

ADDITIONAL COMMENTS BY LABOR SENATORS

JIM MCKIERNAN AND JOE LUDWIG

We support the Committee's report.

During the course of the inquiry, the Committee experienced considerable difficulties obtaining assistance from the Attorney General's Department. Our requests for assistance from the Department frequently produced responses that were nothing short of obstructive. One reason for this may well be that the Department was generally unable to advance evidence in support of the Bill other than restating the "rationale" for the introduction of the Bill contained in the Government's own media releases.

There are several aspects of the Committee's report that it is worthwhile to draw attention to.

First, the Government has stated that the purpose of the Bill is to ensure that "all things being equal", the best interests of the child are served by having the reasonable expectation of the care and affection of a mother and a father. However, the Bill is flawed because it does not – and can not – achieve that outcome.

Second, the Bill is contrary both to the spirit and the letter of the Sex Discrimination Act. It is also likely to conflict with the very treaty that the Act implements. It may be subject to a High Court challenge on this basis.

Third, the passage of the Bill would be the first time since the enactment of the Sex Discrimination Act 1984 that the protections offered by that Act will be wound back. Those people – from all sides of politics – who supported the enactment of the Sex Discrimination Act in 1984 will remember how difficult it was to achieve that outcome. Hard-won rights should not be wound back lightly.

Fourth, no compelling case has been made that the rights of children will be advanced by the passage of the Bill. However, the rights of some women will be diminished.

We hope the Government will give serious consideration to the summary of the Committee's Inquiry that is contained in the report.

We would go one step further than the Committee, and recommend that the Sex Discrimination Amendment Bill (No 1) 2000 be withdrawn from the notice paper.

Jim McKiernan

Deputy Chair

Senator for Western Australia

Joe Ludwig

Participating Member

Senator for Queensland

