors of the company have a general custom of acting in accordance with his instructions, and directions occasionally given by him under article 63(a) of the company constitution on individual matters will not have the effect of making him a shadow director.

**Senator SHERRY**—Who is that advice from?

**Ms Coombs**—That advice is from Phillips Fox.

**Senator SHERRY**—Advice from Freehill Hollingdale Page in respect of the amendment to the company rules, which I think was 6A—I think we referred to this at the previous estimates, so I am not going to go to that in any depth—is that on that issue the minister is likely to become a shadow director of the company and would, therefore, assume the same duties and liabilities as directors of the company. You have raised the issue of matters of fact. There are a number of other matters of fact about the minister's actions that have occurred, such that on the advice we have—not just based on the letter from Freehill Hollingdale Page, but other advice—he is now a shadow director.

**Ms Coombs**—And we have advice, Senator, that he is not.

**Senator SHERRY**—Can you make that advice available to the committee?

**Senator Ellison**—Mr Chairman, the government does not normally divulge legal advice it gets on particular matters. It is open to provide legal advice where it is of a generic nature. I

think that in the debate on parliamentary secretaries we might have divulged some legal advice we had in general as to the—

**Senator ROBERT RAY**—And I said you were not setting a precedent.

**Senator Ellison**—constitutional aspects, and I remember the debate we had, Senator Ray, on that point. This would fall into legal advice on a particular matter, which is not normally divulged.

**Senator ROBERT RAY**—And I think I said at the time you table legal advice it is unimpeachable and absolutely agrees with you, but if there is any doubt in it, you don't. I accept that. And there must be doubt in this case.

**Senator Ellison**—Well, equally we do not know—

**Senator SHERRY**—I have no doubt, Senator Ray, on the advice I have received.

**Senator ROBERT RAY**—No. I am saying there must be doubt about their legal advice.

**Senator SHERRY**—Yes. I am not a lawyer and I am not relying on my view of—

**Senator ROBERT RAY**—Don't go into that.

**Senator SHERRY**—Okay. I think, Mr Murphy, we started to go down this track earlier. Ms Coombs have you had a look at *Ford's principles of corporation law*, ninth edition, 1999?

**Senator FAULKNER**—I have not this week either, Ms Coombs.

**Senator SHERRY**—It deals with the principles of shadow directors—

**Senator Ellison**—I do not think this is a question that the official can answer.

**Senator FAULKNER**—You, of course, would be an expert on this, Senator Ellison.

**Senator SHERRY**—Well you might be able to throw some light on this

**Senator Ellison**—In practice, we should assume so.

**Senator SHERRY**—If in fact the minister is a shadow director, is it a proper role for the minister if he were that?

**Ms Coombs**—Senator, our view is that the minister is not a shadow director.

**Senator SHERRY**—Well, what if he is?

**Senator Ellison**—Well, it is hypothetical; he is not.

**Senator SHERRY**—Well again the facts and the legal opinion—

**Senator FAULKNER**—There is a difference between a shadow director and a shadowy director.

**Senator Ellison**—Shadowing a shadow minister.

**Senator SHERRY**—It is actually a very important issue. If the minister is a shadow director, it does have some serious implications.

**Senator FAULKNER**—You are certainly quite right to make the point, Senator Ellison. It is better to be a minister than a shadow minister—that I can confirm.

**Senator SHERRY**—The letter of comfort—

**Senator FAULKNER**—We are working on it.

**Senator SHERRY**—I am just looking at the ‘Risk to budget’ in *Budget Strategy and Outlook* and 440 says ‘The indemnities are unquantifiable and no expiry date has been set.’ That is board members’ indemnity. ‘Letters of comfort arrangements. Commonwealth’s exposure under this letter of comfort arrangement is unquantifiable.’ Do you agree that that is not in accordance with the principles adopted by the department of finance in respect of letters of comfort, guarantees and matters of that like?

**Senator Ellison**—Mr Chairman, have you any idea how much longer we will be on this?

**Senator SHERRY**—Not long. I have got a couple of questions. We are coming to the end.

**Senator ROBERT RAY**—If there is going to be a two-minute delay every time before we get an answer, we are going to be a bit longer.

**Dr Boxall**—Senator Sherry, on your observation that the contingent liability in the budget papers, on 440, is unquantifiable and that the Finance circular says that letters of comfort ‘need to be appropriately authorised and...’ they should be limited in some way: the minister is aware of this guideline but, nevertheless, the government has decided to issue a letter of comfort which is unquantifiable, and it is correctly recorded in the budget papers.

**Senator SHERRY**—Thank you. Is it believed that the letter of comfort itself provides an absolute protection to the directors?

**Ms Coombs**—My understanding is that it does. It is basically an undertaking by the government to keep the company solvent.

**Senator SHERRY**—What is the basis of that understanding—legal advice?

**Ms Coombs**—As I have already indicated this evening, we did take legal advice on this from Phillips Fox.

**Senator ROBERT RAY**—We cannot see that legal advice. Did that go to the question of indemnifying them not only in terms of insolvency but in terms of that relationship to the Corporations Law? Did the legal advice go to that?

**Ms Coombs**—Senator, could you clarify the question?

**Senator ROBERT RAY**—Senator Sherry was asking questions about, if you like, the comprehensiveness of the letter of comfort, in terms of indemnifying the directors, and we got an answer back in terms of insolvency. But I am asking in terms of whether they are protected under the Corporations Law by that letter of indemnity.

**Ms Coombs**—They are protected under Corporations Law to the extent of insolvent trading.

**Senator SHERRY**—We had a discussion earlier about the minister being a shadow director. You have a view; we have a view. Notwithstanding that argument, do you believe it is a desirable position for a minister of the Crown, obviously accountable to the executive and parliament, to be in? Was it believed that a minister would be involved as actively as the minister has been in recent months in the operation of the company?

**Dr Boxall**—Mr Chairman, that is seeking an opinion.

**Senator SHERRY**—You do not have any comment to make?

**Senator Ellison**—It is seeking an opinion—

**Dr Boxall**—It is seeking an opinion.

**Senator Ellison**—from the official. That certainly is not in the bounds of—

**Senator SHERRY**—Do you have an opinion on that, Senator Ellison?

**Senator Ellison**—It was never envisaged that there would have to be the action taken in December that there was, and that Employment National, when it was first set up, would fare as it did in the second round of tenders. You just do not have a crystal ball with these things. Who can say what was envisaged. Certainly, there was an optimistic view at the outset, and that is a matter of record—an optimistic view by everyone.

**Senator ROBERT RAY**—But in the end the board was the one that got it in the neck, not the minister.

**Senator Ellison**—The board is responsible for running the company.

**Senator ROBERT RAY**—Yes, but they were not responsible for the handicap put in.

**Senator Ellison**—The government rejects that, Senator. You obviously don't, but—

**Senator ROBERT RAY**—I used the analogy before that it is like a handicap horse race. From the starting stalls to the finishing post, the stewards can report total probity. However, the trouble is the amount of lead put in the saddlebags before they jumped.

**Senator SHERRY**—Just finally, Minister, from the questioning tonight and previously, we have indicated that we believe he is a shadow director. I would go one step further and say that he is almost a de facto manager of the company, with his delegate, Ms Coombs, and her nominee attending board meetings. Do you have any view about whether this is a desirable situation?

**Senator Ellison**—The advice we have, and the evidence that has been given today on that legal advice, is that the minister is not a shadow director. So whilst we have that situation, your question is a hypothetical one, Senator, and the matter does not arise. That is the government's position. You obviously have a different view, but it is not one we share.

**Senator ROBERT RAY**—It is one that a few other senior legal people share with us.

**Senator Ellison**—We are confident of our legal advice.

**Senator ROBERT RAY**—So confident that you will not table it so we can check it.

**Senator Ellison**—We do not table advice in these circumstances.

**Senator ROBERT RAY**—We do not know whether you are just spouting off the government line or whether the legal advice is soundly based, well argued or otherwise. We just do not know.

**Senator Ellison**—The instructions were given to Freehills. We are not aware of the facts that they were looking at when they came to that opinion. We rely on what Senator Sherry tells us, but we do not know anything more than that, so I cannot comment on your advice.

**Senator ROBERT RAY**—It is more than Freehills—it is three legal opinions, not just one.

**Senator JACINTA COLLINS**—How many legal opinions does the government have?

**Ms Coombs**—On the issue of shadow directorships, many advisings.

**Senator ROBERT RAY**—Are they all identical?

**Ms Coombs**—I draw your attention to the Humphry report on GBE governance, for example, where the Australian Government Solicitor provided advice to Mr Humphry in his review of GBEs. Paragraph 4.12, in relation to other GBEs, concerns advice on shadow directors, and the opinions that they put are not different from the opinion of Phillips Fox.

**Senator SHERRY**—In relation to the facts of this matter?

**Ms Coombs**—No, Senator Collins asked the question about how many opinions the government has on the issue of shadow directorships.

**Senator ROBERT RAY**—I think the more precise question is: how many, if any, specific advices have you got in these circumstances applying to EN?

**Ms Coombs**—One, Senator.

**Senator ROBERT RAY**—Was that from a private firm?

**Ms Coombs**—From a private firm.

**Senator ROBERT RAY**—So you have one?

**Ms Coombs**—Yes.

**Senator JACINTA COLLINS**—That has not gone to the Australian Government Solicitor?

**Ms Coombs**—No.

**Senator SHERRY**—What was the date of that advice? I cannot recall whether I asked that earlier or not.

**Ms Coombs**—The advice that I have in front of me is dated 24 December 1999.

**Senator SHERRY**—Thank you.

**CHAIR**—I thank my committee colleagues. The committee will resume tomorrow at 9 a.m with the Prime Minister's portfolio in continuation, followed by the final agency in the Finance and Administration portfolio, the Office of Asset Sales and Information Technology Outsourcing. I remind you that the committee has set 28 June 2000 as the date by which answers are required. On behalf of my colleagues, I thank the minister and officers, particularly Dr Boxall and Mr Murphy for all day and Ms Coombs and Mr Fullam for this evening, for their attendance and assistance and Hansard and Sound and Vision for their services. Thank you.

**Committee adjourned at 11.12 p.m.**