

ADDITIONAL COMMENTS

LABOR SENATORS

1.1 Labor Senators acknowledge that the committee's recommendation from its inquiry into the Judicial Review Bill in 2004 with respect to actual notification of decisions has been taken up by the Federal Government in the current version of the Bill. Labor Senators endorse the Federal Government's reconsideration of its approach to this issue.

1.2 However, Labor Senators remain concerned about several issues raised both in the course of the committee's current inquiry and its previous inquiry, particularly in relation to time limits and the constitutional validity of the Bill. Labor Senators again note that the Bill may be unconstitutional insofar as it imposes non-discretionary, absolute time limits for the judicial review of migration decisions, including those decisions suffering from serious jurisdictional error. Therefore, Labor Senators reiterate their previous concerns in relation to such constitutional validity issues.¹

1.3 Labor Senators also express their disappointment at the Federal Government's continued failure to release the Penfold Report for scrutiny and comment, particularly in light of the fact that the findings of that Report form the basis of the Bill. Once again, access to the Penfold Report would have been instrumental in allowing the committee to more adequately assess the need and appropriateness of the Bill.

Senator the Hon Nick Bolkus
Deputy Chair

¹ See further Legal and Constitutional Legislation Committee, *Provisions of the Migration Amendment (Judicial Review) Bill 2004*, June 2004, p. 31.

