



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION  
COMMITTEE

ESTIMATES

**(Budget Estimates Supplementary Hearings)**

MONDAY, 3 NOVEMBER 2003

CANBERRA

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**SENATE**

**FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE**

**Monday, 3 November 2003**

**Members:** Senator Mason (*Chair*), Senator Murray (*Deputy Chair*), Senators Brandis, Faulkner, Forshaw and Heffernan

**Senators in attendance:** Senator Mason (*Chair*), Senator Murray (*Deputy Chair*), Senators Allison, Brandis, Brown, Calvert, Carr, Chapman, Collins, Crossin, Faulkner, Ferguson, Forshaw, Hill, Hogg, Moore and Wong

**Committee met at 9.05 a.m.**

**PARLIAMENT**

**In Attendance**

Senator the Hon. Paul Calvert, President of the Senate

**Department of the Senate**

Mr Harry Evans, Clerk of the Senate

Dr Rosemary Laing, Acting Deputy Clerk of the Senate

Mr Cleaver Elliott, Clerk Assistant (Procedure)

Mr Richard Pye, Acting Clerk Assistant (Table)

Mr John Vander Wyk, Clerk Assistant (Committees)

Ms Andrea Griffiths, Usher of the Black Rod

Mr Joe d'Angelo, Chief Finance Officer

**Department of the Parliamentary Library**

Mr John Templeton, Secretary

Dr June Verrier, Head, Information and Research Services

Ms Nola Adcock, Deputy Head, Information and Research Services

Mr Rob Johnston, Assistant Secretary, Resource Management

Miss Ros Membrey, Head, Resource Development

**Department of the Parliamentary Reporting Staff**

Mr John Templeton, Secretary

Ms Val Barrett, Group Manager, Client Services Group

Mr Peter Ward, Group Manager, Technical Services Group

Mr John Walsh, Group Manager, Corporate and Strategic Development Group

Ms Judy Konig, Chief Finance Officer

**Joint House Department**

Mr Michael Bolton, Secretary

Mr Terry Crane, Executive Leader (Security)

Mr Andrew Smith, Executive Leader (Operations)

Mr Bob Wedgwood, Executive Leader (Facilities and Corporate Services)

**CHAIR**—I call the committee to order and declare open this public hearing of the Finance and Public Administration Legislation Committee. On 13 May 2003 the Senate referred to the committee for examination the following documents: particulars of proposed expenditure in respect of the year ending 30 June 2004, Appropriation Bill (No. 1) 2003-04; particulars of certain proposed expenditure in respect of the year ending 30 June 2004, Appropriation Bill (No. 2) 2003-04; and particulars of proposed expenditure in relation to the parliamentary departments in respect of the year ending 30 June 2004, Appropriation (Parliamentary Departments) Bill 2003-04. The committee is required to consider these documents insofar as they refer to the portfolios allocated to the committee by the Senate on 13 February 2002. The committee held hearings on 26, 27, 28 and 29 May 2003 and reported to the Senate on 19 June 2003.

The hearing today is supplementary to the budget estimates hearings and is to consider matters relating to the written answers or additional information or otherwise relating to the proposed budget expenditure referred to the committee. The agenda you have before you comprises those matters notified to the committee secretariat in writing by the close of business on 28 October 2003, three working days before today as required by standing order 26(10).

The committee has also given notice that it will forward written questions on notice to the following two agencies: the Australian Public Service Commission and the Office of the Commonwealth Ombudsman. The committee has set Friday, 16 January 2004 as the date for the submission of written answers to questions taken on notice. The committee would also like to inform all departments and agencies that it requires additional information and answers to questions on notice to be provided in both hard paper copy and electronic forms. The committee reminds all departments and agencies that where incorrect or incomplete information is given in evidence corrections should be provided within a timely manner.

Throughout this committee's two days of hearings I propose to conduct the business in the order outlined on the committee's official agenda, which has been provided to members of the committee, to senators, and to witnesses. I remind officers that the Senate has resolved that there are no areas in connection with the expenditure of public funds where any person has a discretion to withhold details or explanations from the parliament or its committees unless the parliament has expressly provided otherwise. I further remind officers that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. Evidence given to the committee is protected by parliamentary privilege. I also remind you that the giving of false or misleading evidence to the committee may constitute a contempt of the Senate.

[9.09 a.m.]

#### **Department of the Senate**

**CHAIR**—I welcome the President of the Senate, Senator Paul Calvert, the Clerk and officers from the Department of the Senate. Senator Calvert, do you wish to make an opening statement?

**The PRESIDENT**—No, Mr Chairman, I do not. Thank you for your very warm welcome.

**CHAIR**—In that case we will go to general questions.

**Senator FAULKNER**—Could I ask either you, Mr President, or the Clerk, to give us a broad overview of the role and functions of the Department of the Senate during the visits of President Bush and President Hu.

**The PRESIDENT**—The Black Rod might be able to help you.

**Senator FAULKNER**—I am happy for that, if that assists.

**Ms Griffiths**—In relation to the presidential visits, my role was a ceremonial one. We were also involved in asking senators to provide details of the guests that they wanted to bring, so I was liaising with the ceremonial and protocol section of Prime Minister and Cabinet. We did this for senators and the Serjeant-at-Arms' Office did this for members of the House of Representatives.

In relation to the day, as I said, my role was a ceremonial one. The security staff were involved in assisting ceremonial and protocol officers up in the galleries—showing guests to the galleries. With respect to the seating for the visit of President Bush, there was allocated seating for the central gallery—that is, the Speaker's gallery plus the rest of it—for guests of the President, the Speaker, the Prime Minister, the Deputy Prime Minister and the Leader of the Opposition. Otherwise all the seating was unallocated, so it was basically first in, best dressed. For the visit of President Hu, the seating arrangements were the same. In the central gallery there was allocated seating for the same VIPs as for the previous day. Unallocated seating and overflow visitors went to the glazed galleries, except in the case of Senator Brown's guests, where we were given a directive from the Speaker to seat Senator Brown's guests up in the glazed galleries.

**Senator FAULKNER**—I will come back to this at a later stage. I do not want to get bogged down on that issue at this stage. You were given a directive in relation to Senator Brown's guests from the Speaker?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—As the Black Rod of the Senate, do you normally receive directives from the Speaker?

**Ms Griffiths**—Actually, the only written directive that I received from the President and the Speaker was in relation to keeping Senator Brown and Senator Nettle out of the chamber of the House of Representatives and the galleries for the Friday visit. The other directive that came from the Speaker was given orally to me and that was given to the security staff.

**Senator FAULKNER**—I will revisit this matter at a later stage and it is possible that other senators will revisit it, too. Ms Griffiths, would it be possible to have tabled a copy of the written directive to you, please?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—I would appreciate that. As I say, we can come back to that in more detail. Mr President, could I ask you, in relation to the Bush and Hu visits, about the level of consultation on security arrangements that you were involved in.

**The PRESIDENT**—The Speaker and I were briefed on security matters. Along with Terry Crane, the head of security, we took the opportunity to walk the forecourt one morning to look at where the barriers were proposed to be moved to for the Bush visit. Other matters were discussed. The Black Rod was with us on that particular day, as I recall, along with the head of security, in order to give us an on-ground briefing regarding where it was proposed to move the temporary barriers to—on the other side of the road, actually. Apart from that, there was not anything that did not normally happen.

**Senator FAULKNER**—I appreciate that the question I have just asked might fall more broadly into the responsibility of the Joint House Department, so we can try to narrow it down at this stage of the committee's proceedings. Mr Evans, could you indicate what role, if any, the Department of the Senate had in relation to security arrangements for the visits? That might be helpful, appreciating that the broadest coordinating responsibility obviously fell, it is correct to say, Mr President, effectively to the Joint House Department as opposed to the Department of the Senate.

**Mr Evans**—Basically the role of the Senate department was to consult with the officers responsible for security about the security arrangements on the day. That consultation was largely undertaken by Ms Griffiths.

**Senator FAULKNER**—What was the time frame of that consultative work, Ms Griffiths? Can you indicate when that started? I assume it concluded after the visit, but when did that process kick off?

**Ms Griffiths**—Probably about a month before. We had an advance party visit from the White House. I cannot remember the exact date, but I can get that for you. It would have been approximately a month before. Security arrangements were certainly hotting up at least a fortnight before. Mr Crane was liaising directly with secret security staff, and that would have been from a month down but really concentrated in the last fortnight before the visit.

**Senator FAULKNER**—Mr Crane is an officer in the Joint House Department?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—It is best to deal with those sorts of issues when we deal with the Joint House Department.

**Ms Griffiths**—He was consulting me throughout that, but the day-to-day dealing with the secret service was his role.

**Senator FAULKNER**—We have the Department of the Senate before us; I am trying to get a broad understanding of the role of that department. Did the Department of the Senate have any role or involvement in the closure of the parliament to the public and schools? Was it consulted on that?

**Mr Evans**—It was more the situation that we were told about it, but the department was involved in the consultations about what security measures were going to be taken.

**Senator FAULKNER**—Who told you about it? You are saying that you were not part of the decision making process; you were informed that it was going to occur. Is that the nuance?



**Mr Evans**—Basically, the officers responsible for security had the responsibility of advising whether that step should be taken or not, presumably in consultation with the other governments concerned, and the decision was taken.

**Senator FAULKNER**—How were you informed of this? Who informed you?

**Mr Evans**—Ms Griffiths, basically.

**Senator FAULKNER**—Let us play pass the parcel. How were you informed?

**Mr Evans**—Basically, after her consultation she told me that the decision would be to close the building on security advice.

**Ms Griffiths**—That was at a meeting that I had with the Speaker, the President, the executive leader of security and the Serjeant-at-Arms.

**The PRESIDENT**—We were given advice by those involved, and the Speaker and I signed off on the fact that we were well aware of what was going to happen about the schools and about closing the parliament until 1 o'clock. It did have our approval and we were briefed on it.

**Senator FAULKNER**—Where did those recommendations come from?

**The PRESIDENT**—They came from the security people and the security board.

**Ms Griffiths**—The executive leader of security.

**Senator FAULKNER**—The security board did not meet on these matters?

**Ms Griffiths**—No.

**The PRESIDENT**—No.

**Senator FAULKNER**—At no stage during this?

**Ms Griffiths**—No.

**Senator FAULKNER**—Who is on the security board?

**Ms Griffiths**—The chairman is the Secretary of the Joint House Department, Mr Bolton. Other members are the Black Rod, the Serjeant-at-Arms, the executive leader of security, a representative from DPRS and the Protective Security Coordination Centre.

**Senator FAULKNER**—Are you saying that that board did not meet at any time in the lead-up to the visits of President Bush and President Hu?

**Ms Griffiths**—Correct.

**Senator FAULKNER**—Why was that?

**Ms Griffiths**—The main players were too busy with the planning of the visits to meet.

**Senator FAULKNER**—What is the role of the security board in these sorts of things? Is it nonexistent?

**Ms Griffiths**—No. That is the first time that has happened. Normally our role is to provide protective security advice—longer-term strategic advice—to the Presiding Officers. I do not see that it would have to meet in relation to a visit like this.

**Senator FAULKNER**—Where does the advice come from?

**Ms Griffiths**—It comes from ASIO and the Protective Security Coordination Centre—all the intelligence agencies provide advice to the Executive Leader (Security) and he responds to that advice.

**Senator FAULKNER**—But the group that has been established in Parliament House to provide advice to the Presiding Officers was at no stage convened in the lead-up to these two visits to provide such advice to the President of the Senate and the Speaker of the House of Representatives?

**Ms Griffiths**—No, but the Executive Leader (Security), the Secretary of the Joint House Department, Black Rod and Serjeant-at-Arms were receiving briefings from the intelligence agencies and provided advice to the Presiding Officers as a result.

**Senator FAULKNER**—Is the security board at Parliament House redundant?

**Ms Griffiths**—No, because we still have to provide advice on long-term arrangements to the Presiding Officers—for example, the current white barrier around Parliament House—and we still have to be there to get security advice from the intelligence agencies and provide advice accordingly if the nature or the level of threat changes.

**Senator FAULKNER**—Why was it bypassed? I have always accepted that visits of heads of state, such as the President of the United States and the President of the People's Republic of China, are matters where there is a high security interest and I am very surprised to learn that the board would not meet, at least in the early planning stages, about these sorts of visits.

**The PRESIDENT**—As you would be aware, the security board was set up to advise the Presiding Officers on practical security arrangements around the house—

**Senator FAULKNER**—There were a hell of a lot of practical security arrangements in relation to President Bush's and President Hu's visits.

**The PRESIDENT**—such as the roller doors, the parking areas and the temporary security in the front. There are those types of matters but I believe the day-to-day security matters are best handled by those people on the ground that are charged with that responsibility.

**Senator FAULKNER**—That is a fair enough point to make. As I understand it, in the past the board has received advices from a range of agencies, distilled and analysed that advice and then provided advice to you and the Speaker. Isn't that the way it has worked in the past?

**The PRESIDENT**—Yes, but since I have been President of the Senate we have not had any official visits other than these two. I would have thought all security matters involved with the presidential visits would have been matters for our Parliament House security, the AFP and the security people of the countries concerned.

**Senator FAULKNER**—Yes, but we have been told previously that the security board coordinates security in Parliament House. That is its role; it is the key advisory body to the Presiding Officers, isn't it?

**Ms Griffiths**—As I said earlier, I think its role is to provide longer-term strategic advice to the Presiding Officers. We would not see our role in every official state visit to Parliament House as being to meet to discuss the day-to-day operations of how that visit would happen. I

would not see that as our role. Everyone on the board was involved in the two presidential visits, except one member.

**Senator FAULKNER**—What was the one exception?

**Ms Griffiths**—The representative from DPRS-DPL.

**Senator FAULKNER**—Has the Department of the Senate received any complaints, formal or informal, Mr Evans, as a result of any of the arrangements surrounding the visits of President Bush or President Hu?

**Mr Evans**—I have not received any formal complaints. There have been a lot of complaints in the air, as you probably know but, if you are thinking of people writing with formal complaints to the department, no, I am not aware of any.

**Senator FAULKNER**—Okay. What about the role of Senate attendants during the visit of our international guests—because those particular attendants are effectively under your direction, aren't they, Mr Evans? I am talking about Senate attendants.

**Mr Evans**—You are talking about Senate attendants as distinct from security attendants?

**Senator FAULKNER**—Correct me if I am wrong but you are the immediate superior of the Senate attendants, whereas the security attendants would be subject to the authority of officers in Joint House. That is correct, isn't it?

**Mr Evans**—Directly, yes, and ultimately to the advisory board, as you mentioned.

**Senator FAULKNER**—Certainly not the advisory board because they have not met.

**Mr Evans**—Certainly the security staff are now located in the Joint House Department. But, yes, the Senate chamber attendants are under the control of the Senate department.

**Senator FAULKNER**—How many Senate chamber attendants, to use that terminology, do we now have? It is only a comparatively small number, isn't it?

**Ms Griffiths**—There is a pool of five, including the supervisor. On the days of the presidential visits, two Senate chamber attendants assisted the House of Representatives chamber attendants in the floor of the House of Representatives chamber to help escort senators to their seats.

**Senator FAULKNER**—What instructions, if any, were given to Senate chamber attendants during the joint meetings?

**Ms Griffiths**—As I said previously, they were there to provide assistance to senators to show them where to sit.

**Senator FAULKNER**—That is all?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—There were no other instructions provided to these attendants about how to treat senators or members?

**Ms Griffiths**—No.

**Mr Evans**—On the second day of the events, I gave an instruction—if it was an instruction—that Senate attendants were not to physically impede any senators trying to enter that second sitting on that second day.

**Senator FAULKNER**—Why did you give that instruction?

**Mr Evans**—Because I did not want Senate attendants physically interfering with senators who were trying to attend a meeting of the Senate.

**Senator FAULKNER**—Was this in the aftermath of Senators Brown and Nettle being named and suspended in the joint meeting the day before?

**Mr Evans**—Yes.

**Senator FAULKNER**—So it was in that context?

**Mr Evans**—And the instruction that those two senators were not to be allowed to enter that meeting on the second day. My subsidiary instruction, if I can call it that, was that Senate attendants were not to be involved in physically restraining senators, if it came to that.

**Senator FAULKNER**—So in fact there were different instructions, or there were at least additional instructions—would that be a fair way of describing it?—in relation to Senate attendants.

**Mr Evans**—There was that particular one, yes.

**Senator FAULKNER**—How did that differ from instructions to the attendants who were working, effectively, to the authority of officers in Joint House?

**Mr Evans**—I will ask Ms Griffiths to say what the instruction was to those people.

**Ms Griffiths**—It is listed in the directive that I have now tabled. The Presiding Officers just said:

We hereby authorise you and officers under your direction to take appropriate measures, including in the event that it is necessary, preventative force to enforce the suspension—

of Senators Brown and Nettle.

**Senator FAULKNER**—Yes, but this security directive did not go to attendants in the Department of the Senate—is that correct?

**Ms Griffiths**—That is correct.

**Senator FAULKNER**—It went, as far as you are aware, to all other attendants in the building—is that right?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—Do you know who else it went to?

**Ms Griffiths**—It would have only gone to the security attendants.

**Senator FAULKNER**—It would have only gone to the security attendants?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—What about your own role as the Black Rod in your official responsibilities in the joint meeting?

**Ms Griffiths**—I really had no role except the announcement of duties. Because it was in the House of Representatives chamber, the Serjeant-at-Arms was in control. If a senator or member were to be suspended, it would be the Serjeant-at-Arms who would be involved, not the Black Rod.

**Senator FAULKNER**—So there would be no suggestion of blocking senators attending the joint meeting—to ‘take appropriate measures, including in the event that it is necessary, preventative force’? That would not be something that would have been asked of you?

**Ms Griffiths**—No, I was directed to do that. So, for example, if Senator Brown had come through the glazed gallery and got to the chamber, I would have had to have used all my persuasive techniques to ask him not to enter, but I would not have forcibly moved him.

**Senator FAULKNER**—So there is one rule for the Black Rod of the Senate and another for Senate attendants?

**Mr Evans**—No, I should explain. The direction that I gave was a direction to all Senate staff, not just the attendants.

**Senator FAULKNER**—So your direction, Mr Evans, was as applicable to the Black Rod, Ms Griffiths, as it would be to the Senate chamber attendants?

**Mr Evans**—Yes.

**Senator FAULKNER**—Hence, Ms Griffiths indicating that she would have been as persuasive as she could have been. Ms Griffiths, what would have been your attitude? You would not have fulfilled the requirements of the security directive that, in part, is under the signature of the President of the Senate?

**Ms Griffiths**—I would have, because I think my persuasive skills would have convinced Senator Brown not to enter.

**Senator FAULKNER**—It is a serious point here.

**Ms Griffiths**—Yes, that is correct.

**Senator FAULKNER**—The President of the Senate has co-signed a security directive in relation to the exclusion of senators from ‘the event’, as it is described here—the joint meeting, as I would prefer to describe it—and you were authorised by this directive to use, if necessary, preventative force. That is one directive you have. On the other hand, you have a directive from Mr Evans, as Clerk of the Senate, not to use preventative force. I am just trying to understand where you fit into this equation. Would you have used preventative force or not?

**Ms Griffiths**—No.

**Senator FAULKNER**—Okay. How many staff in your own office, Ms Griffiths, if any, were dedicated to security functions for the Bush and Hu visits?

**Ms Griffiths**—In my office, none. All the security staff are now under Joint House, so Mr Crane would have the details of how many staff were on on that day.

**Senator FAULKNER**—Were there any additional costs borne by the Department of the Senate that you are aware of in relation to these visits?

**Ms Griffiths**—Yes, and Mr Crane also has those details. Overtime costs would have been higher that day. We have now negotiated an MOU with Joint House and we have capped the level of security funding at \$19.3 million, which is shared—half by the Senate and half by the House of Representatives. Joint House cannot go over that cap, so it has to be found within those funds. There were no additional costs to the Department of the Senate, except the Clerk did offer the Senate department staff who were not required to come in on that day to be on paid leave at home. The cost of that, assuming that every person in the department was on leave for half a day, was approximately \$23,700.

**Senator FAULKNER**—But you would have a record of how many. I appreciate the decisions that were made in relation to staff. You would have a record of how many staff actually attended and how many didn't, I assume.

**Ms Griffiths**—Not with me today, but I can get that for you.

**Senator FAULKNER**—Would it be best, Mr President, to deal with the costs of these visits when Mr Crane comes to the table?

**The PRESIDENT**—Joint House, yes, but I think it was about \$43,000 for the Bush visit and about \$4,000 for the Hu visit, I recall. They can confirm those with Joint House.

**Senator FAULKNER**—I think we can deal with that with Joint House if I could ask Mr Evans whether, if a relevant official is required, we might be able to bring someone to the table when we question Joint House. Would that be all right?

**Mr Evans**—Yes, certainly, we can do that.

**Senator FAULKNER**—Mr President, in relation to the response of the Speaker in the joint meeting when, at the conclusion of the joint meeting, Senators Brown and Nettle were named and a decision was taken to exclude them from the House of Representatives chamber for the ensuing 24 hours, had you discussed in the broad with the Speaker of the House of Representatives the issue of what might occur if any senator or member engaged in disruptive behaviour or conduct during the joint meeting—or what was believed by the Speaker to be disruptive conduct?

**The PRESIDENT**—Only in general terms. I think the Speaker was of the view that, given his discussions with Mr Organ, he was not expecting any disruptions. I just said, 'Well, you can never tell on these sorts of occasions.' That is about as far as it went. I am aware that, on the Thursday before President Hu's visit, he did inform me of, and discuss with me, the fact that, given that two senators and one of the senator's guests had disrupted the parliament, he would instruct security officers to ensure that the guests of those senators that were involved in the disruption the day before were placed in the closed gallery.

**Senator FAULKNER**—Here I am just focusing on events in the lead-up to the joint meeting where President Bush addressed the Australian parliament. At the moment I would just like to limit my questioning to that period leading up to the first of the joint meetings, to hear President Bush. I wondered if you could indicate to the committee whether there had been any discussion between you and the Speaker about how he—the Speaker—would deal with any behaviour which, in the view of the Speaker, undermined the authority of the chair.

**The PRESIDENT**—As I indicated earlier, only in general terms did we discuss what might happen. As you would be aware, there was a debate in the Senate and a decision for the joint sitting to be conducted under the standing orders of the House of Representatives. I presumed that was what would happen.

**Senator FAULKNER**—So you were not aware that there was a possibility that a member or senator who, in the view of the Speaker, defied the authority of the chair could be named? You were not aware of that?

**The PRESIDENT**—No.

**Senator FAULKNER**—At any stage prior to the Thursday joint sitting?

**The PRESIDENT**—I did not know what was going to happen. I was not aware that anybody was going to be disruptive in the Senate. We discussed it in general terms.

**Senator FAULKNER**—I am not suggesting that you have a crystal ball. I am not suggesting for a moment that you would be able to predict what any member or senator might do. What I am asking is whether there had been any preplanning.

**The PRESIDENT**—No.

**Senator FAULKNER**—Mr Evans, are you aware of any preplanning at all?

**Mr Evans**—No. Going back to the time when these joint meetings were first instituted, there was general discussion about what might happen in the case of interjections, disruption and so on, but on this occasion it was not discussed at all I think—not with me, anyway.

**Senator FAULKNER**—Who was involved in this general discussion?

**Mr Evans**—Going back to when we had the first of these joint meetings and we first adopted—when I say ‘we’, I mean the Senate—this resolution that the rules of the House of Representatives would apply so far as they are applicable to the joint meeting. There was some discussion about what would happen in the case of disruption, what the Speaker could do and what the Speaker could not do. That discussion was not repeated on this occasion in any systematic fashion.

**Senator MURRAY**—What year are you referring to?

**Mr Evans**—It was 1991-92 when we first adopted it. I keep saying ‘we’, Mr Chairman; I do not apologise for identifying with the institution. When the Senate first adopted this procedure of the joint meetings, there was discussion about what rules would apply, how this should be expressed and what would happen. All that was just left up in the air, I think, and not revisited in any systematic fashion on this occasion.

**Senator FAULKNER**—Do you as Senate Clerk have a view as to whether it is competent for senators to be named and excluded?

**Mr Evans**—The resolution of the House of Representatives agreed to by the Senate says that the rules of the House of Representatives shall apply so far as they are applicable. That is one of those phrases that drafters of things put in when they are not sure what the situation is, what the interpretation should be and how the rules are going to apply. They put that in and keep their fingers crossed that they do not have to interpret it. You can argue a great deal about what that expression means and how far the rules were applicable. There is a great

difficulty with having, simultaneously, a meeting of the Senate—which this is—and a meeting of the House of Representatives in the House of Representatives chamber and saying that someone else—the Speaker and members of the House of Representatives voting on the question—can decide whether a senator is permitted to attend a meeting of the Senate. You can say that that is a question so significant to the Senate and so exclusively for the Senate to determine that that adoption of House of Representatives rules cannot possibly extend to that question. If it were a legal question before the High Court, a great many QCs would receive a great deal of money for arguing it. But it is very dubious that that sort of expression in that resolution covers that sort of situation.

**Senator FAULKNER**—Has the Department of the Senate given any consideration—again, in the broad—to the actual constitutionality of such a joint meeting?

**Mr Evans**—Not again. These questions were raised when this procedure was first adopted. They have not been revisited in any systematic fashion. But there are great potential difficulties with the two houses having simultaneous meetings and then providing that someone else will preside over what is in effect a meeting of the Senate and that members of the House of Representatives will be voting about what goes on in a meeting of the Senate. There is a great difficulty with that situation. All this was raised back in 1991. I raised it with everybody who was willing to listen to me, and a good many were not. Some were and some were not. There has been no systematic revisit of it.

**CHAIR**—Senator Brandis, I think you had a few questions.

**Senator BRANDIS**—Do you mind if I pursue this same issue, Senator Faulkner?

**Senator FAULKNER**—Not at all, Senator Brandis.

**Senator BRANDIS**—Mr Evans, what do you say was the constitutional character of the proceedings in the House of Representatives chamber for President Bush and President Hu?

**Mr Evans**—On one view it had no constitutional character because it is not provided for in the Constitution but, theoretically, it was a meeting of the Senate which happened to be taking place in the House of Representatives chamber at the same time as a meeting of the House of Representatives was occurring there. This is the way in which it was framed in the resolutions. The Senate, in its resolution, agrees to meet for that purpose—for the purpose of receiving the address—and it agrees to meet simultaneously with the House of Representatives in the House chamber.

**Senator BRANDIS**—So it was not a joint sitting?

**Mr Evans**—No. I have been very careful and I have tried to persuade other people to be careful about calling it a joint meeting rather than a joint sitting to distinguish it from the joint sitting, which is a particular arrangement occurring under the Constitution.

**Senator FAULKNER**—I think the *Hansard* record of these particular hearings will show that I am one at least who is convinced on that point.

**Mr Evans**—Section 57 of the Constitution refers to a joint sitting where the members of the two houses will meet and vote together, so it is a different body constituted under that provision of the Constitution. It is not a meeting of the Senate, it is not a meeting of the House of Representatives; it is an entirely different body consisting of the members of the two



houses meeting and voting together. As a purist I take the view that it is not open to the two houses to authorise that sort of different body to meet for any purpose other than under section 57 of the Constitution.

**Senator BRANDIS**—Is that because the joint sitting contemplated by section 57 operates under the circumstances provided for by section 57—that is, after a double dissolution election and not otherwise?

**Mr Evans**—Precisely.

**Senator BRANDIS**—There is nowhere else in the Constitution is there which provides for a joint sitting?

**Mr Evans**—No. There is a provision in the Constitution, section 50, which says the two houses can provide rules for their proceedings either separately or jointly with the other house, or some words to that effect. Some people take the view that that authorises the houses to hold joint meetings on all manner of things if they want to; other people take the view that that refers specifically to the joint sitting under section 57 and nothing else, which is the only constitutionally authorised joint proceedings.

**Senator MURRAY**—You mean it is a mechanism to set up rules by which a joint sitting can occur?

**Mr Evans**—Yes, indeed.

**Senator BRANDIS**—I am just looking at that now, Mr Evans. Section 50(ii), which is what you are referring to, seems to be adjectival and it seems to operate upon there being in existence an independent ground for a joint sitting.

**Mr Evans**—As I said, if it were a question of law, highly paid QCs could make a lengthy submissions about the subject.

**Senator BRANDIS**—Is that your view, Mr Evans?

**Mr Evans**—My view is that that refers to joint sittings under section 57 of the Constitution and nothing else.

**Senator BRANDIS**—At the Centenary of Federation, for instance, there were the proceedings in the Exhibition Building in Melbourne. Do you say that is of the same character—that it is merely a joint meeting?

**Mr Evans**—It is merely a meeting of the Senate in the Exhibition hall simultaneously with a meeting of the House of Representatives.

**Senator BRANDIS**—If that be so, then it is not just a meeting of the Senate but also a meeting of the House of Representatives.

**Mr Evans**—Occurring simultaneously in the same place.

**Senator BRANDIS**—Yes. But you agree that it is also a meeting of the House of Representatives?

**Mr Evans**—Yes.

**Senator BRANDIS**—Which, on this occasion under resolutions adopted by the Senate, was presided over by the Speaker of the House of Representatives, that being the place of the meeting? I am going back now to President Bush and President Hu.

**Mr Evans**—Yes, but you still have the problem that, apart from the joint sitting under section 57 of the Constitution, the houses are not constitutionally authorised to have joint sittings about anything else. On one view that means they are not permitted to have a joint sitting of themselves, meeting and voting together in accordance with the words of section 57 on other matters, which involves, in particular, other people presiding over a meeting of the Senate and determining the proceedings of the Senate and who, how and when senators should attend.

**Senator MURRAY**—Doesn't that refer to a deliberative meeting? This was just a meeting to listen.

**Mr Evans**—Yes, exactly. That is why, when we were drafting the original resolution—going right back to 1991—we put in the phrase 'the only business transacted shall be ...' That was an attempt to limit this occasion, or whatever you might call it, down to that very confined scope of business. It was hoped that nothing else would occur that would give rise to all these difficult problems.

**Senator BRANDIS**—But what it really amounts to—I am just following Senator Murray's question—is that that proceeding, to use a neutral word, had no legislative competency? It could not have purported to exercise the legislative power of the Commonwealth.

**Mr Evans**—No.

**Senator BRANDIS**—But it was still a simultaneously occurring meeting of each of the two houses of the Commonwealth Parliament?

**Mr Evans**—Yes, indeed, but when you get the members of the House of Representatives and the Senate voting together to decide whether a senator is permitted to attend the meeting of the Senate, that is when you have the difficulties that I referred to right back in 1991, as I say to anyone who would listen, and which we hoped never would arise.

**Senator BRANDIS**—But, of course, Mr Evans, in voting on a resolution of that character, they were not exercising the legislative power of the parliament.

**Mr Evans**—No, but they were exercising a power, in effect impinging on the composition of the Senate.

**Senator BRANDIS**—The common law of parliament applies to all meetings of parliament, and you expand on this with great scholarship in *Odgers*'. At a joint meeting of the Senate and the House of Representatives in the House of Representatives presided over, by agreement of the Senate, by the Speaker of the House of Representatives, the ordinary laws of contempt apply, don't they?

**Mr Evans**—That is a very difficult question. Let me put it this way: if Senator Brown were of a litigious character and liked to take a case to the High Court about this, on one view, the High Court would say this was an internal parliamentary proceeding governed by the rules of the two houses and agreed to by the two houses, and therefore it is not justiciable. That is at one end of the spectrum. At the other end of the spectrum it could be determined as a matter

of law, and the High Court could in effect say, ‘The two houses are not constitutionally authorised to start meeting and voting together on things except under section 57. The Constitution does not authorise that and therefore this whole business was unlawful. You can’t have a joint meeting voting to exclude senators from meetings of the Senate. That is bizarre under the Constitution, therefore the whole thing was unlawful.’ That is the other end of the spectrum. As I say, my view on the whole thing was not to create situations where these difficult questions arise.

**Senator BRANDIS**—Would you agree Mr Evans that, whenever the Senate or the House of Representatives meet in whatever character, whether exercising the legislative power or convening for an essentially ceremonial occasion, the ordinary law of contempt and of parliamentary privilege, the source of which is not to be found in the Constitution but elsewhere, does apply irrespective of whether they are exercising a legislative function?

**Mr Evans**—Yes, in general terms, but it would very much depend on the occasion.

**Senator BRANDIS**—I am looking at page 68 of the current edition of *Odgers’ Australian Senate Practice*, which refers to the situation where the Presiding Officer of one chamber may discipline a member of the other chamber. What is said there is as follows:

It is a fundamental principle that one House of the Parliament has no authority over members of the other House except in the immediate conduct of its own proceedings or those of its committees ...

**Mr Evans**—Yes, and that only makes more dubious what occurred at that joint meeting. What that refers to is, for example, the Speaker ordering a senator out of the senators gallery in the House of Representatives, at a meeting of the House of Representatives.

**Senator BRANDIS**—Exactly. Whatever else it was, it was a meeting of the House of Representatives, presided over by the Speaker of the House of Representatives, albeit simultaneous with a meeting of the Senate. Does it not follow from what you write in *Odgers’* that the Speaker of the House of Representatives, as the master of the procedure of the House of Representatives, does have jurisdiction in respect of contempt committed by a senator?

**Mr Evans**—That does not follow at all, because what the members of the two houses voting together, on one view, or the Speaker, on another view, purported to do was to exclude a senator from a meeting of the Senate. That is a decision of an entirely different order—and, what is more, a different meeting of the Senate which was to take place on a different day.

**Senator BRANDIS**—But, Mr Evans, that leaves out of the account the fact that the Senate had itself passed a resolution to adopt House of Representatives procedures.

**Mr Evans**—‘So far as they are applicable’.

**Senator BRANDIS**—Well, those are weasel words.

**Mr Evans**—Yes, exactly.

**Senator BRANDIS**—I think we are all pretty satisfied; I agree with Senator Faulkner that this was not a joint sitting. It could not have been a joint sitting under section 57, and there is no other form of joint sitting. The joint meeting, presided over by the Speaker of the House of Representatives, conducted under House of Representatives procedures, and the Speaker exercising his jurisdiction or authority in respect of contempt, which is exercisable against a

member of the other chamber in the circumstances described on page 68 of *Odgers'*, was the situation with which we were seized, was it not?

**Mr Evans**—There is a further difficulty there. I think you have to leave aside the question of contempt and the contempt jurisdiction.

**Senator BRANDIS**—Why?

**Mr Evans**—What you have here is questions of order. The ability of each house to maintain order in its own proceedings, and the ability of its Presiding Officers to maintain order in its own proceedings, is distinct from the contempt jurisdiction of each house.

**Senator BRANDIS**—Except, Mr Evans, you would agree, surely, that defying a proper order of a Presiding Officer—and leaving aside the dispute we can have about whether it was a proper order—may constitute contempt, and contumelious defiance certainly would constitute contempt.

**Mr Evans**—Only if explicitly declared by the house to be such. Short of that, it remains simply a question of order. Whenever a member of the House of Representatives is thrown out of the House of Representatives and excluded for 24 hours, the House does not adjudge them guilty of a contempt. It simply adjudges them guilty of a breach of order, which is a different thing. If the breach of order were sufficiently serious, it could revisit the question and say, 'That member was also guilty of a contempt,' and impose some further penalty. But the maintenance of order jurisdiction and the contempt jurisdiction are separate and the contempt jurisdiction does not come into the question unless it is explicitly invoked.

**Senator BRANDIS**—They are separate but overlapping, Mr Evans, because defiance of a proper order may constitute contempt.

**Mr Evans**—It may, but only if explicitly declared to be such by the house concerned.

**Senator BRANDIS**—Quite. The contempt jurisdiction may be attracted—not necessarily will be, but may be attracted—by defiance of a proper order.

**Mr Evans**—Yes, and each house could adjudge that a member who had been guilty of a breach of order was also guilty of a contempt and impose some penalty. But you get to even more difficult questions than the ones we have been talking about if you then say, 'The House of Representatives can adjudge a senator guilty of a contempt of the House because, while attending a simultaneous meeting of the Senate and the House of Representatives in the House of Representatives chamber, the senator was guilty of a breach of order.' That raises even more difficult questions.

**Senator BRANDIS**—That seems to be what you say on page 68 of *Odgers'*.

**Mr Evans**—No—

**Senator BRANDIS**—As I read it, it says that the one circumstance in which a member of one chamber may be adjudged guilty of contempt of the other or subject to the jurisdiction of the other is when there is a contempt in the face of the other. Although this was a meeting of the Senate, it was also a meeting of the House of Representatives presided over by the Speaker of the House of Representatives under House of Representatives procedure and, to the extent to which a senator's conduct may have been contemptuous of the House of

Representatives, that was the very set of circumstances in which the Speaker's jurisdiction was attracted.

**Mr Evans**—Yes, but everyone agrees that the ability of the Speaker to maintain order in the House of Representatives extends to excluding a senator from the galleries and so on, not excluding a senator from a meeting of the Senate which is to take place on a separate day and under a separate resolution.

**Senator MURRAY**—Would the action have been legitimated if the Speaker had allowed a vote of the Senate to occur there and then and a majority of the senators had confirmed the exclusion of Senator Brown for the next day?

**Mr Evans**—Not if the Speaker called for a vote of the Senate. It would have to be the Senate itself.

**Senator MURRAY**—If the President had done so and the senators—not the House of Representatives—had agreed, would that have legitimated the action?

**Mr Evans**—The problems I am talking about would not then have arisen. If we are going to continue with this practice of joint meetings we may have to adopt some rule like that—if a senator commits a disorder, the President and the Senate will deal with that senator. That may get over the problem. We may need an elaborate set of rules to deal with situations like that. But I emphasise that it is precisely because of all these difficult questions that right back in 1991 I said to anyone willing to listen, 'Don't hold these things as formal meetings of the two houses. Have them as gatherings of members and senators only, hosted by the Presiding Officers, and not formal meetings because that gives rise to too many difficult questions.'

**Senator BRANDIS**—Mr Evans, do you think it would be constitutionally possible for the Senate to have passed a resolution in relation to this meeting deeming the Speaker of the House of Representatives to have the powers exercisable by the President of the Senate for the purposes of the meeting?

**Mr Evans**—That would only compound the problem—

**Senator BRANDIS**—Yes, I suspect it would not be—

**Mr Evans**—and would allow Senator Brown's lawyers to spend a couple of extra days in the High Court arguing the matter, I suspect.

**Senator BRANDIS**—Even this expression 'joint meeting' is apt to be a little misleading, because it kind of implies that, from a constitutional point of view, the two houses together have a corporate unity. If it is as you have explained—and I am inclined to agree with you—then there is simply no corporate parliamentary entity at all; it would be truer to say that it was a simultaneous meeting of the Senate and the House of Representatives.

**Mr Evans**—Yes. That is the very expression I started using back in 1991. It was not picked up, so I started saying 'joint meeting'.

**Senator BRANDIS**—Then I go back to my point. If that be so, then it seems even more apparent that that is the circumstance in which, to the extent to which there is disruption of the House of Representatives at that simultaneous meeting by a senator in attendance, the disciplinary power, which you describe at page 68 of *Odgers*, is exercisable.

**Mr Evans**—As I said, that does not follow at all. That sentence in *Odgers'* refers, as I said, to such things as a senator causing disruption in the gallery of the House of Representatives, not to these other strange gatherings that we have now had four of.

**Senator BRANDIS**—Or a senator causing disruption in the House of Representatives chamber during the simultaneous meeting, which is, insofar as the Speaker of the House of Representatives is concerned, a meeting of the House of Representatives.

**Mr Evans**—Yes, but the action of the Speaker also had the effect of excluding a senator from a meeting of the Senate, as I said, on a separate day, operating under a separate resolution. This raises very, very difficult questions which, as I said, I think I would rather not create a situation where they arise.

**Senator MURRAY**—Again, for a point of clarification, you are arguing that there may have been, under the argument put by Senator Brandis, some legitimacy to the ejection motion—there may—but not to the subsequent motion to exclude them the next day because that was a completely separate set of events.

**Mr Evans**—That compounded the situation and made it more difficult.

**Senator MURRAY**—But the point you are making is that the Speaker of the House absolutely cannot exclude a senator from a Senate meeting.

**Mr Evans**—Correct.

**Senator BRANDIS**—But can exclude a senator from a House of Representatives meeting.

**Mr Evans**—Yes, but the action of the Speaker had the effect of excluding a senator from both.

**Senator BRANDIS**—If what the Speaker was doing was expelling a senator from a meeting of the House of Representatives, and that had the incidental but inevitable consequence of making it impossible for the senator to attend a meeting of the Senate, then that is slightly different. I know that it is a very fine distinction and perhaps only a theoretical distinction. But the jurisdictional character of what the Speaker was doing was in fact to exclude a person causing disruption from a meeting of the House of Representatives. The effect obviously was otherwise, but the character of the jurisdiction being exercised was as I have said, wasn't it?

**Mr Evans**—As I say, my view is: let us not create situations where these difficult questions arise. I noticed that when I started raising some of these points my colleagues at the other end of the building started talking about the Speaker excluding the two senators from the House of Representatives chamber. They were aware that there was a difficulty here and they started saying that it really only excludes them from the chamber, which indicated an awareness that there was a big problem there. When we went to the meeting on Thursday, I remarked jocularly to some people in the chamber, 'I'd better watch out for the Prime Minister, that he doesn't try to put a few bills through while we're meeting here.'

**Senator BRANDIS**—I do not think anybody is more sensitive to the limitations of section 57 of the Constitution, Mr Evans, than the Prime Minister.

**Mr Evans**—You have to watch prime ministers, Mr Chairman. There is a serious question here. Suppose the Senate said, ‘In dealing with the higher education legislation we will invite representatives of the senates of the various universities to come and sit here with us in the Senate chamber and debate the matter with us and then to vote on the legislation. We’ll take note of their votes on the legislation, and we’ll travel around the country meeting with this body and that body.’ I think you would get to a point where even the most non-activist judiciary would have to say, ‘The Senate is not authorised to do that. The Senate is authorised under the Constitution to meet and vote by itself on legislation. It is not authorised to be conducting joint meetings with anybody else and voting with other bodies.’

**Senator BRANDIS**—Mr Evans, it is simpler than that. In the example you have given, that simply would not be a meeting of the Senate.

**Mr Evans**—It would if the Senate resolved that we were going to meet next Thursday in the chamber of the senate of the University of Sydney.

**Senator BRANDIS**—That might be a meeting, but it would not, for any constitutional purpose, be a meeting of the Senate. There can only be a meeting of the Senate if those who are members of that meeting are senators and the Senate is quorate and if appropriate notice provisions have been observed. It is not a meeting of any constituted body—whether a parliamentary or corporate body—if persons with no entitlement to be present are participants in the meeting. So what you have described would not be a meeting of the Senate; it would be a meeting of a group of senators with non-senators and have no constitutional status or character whatsoever.

**Mr Evans**—But it would only be a very slight extension of what happened in the House of Representatives chamber. That was a meeting of the Senate. There were senators present—the Senate quorate, as you say. But members of the House of Representatives were permitted to vote and to determine a question of whether a senator would be permitted to attend a meeting of the Senate. That is where the difficulty arises. If the Senate said, ‘We’re going to hold a meeting of the Senate next Thursday in the meeting room of the University of Sydney senate. It is going to be a joint meeting. We’ll all debate things happily and then take a vote to see whether we decide to pass this higher education legislation,’ that would be directly analogous to what occurred in the House of Representatives chamber.

**Senator BRANDIS**—Except, if your thesis is right—and I think it is—and, strictly speaking, the constitutional character of this event was a simultaneous meeting of the Senate and the House of Representatives, the jurisdictional character of what the Speaker did was to exclude a senator from a meeting of the House of Representatives. That had the necessary consequence of also excluding him from a meeting of the Senate. But, if the question is whether the Speaker has the jurisdiction to do that, then it seems—in particular following what you have written on page 68 of *Odgers*’—that he did.

**Mr Evans**—As I keep saying, that does not follow at all from that statement on page 68 of *Odgers*’. Senator Brandis would know that one of the favourite tricks of lawyers is to take an argument to its absurdity. That is just what I have done with the meeting of the Senate simultaneously with the senate of the University of Sydney. It is no different in principle.

**CHAIR**—That is a very unfair characterisation of lawyers.

**The PRESIDENT**—This will not be the last absurdity that we will hear about this because, as you know, the Senate resolved to send this matter about joint meetings or joint sittings—whatever you like to call them—off to the Procedure Committee.

**Senator BRANDIS**—Of course, the other way around it, Mr Evans, would be to rely on section 1 of the Constitution and, if the Governor-General were present, say that it was a meeting of the parliament.

**Mr Evans**—I think that would only compound the difficulties.

**Senator FAULKNER**—Chair, in a previous meeting of this estimates committee, Senator Brandis was unkind enough to take a point of order on me, suggesting that one of my questions was hypothetical in nature. Given your attitude as the chair now, I am assuming that any hypothetical question will be ruled in order, because we have had many in the last half-hour.

**CHAIR**—Only if I deem it relevant, Senator Faulkner.

**Senator FAULKNER**—I see.

**Senator BRANDIS**—Have there been hypothetical questions? I thought we had constitutional questions.

**Senator FAULKNER**—Mr Evans, we were speaking before about the security directive from Mr Andrew and Senator Calvert. You indicated that a different approach was taken in relation to Senate staff. I think you indicated that any directives to them were verbal—is that right?

**Mr Evans**—Yes.

**Senator FAULKNER**—How was that done? Who made those directives to Senate staff?

**Mr Evans**—Do you mean my ‘directive’?

**Senator FAULKNER**—Yes.

**Mr Evans**—That was done by me saying to Ms Griffiths that no Senate officer is to lay hands on a senator.

**Senator FAULKNER**—When the Senate Clerk said that to you, Ms Griffiths, how did you communicate that to the relevant security staff?

**Ms Griffiths**—I advised my deputy, who advised the two staff that were working in the chamber.

**Senator FAULKNER**—Okay; thanks for that. Mr President, you have indicated to me that there was no preplanning—I think this is fair to say—prior to the action taken against the senators in the joint meeting; that there was no discussion between you and Mr Speaker about an issue where the authority of the chair was brought into question or there was disruptive behaviour or the like. Those matters were not discussed between you and Mr Speaker?

**The PRESIDENT**—The matter of disruptive behaviour was discussed, as I said earlier, in general terms when the Speaker indicated that he had spoken to Mr Organ and did not think there would be any trouble. I was of a different view. But there was nothing discussed about what was going to happen because in my view—and, given the discussion we have had this



morning, it might be different from what I expected—the Speaker had the authority and the meeting was being held under the standing orders of the House of Representatives. I thought that was what the Senate had agreed to.

**Senator FAULKNER**—But you were not aware of how the Speaker would deal with an incident arising where a senator might have questioned or undermined, in the Speaker’s view, the authority of the chair?

**The PRESIDENT**—No.

**Senator FAULKNER**—You were not aware of how such a matter would be dealt with?

**The PRESIDENT**—No. I know there are subtle differences between the standing orders in the House of Representatives and the Senate. As it turned out, that is the way the Speaker interpreted it. But we certainly had not preplanned anything. That was it.

**Senator FAULKNER**—Okay. That is what I wanted to get clear with you, that there had been no discussion about that prior to the joint meeting with President Bush. Subsequently, after the action was taken in the chamber, did you seek any interpretation about what impact that would have in terms of attendance in the chamber of the two senators who were named and excluded—that is, Senators Brown and Nettle?

**The PRESIDENT**—No, I did not, because I still presumed that the standing orders of the House of Representatives applied. Certainly I did not make any inquiries of the Speaker as to what was going to happen. I just presumed that, once the motion was put by the Leader of the House and it was carried on the voices—as you can remember, there was an amount of noise around the chamber: everybody in the chamber was clapping, including all the diplomats, at the decision on Speaker—and then we left.

**Senator FAULKNER**—So you did not have any discussions with the Speaker about how the naming and then exclusion of Senators Brown and Nettle would be interpreted?

**The PRESIDENT**—No; only the fact that I was of the belief—and that is why I signed the joint directive—that they were suspended for 24 hours and they would not be allowed to enter the chamber.

**Senator FAULKNER**—All right, but how did you come to that belief? What I am trying to find out is did you seek advices—

**The PRESIDENT**—I believed that because—

**Senator FAULKNER**—You have signed this particular security directive.

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Let us go back a step. You have signed it; who drafted it?

**The PRESIDENT**—I believe it was drafted by the Speaker’s senior private secretary. I will just check that is right. Yes, by the Speaker’s senior private secretary.

**Senator FAULKNER**—Were you consulted on the wording?

**The PRESIDENT**—Yes. In fact, the wording was changed somewhat.

**Senator FAULKNER**—Did you seek any advices from Senate staff or others about the appropriateness of this course of action?

**The PRESIDENT**—Only to the effect of the wording of the letter. I did not seek any advice as to whether the power was there to keep a senator out because I just believed that we were working under the House of Representatives rules. Until this morning I still believed that to be the case.

**Senator FAULKNER**—I would not get too bogged down in this morning's discussion—not to suggest that it was not interesting. It might be interesting to the people around this table, but I think the ratings might have dropped off a bit. I hope that does not hurt the Clerk's feelings.

**Mr Evans**—I have never been in pursuit of ratings.

**Senator FAULKNER**—No, neither have I. I do not want to get bogged down on constitutionality; I just want to go to the facts of what occurred. This was drafted in the Speaker's office—is that correct?

**The PRESIDENT**—I believe so, yes.

**Senator FAULKNER**—Do you know when this was signed? I assume it was signed sometime on the Thursday after the Bush joint meeting.

**The PRESIDENT**—It was late Thursday afternoon.

**Senator FAULKNER**—I see. You proposed changes to the wording of the original draft?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Could you indicate what those changes were and why you proposed those changes?

**The PRESIDENT**—They were very minor. I cannot remember the exact words of the original instruction, but it was a little bit stronger than 'preventative force'. We changed the wording.

**Senator FAULKNER**—Did you seek any advices on the appropriateness or otherwise of the use of 'preventative force'?

**The PRESIDENT**—Not from the staff, no.

**Senator FAULKNER**—No, not from staff—did you seek any advice?

**The PRESIDENT**—Not from anybody else I didn't, no.

**Senator FAULKNER**—So you did not seek advice?

**The PRESIDENT**—No.

**Senator FAULKNER**—Was there any discussions with members of the executive about the development of this security directive?

**The PRESIDENT**—Which executive?

**Senator FAULKNER**—The executive government.

**The PRESIDENT**—No, not that I am aware—unless the Speaker did; I did not.

**Senator FAULKNER**—You are not aware of any?

**The PRESIDENT**—No.

**Senator FAULKNER**—As far as you are aware, this was a matter that was being handled exclusively by the Presiding Officers and their staff?

**The PRESIDENT**—Basically by the Speaker, because it was a matter for the House of Representatives. I believed we were working under their rules.

**Senator FAULKNER**—As far as you are aware, there was no involvement beyond Mr Speaker's office—is that correct?

**The PRESIDENT**—Correct.

**Senator FAULKNER**—There is a subheading there 'Serjeant-at-Arms' and 'Usher of the Black Rod'. Can you explain to me, Ms Griffiths, why the Usher of the Black Rod is on this directive when you are giving different directives to the Senate staff? It does not seem to compute.

**Ms Griffiths**—Because I am responsible for the security of the Senate chamber as the Serjeant-at-Arms is for the House of Representatives and we would be jointly providing security advice to the Executive Leader (Security)—and probably because there were senators involved.

**Senator FAULKNER**—Your title is there. Did you see this before it went out?

**Ms Griffiths**—No, I saw it when I got it. I was advised that it was coming.

**Senator FAULKNER**—It has your name on it, but you saw it when you got it?

**Ms Griffiths**—Yes, because it is directed to me.

**Senator FAULKNER**—Is it directed to you?

**Ms Griffiths**—And the Serjeant-at-Arms. That is who it is sent to.

**Senator FAULKNER**—And it has been distributed more broadly?

**Ms Griffiths**—Yes, we gave it to the Executive Leader (Security) and presumably the security staff would have been advised.

**Senator FAULKNER**—When did you receive it?

**Ms Griffiths**—Late on Thursday. I cannot remember what time.

**Senator FAULKNER**—What did you do when you received it?

**Ms Griffiths**—Nothing, because the Serjeant-at-Arms advised me that he would be providing it to the Executive Leader (Security). I do not think it was until the next day that I gave a copy to my deputy.

**Senator FAULKNER**—Can you say, Mr President, just so we are clear, why the decision was made and who made the decision—it is in your name and the Speaker's name? Did you seek advice on the issue of the two senators not being permitted to approach the House of Representatives chamber through the glass linkways? Was that your decision and the Speaker's decision?

**The PRESIDENT**—Yes, it was.

**Senator FAULKNER**—Did you seek any advice on that or was that something you cooked up over in his office?

**The PRESIDENT**—No, I did not. If you read the letter, the Speaker advised me—and I always believed—that the joint meeting was being held under the standing orders of the House of Representatives. As you can see from our letter, he advised me that, given his decision in the chair, Senator Brown and Senator Nettle were not permitted to enter the chamber until after 11.55 a.m. on 24 October. I then conveyed that advice to the two senators involved.

**Senator FAULKNER**—Yes, I am aware of that. I think someone has made that public at a previous stage. That is right, isn't it? The letter to you, Senator Brown, was made public.

**Senator Brown**—I am not sure, but it should be tabled.

**Senator FAULKNER**—I thought it might have been. Could a copy of the letter be tabled, please, so that the record is complete?

**The PRESIDENT**—We can provide the letter addressed to the two senators.

**Senator FAULKNER**—Can you say when that advice was provided to the two senators?

**The PRESIDENT**—Not off hand. I can check. It was late on the Thursday, I understand.

**Senator FAULKNER**—Did you have a series of meetings with the Speaker in working out this approach?

**The PRESIDENT**—No. As I said before, I believed we were operating under the standing orders of the House of Representatives. He informed me, as he said in this letter, of what had happened. I then made the appropriate arrangements to send letters to both Brown and Nettle informing them officially of their suspension for 24 hours. The only discussions I had with the Speaker were about the next day.

**Senator FAULKNER**—Okay, we will get to that. I appreciate you conveyed advice to the two senators that they were not permitted to enter the chamber, but was advice subsequently provided to the two relevant senators about the details contained in the last paragraph of the security directive about not being permitted to approach the house through the glass linkways? Was that information provided to the two senators?

**The PRESIDENT**—I cannot recall, Senator, but it will be in the letter when we provide it. I did not verbally provide that instruction to them. Whatever was in the letter—I do not have it in front of me. I do not recall.

**Senator FAULKNER**—Can you explain the interface you had with the Speaker after the conclusion of the joint meeting for President Bush and before the meeting with President Hu? Could you very briefly detail for the committee what your role was in the preparation for the Hu joint meeting in the aftermath of what had occurred on the Thursday?

**The PRESIDENT**—I spoke with the Speaker and he indicated his concerns, given what had happened on the Thursday, that there may be disruption in the joint meeting on the Friday by the guests of the senators. He had given an instruction that the guests of the Greens would be taken to the enclosed gallery. He also told me at that meeting—or it may have been later—that he had received expressions of concern from some areas about invitation swapping. Some people had indicated their guests were X and they may have been Y.

**Senator FAULKNER**—Who had expressed concern?

**The PRESIDENT**—I am not sure whether he mentioned that on the Thursday or on the Friday as a subsequence of the other matter when the foreign minister came.

**Senator FAULKNER**—You said ‘there was concern from some areas’ about invitation swapping. Who were the ‘some areas’?

**The PRESIDENT**—I think he might have said that officials from the Chinese Embassy had indicated to him that there may have been some people coming with invitations and they were not the people indicated on the invitations. I am not sure whether that was on the Thursday or the Friday morning. That was about as far as it went.

**Senator FAULKNER**—Who informed the two senators about the arrangements that would apply to their guests?

**The PRESIDENT**—I certainly do not know. It was a matter for the Speaker. He just said that he was going to make arrangements to ensure that those guests of the Green senators were placed in the overflow gallery, along with the overflow guests from other senators and members. They were not there on their own. As you know, the galleries were full. He took the precaution, given what had happened on the Thursday, to ensure that they were in the overflow gallery.

**Senator FAULKNER**—We do not know how or if the two senators were informed of this.

**The PRESIDENT**—I do not know. You should ask the Speaker that.

**Senator FAULKNER**—I cannot ask the Speaker, as you would be aware. I can only ask you.

**The PRESIDENT**—I do not know how that happened. He just told me that he had made arrangements for that to happen.

**Senator FAULKNER**—Ms Griffiths told us earlier that she took the responsibility, that it was one of her key roles, to deal with senators and their guests. Perhaps I should address this question to Ms Griffiths.

**Ms Griffiths**—My role in that was to ascertain who the senators’ guests were. After that, ceremonial and protocol had officers stationed in the galleries. I was not involved in where they were seated or certainly the Speaker’s ruling that Senator Brown’s guests go up into the glazed gallery.

**Senator FAULKNER**—When did you become aware of that? Before the event or after the event?

**Ms Griffiths**—Before—probably on the Friday morning.

**Senator FAULKNER**—Who told you?

**Ms Griffiths**—The Serjeant-at-Arms.

**Senator FAULKNER**—How did you respond?

**Ms Griffiths**—I took it in my stead. The Speaker is responsible, so I could not voice my disapproval or otherwise.

**Senator FAULKNER**—I am not suggesting you should have. Just for the completeness of the record I am trying to understand what the response was, if any. But there was none.

**Ms Griffiths**—None.

**Proceedings suspended from 10.34 a.m. to 10.53 a.m.**

**Senator FAULKNER**—Mr President, I wonder whether you have able to dig out the copies of the letters and, if you have, whether you might be able to table them for the benefit of the committee.

**Senator Calvert**—Yes, I have. Also, there is a letter included there from the Speaker informing me of the decision of the joint meeting. I can table those if you want them.

**Senator FAULKNER**—I appreciate that and thank the President for tabling that material. Before our brief suspension, Mr Chairman, I was asking the President if he could outline for the committee the contact he had with Mr Speaker—and I will follow that through with questions about contact with any others—on this matter in relation to preparation for the joint meeting with President Hu. We are focusing now, Mr President, on events after the joint meeting with President Bush in the lead-up to the joint meeting with President Hu.

**Senator Calvert**—I am just checking with the Black Rod to make sure that we did have a dress rehearsal, if you like to call it that, on the Thursday afternoon of the ceremonials involved with the arrival of the President from China. It was after that that the Speaker informed me that he had made arrangements and had taken the decision—because of the interjections from the gallery that day—to put the Greens's guests in the glazed public gallery along with the other overflow guests of members and senators. I guess they were the only arrangements we made prior to the arrival of President Hu on the Friday morning.

**Senator FAULKNER**—I read an article in a newspaper, which might have been inaccurate—as you would be well aware, Mr President, many newspaper articles are inaccurate—suggesting that there were discussions on the Friday morning. The article suggested that those discussions were between Chinese officials—in fact, one newspaper suggested the discussions included the Chinese ambassador—yourself and the Speaker of the House of Representatives. Is that not accurate?

**The PRESIDENT**—We did have discussions, prior to the arrival of the President on the Friday morning, with the Chinese foreign minister—I understand that was his title—and one of his staff.

**Senator BROWN**—Mr Li.

**The PRESIDENT**—It was the Chinese foreign minister, whoever he was. While the Speaker and I were waiting for the president to arrive, the Chinese foreign minister arrived and we had brief discussions with him in the Speaker's office. He informed us that President Hu was concerned about possible interjections from the gallery, given what had happened the day before. The Speaker gave the minister an assurance that he had already taken measures, as far as possible, to stop that from happening. Basically, that was it.

**Senator FAULKNER**—Was it explained to the Chinese foreign minister what the measures that had been taken were?

**The PRESIDENT**—The Speaker informed the Chinese foreign minister that the guests of the Green senators were in the overflow gallery with guests of other members and senators and that he believed there would not be any interruptions given the fact that the two Green

senators who had caused the disruption the day before would not be in attendance. The foreign minister left and about two or three minutes later the President arrived.

**Senator FAULKNER**—Were you involved in any discussions, apart from those with the Speaker? Were there any discussions with members of the executive, their staff, government staff, or representatives or others from the Chinese official party in the lead-up to those discussions with the Chinese foreign minister? Were there any discussions on the Thursday or early Friday morning with outside parties—in other words, those outside your office and Mr Speaker’s office—about how these matters might be dealt with in the aftermath of President Bush’s address?

**The PRESIDENT**—Senator, the only discussion I had with the Speaker was on the Thursday afternoon after our dress rehearsal for the ceremonial occasion. That was when he informed me of what he was going to do. The only discussions I had with representatives of the Chinese were just prior to the President’s arrival. Prior to that, a week or so earlier, the Chinese Ambassador had come to visit—and I believe he visited the Speaker—as a precursor to the President’s visit, raising concerns about what might or might not happen. As far as I can recall, those were the only discussions I had with any officials from the Chinese embassy or otherwise. I am not aware of whether other people spoke with government people or whether there were other discussions with the Speaker.

**Senator FAULKNER**—Was anyone from Mr Crean’s office involved in the dress rehearsal, by the way?

**The PRESIDENT**—No, I do not think so.

**Senator FAULKNER**—Did the Speaker at any stage indicate to you that he had had expressions of concern from or by the executive, members of the government or government staff about what might occur in the House of Representatives chamber on the Friday?

**The PRESIDENT**—I cannot recall that at all, Senator, no. I am sure that he did not mention that at all. As I said, we had the ceremonial performance and he told me that he was going to put the guests in the closed-in gallery. I do not recall him mentioning any concerns from anybody else.

**Senator FAULKNER**—Can someone assist us with what happened with the placement of the guests in the gallery? You may be aware of it, Mr President. If you are not, perhaps an official from Joint House or from the department can assist us. I am still trying to nail down when this decision was made.

**The PRESIDENT**—As I said before, the decision was made on the Thursday afternoon; the Speaker told me that.

**Senator FAULKNER**—All right; it was made on the Thursday afternoon. Do we know yet whether Senator Brown and Senator Nettle were informed about arrangements in relation to their guests? Were they ever informed of this?

**The PRESIDENT**—Not by me. That would have to be the Speaker’s call.

**Senator BROWN**—I can tell you that neither of us were.

**Senator FAULKNER**—That is a very helpful intervention from Senator Brown because as a direct party he has been able to say they were not. Can I ask someone—it may need to be an official from Joint House—when the decision was made in relation to the guests of Senator Brown and Senator Nettle? Can someone please answer that.

**The PRESIDENT**—Perhaps we can deal with that when Joint House appears before the committee—or do you want them to come up now?

**Senator FAULKNER**—I am happy to deal with these matters when Joint House appears before us. I have flagged a number of issues that will need to be dealt with when the Joint House Department comes to the table. That is one of them. I am happy enough, but I do think in these circumstances that Mr Evans, Ms Griffiths or someone else from the Department of the Senate might need to make themselves available then, just in case there are some follow-through questions.

**Mr Evans**—Yes, we will certainly do that.

**Senator FAULKNER**—I would appreciate that. I will hold off my questioning about that area until we are examining the Joint House Department. I assume, Mr President, that questions in relation to the unauthorised placement and use of cameras in the precincts of the House of Representatives chamber and the aftermath of that incident are also matters best dealt with when we question Joint House? Would that be correct? I will seek your guidance on that.

**The PRESIDENT**—Certainly leave it until we are dealing with Joint House, but as far as I know that has been a matter that the Speaker has in hand, because it occurred in his chamber and he is the one who has indicated—

**Senator FAULKNER**—But the issues about the background to this occurring seem to me to be more appropriately dealt with in the Joint House Department. I do not know whether the Speaker has these things in hand or not. I have no idea what the Speaker has in hand, and obviously the Speaker will not be before us and able to be held accountable for his actions. We do not have that advantage. We have four of the five parliamentary departments and our questioning has to be directed to them.

**Ms Griffiths**—I can certainly try to answer some on the filming, but you will have to ask the security staff too if you want to ask specific questions as to how the camera crew got in.

**Senator FAULKNER**—I think the sensible thing for us to do is this. If you would make yourself available, Ms Griffiths, we will deal with it, with your additional and helpful input, at that time if that suits the committee. I think that might be the sensible way of dealing with those issues and a range of security and staffing issues in relation to the presidential visits that I will also deal with through Joint House. I think that might save time, Mr Chairman.

**CHAIR**—Thank you, Senator Faulkner, yes.

**Senator FAULKNER**—For the purposes of general questions to the Senate, can I flag that I do want to ask some other questions in other areas. I will revisit all these issues when we come to Joint House. I think that will save the committee time.

**CHAIR**—The committee now calls Senator Murray.



**Senator MURRAY**—The first point I want to make is just to remark for the record that the Democrats did indeed put up a motion that the meeting be held in the Great Hall—to specifically avoid these constitutional issues. That is for the record. Just to wrap up some of the earlier discourse on the arguable constitutionality of the joint meeting, Mr Evans, the unfolding of the events, as I understand your responses, did lay both houses open to the danger on that Thursday night—a danger which did not emerge—of an injunction to set aside the exclusion of the Greens from the Friday meeting being sought from the High Court by the Greens if they had chosen to do so. It would have been an arguable case, would it not?

**Mr Evans**—Yes, arguable, certainly.

**Senator MURRAY**—That would have created quite a difficult situation, I would have thought, on the following Friday, if such an injunction had been successful.

**Mr Evans**—It would indeed.

**Senator MURRAY**—I want to move to the area of guests and media guests for these joint or simultaneous meetings. Last Thursday, in the media section of the *Australian*, Matt Price gave a full accounting of circumstances relating to the presence of guests and Australian media at that joint meeting. Just to start with, could you give us your synopsis of what you understood to have happened.

**Mr Evans**—My understanding of what happened only comes to me second-hand. I have no direct knowledge of what happened. I did hear about disgruntlement in the press gallery because they were excluded from doing certain things and then discovered that foreign media were allowed to do the very things that they were excluded from. Apart from hearing that—

**Senator MURRAY**—You can understand why they would be upset, can't you?

**Mr Evans**—Yes. It is the sort of thing that would upset them. But apart from hearing that, I did not have any direct knowledge of what had actually happened.

**Senator MURRAY**—Were you or your officers—

**Senator FAULKNER**—Sorry to interrupt, but these matters—complaints and so forth—also would surely be ordinarily dealt with by another parliamentary department, wouldn't they—not the Department of the Senate?

**Mr Evans**—No. If it were a meeting of the Senate, involving access by the press to a meeting of the Senate, it would normally come to the Department of the Senate and the President. But, as we have discussed this morning, this was not a normal meeting of the Senate.

**Senator MURRAY**—Were you or your officers ever consulted as to what the procedures or arrangements were to be for the access of the Australian media to that simultaneous meeting of the House and the Senate?

**Mr Evans**—I was not consulted.

**Ms Griffiths**—I was.

**Senator MURRAY**—Could you give us an outline of what happened?

**Ms Griffiths**—From what I can recall, the press gallery of the House of Representatives chamber was set aside for members of the Australian press gallery, and members of the foreign press gallery were going to be in a glazed gallery upstairs. Under the normal arrangements, all television stations have to use the feed from the in-house monitoring system. They are able to rebroadcast the proceedings and they get the filming from DPRS. There were arrangements for a certain number of still photographers to be in the galleries—from the Australian and US press. Then a camera got in from the American contingent. That is where that film was taken that should not have been.

**Senator MURRAY**—Let us just go back a step. These normal arrangements that you refer to—are those set by the standing orders of the House of Representatives or by presiding officers' determinations?

**Ms Griffiths**—They are actually determinations from the joint broadcasting committee on parliamentary proceedings.

**Senator MURRAY**—What about the arrangements as to the Australian media's presence in the gallery, their right of access, their numbers, their placement and all those sorts of issues?

**Ms Griffiths**—I am not sure of the seating capacity in the House of Representatives press gallery, but certainly there were more press than there were seats. I think the press gallery committee got the names of those press people that would be attending and they were issued with a special pass to get in.

**Senator MURRAY**—But how are those arrangements determined? Are they determined separately on each separate occasion? Are there protocols or procedures that are laid out in advance by the joint committee or by the presiding officers? Is there anything in the House of Representatives standing orders which determines these matters?

**Ms Griffiths**—In relation to the seating in the galleries or the filming of the proceedings?

**Senator MURRAY**—At this stage I am not concerned with the filming. The nub of Matt Price's article for which I am personally very grateful—because, as a parliamentarian, I was not aware, and nor can I find anybody else who was—was the appalling way in which our media were treated. I am concerned with what protocols, procedures, precedents or conventions there are whereby these matters are determined.

**Mr Evans**—Do you mean in relation to normal sittings as distinct from these special sittings?

**Senator MURRAY**—I mean in relation to both. What I want to know is this. Firstly, with regard to the House of Representatives standing orders, are there provisions therein. Secondly, is it at the discretion of the presiding officer? Thirdly, is it determined by this joint committee or does that only have regard to that actual broadcast?

**Mr Evans**—The broadcasting committee only deals with broadcasting. Access to the press gallery is a matter for each house to regulate. So far as the Senate is concerned, there are no rules specified by the Senate itself in relation to that. Basically it is dealt with by the President on behalf of the Senate.

**Senator MURRAY**—And, just for the record, if the President makes determinations, those are advised to the Senate by what method?

**Mr Evans**—I do not know that they are advised to the Senate at all, normally speaking. Any direction that the President gives about access by the media to the proceedings of the Senate would of course be subject to any direction by the Senate itself. But as far as the Senate itself is concerned, access by the media is simply dealt with on an ad hoc basis and any questions arising which needed to be determined would be determined by the President in consultation with the press gallery.

**Senator MURRAY**—As far as you are aware, Mr Evans, was Mr Price accurate—and this is my encapsulation of what he said—in asserting that the Australian media were subordinated to the wishes of the Americans and the American media with respect to President Bush's visit, that senior renowned journalists had great difficulty in getting access to and taking their seats as previously arranged, and that the arrangements turned out to be thoroughly unsatisfactory from the perspective of the press gallery?

**Mr Evans**—As I said before, I have no direct knowledge of that at all so I am not able to confirm—

**Senator MURRAY**—Because you received no formal complaint?

**Mr Evans**—That is correct.

**Senator MURRAY**—And you, Ms Griffiths?

**Ms Griffiths**—Yes, I only heard about it from what I read.

**Senator MURRAY**—And Mr President, what are you aware of? Have you had any informal or formal complaint made to you by—

**The PRESIDENT**—No, Senator. I have not had any complaints either formally or informally. My understanding is that the PM&C liaised with the foreign press gallery, but that is as far as it goes. So it is a matter really for their chamber.

**Senator MURRAY**—So you were never consulted as the President of the Senate of the simultaneous meeting of both houses? You were never consulted as to how the media would be placed or what arrangements were to be made for them?

**The PRESIDENT**—No, and I have not had any complaints then or since.

**Senator MURRAY**—Are you aware of Matt Price's article?

**The PRESIDENT**—No, I am not. I have not read it.

**Senator MURRAY**—It was quite alarming, I thought.

**The PRESIDENT**—I understand that the gallery have written to the Speaker about the arrangements that were made for the media and obviously they have sent their complaints or otherwise to the Speaker.

**Senator MURRAY**—Why would the gallery write to the Speaker, if it was a simultaneous meeting, and not either copy you or write to you as well?

**The PRESIDENT**—I guess they presumed that, because it was in the House of Representatives, the Speaker was in charge, which I understood he was, given the resolutions of the Senate.

**Senator FAULKNER**—Wouldn't it be better not to guess? The truth is you do not know and no-one could expect you to know why they did it. How would you know why the press gallery wrote to the Speaker?

**The PRESIDENT**—They wrote to the Speaker; they did not write to me.

**Senator MURRAY**—I think the President is competent enough to answer his own questions, Senator Faulkner. Is it true that the senators put a resolution to inquire into the broad ambit of these visits?

**Mr Evans**—There are two references to the Privileges Committee, one in relation to each of the visits, and then there is a resolution referring matters to the Procedures Committee relating to rules for these joint meetings, if there are any future joint meetings.

**Senator MURRAY**—Will those inquiries—I think you are the secretary of one of those committees, aren't you—

**Mr Evans**—The Procedures Committee, not the Privileges Committee.

**Senator MURRAY**—Will those inquiries automatically pick up the issues I am referring to relating to the placement and availability of places for the media and guests, or would that have to be a specific reference?

**Mr Evans**—The reference to the Senate Privileges Committee in relation to the Bush visit has a phrase specifically referring to restrictions placed on the local media which were not placed on foreign media.

**Senator MURRAY**—To your knowledge, was any complaint of this nature made to either the Speaker or the President in relation to the previous three simultaneous meetings?

**Mr Evans**—About media access?

**Senator MURRAY**—Yes.

**Mr Evans**—Not that I am aware of.

**Senator MURRAY**—Not a formal complaint?

**Mr Evans**—Not that I am aware of.

**Senator MURRAY**—Is anyone at the table aware of whether the instructions as to how the media were to be dealt with emanated from the executive?

**Mr Evans**—Ms Griffiths might be able to add something on that point.

**Ms Griffiths**—Ceremonial and protocol did have a media liaison adviser who was responsible for liaising with the foreign press and negotiating what rules would apply for that day.

**Senator MURRAY**—Have you read Matt Price's article?

**Ms Griffiths**—I think I have.

**Senator MURRAY**—Is the person you refer to the same person he describes as rather inept and wishy-washy? Those are my words; I do not think they are exactly his.

**Ms Griffiths**—Yes.

**Senator MURRAY**—I think that is a reasonably accurate translation of his views. It seems to me—correct me if I am wrong—that effectively you and your office did not regard it as part of your function to really concern yourselves with arrangements regarding guests or media; you were merely there in a kind of policing role. Is that correct?

**Ms Griffiths**—Yes, that is correct.

**Senator MURRAY**—So the Senate officers and committees and those who were consulted—and I include you in the question, Mr President—really had very little to do with or to say on the matter of the protocols and procedures for media and guests?

**Mr Evans**—If we had been asked we probably would have had plenty to say about it but, as the President said, because it is in the House of Representatives chamber the Speaker runs the show.

**Senator MURRAY**—But Mr Evans you are not known as a shrinking violet. On the question of joint meetings or simultaneous meetings your views have in the past and today been quite forceful. Did you think to raise the possibility that these matters might not be being dealt with effectively?

**Mr Evans**—I think I proceeded on the assumption that media access would be arranged on a rational and fair basis. I was not aware that there were these problems until after the event.

**Senator MURRAY**—You would have assumed that the Australian media should not be subordinated to foreign media, wouldn't you?

**Mr Evans**—I assumed, perhaps irrationally, that it would all be arranged on some rational basis agreeable to all parties, which is the way it is normally done.

**Senator MURRAY**—In previous meetings have the Australian media had precedence over foreign media for best seats, first coverage and that sort of thing, or is it regarded as an equal status thing, or what?

**Mr Evans**—To answer that question I think we would need to go back to whatever written information there is about those other joint meetings that took place.

**Senator MURRAY**—There is unlikely to be any.

**Mr Evans**—I am not readily aware of it.

**Ms Griffiths**—Certainly not on the previous visit.

**Senator MURRAY**—You both have considerable experience. In your experience of the parliament, is this a very unusual occurrence?

**Mr Evans**—I am saying that I do not know. I think Ms Griffiths is saying that the same precedence was not given to the foreign media in the past visits.

**Ms Griffiths**—No, I am saying there is nothing on file, certainly with regard to the Clinton visit, which indicates to me what the rules relating to the media were.

**Senator MURRAY**—This is not a hypothetical, but it might be seen in that respect so I will qualify it as I go. If the Senate were to devise standing orders which required that the Australian national media and guests were to be treated in a certain way—I am not envisaging the nature of those standing orders—at a joint or simultaneous meeting and the House did not have the same standing orders, what is the consequence of that?

**Mr Evans**—That would have added to the difficulty of the proceedings that we discussed before. Some people would say, ‘The resolution said the procedures of the House of Representatives apply to the joint meeting so far as they are applicable.’ That would include any procedures that the House of Representatives had about media access, and that would in effect set aside any procedures that the Senate had. It would be an additional arguable point about the nature of the whole thing. The Senate could make rules about access by the media to the Senate’s proceedings. If they had such rules, I would argue that they would not be set aside by the expression ‘the procedures of the House of Representatives apply so far as they are applicable’ but that would simply add to the difficulty of the occasion.

**Senator MURRAY**—So, in summary, it is best that these matters are set by agreement of both houses prior to these events?

**Mr Evans**—If there are going to be any further joint meetings, yes.

**Senator MURRAY**—Is it open to the Senate committees, therefore, to invite the House of Representatives to appear before the Senate committees to consider these matters since they do concern joint meetings?

**Mr Evans**—I do not believe so. They could not do that unless explicitly authorised by the Senate.

**Senator MURRAY**—So, as a Senate, how do we get to a situation of being able to resolve these matters jointly?

**Mr Evans**—The Procedure Committee does have this general reference about the rules that should apply to any joint meetings in future. Media access could fall under the heading of rules that should apply to them. So that is an avenue for the matter to be considered.

**Senator MURRAY**—The Senate can delegate that responsibility for resolving these things to a joint body?

**Mr Evans**—That is another one of those difficult questions. As a first step, the Procedure Committee could recommend that there ought to be rules about media access, and could recommend a process by which they could be agreed upon between the two houses.

**Senator BRANDIS**—It seems to me there is one other way around this which is perfectly simple, although it may offend the amour-propre of the Senate—that is, if there are going to be any more of these addresses, the foreign head of state could be invited to address a meeting of the House of Representatives and the senators could be invited to attend as a matter of courtesy. So, in substance, it is a joint meeting but technically it is a meeting of the House of Representatives. If that were to occur, none of these issues would arise.

**Mr Evans**—That is one of the solutions that I suggested back in 1991. The first solution I suggested was simply a gathering of senators and members in the Great Hall or somewhere, not a formal meeting of the two houses. It would be a meeting in effect controlled by the

Presiding Officers, which therefore would not give rise to all these problems. One of the other solutions I suggested was the very thing that Senator Brandis has now suggested: that, in effect, the senators would be simply attending in the Senators' gallery of the House of Representatives chamber, while the House of Representatives had a meeting. Interestingly enough, that is how senators attended the famous secret joint meeting during the Second World War, when the House of Representatives was briefed on developments in the war. As I understand it from my reading of it, the senators were simply invited to attend a meeting of the House of Representatives where they received that briefing. It was not a sitting of the Senate. That was certainly one of the suggestions that I suggested back in 1991 but we were told, 'No, it had to be a formal sitting of the Senate.'

**Senator BRANDIS**—If that method were adopted, there would be no controversy, would there, about the exercise by the Speaker of the House of Representatives of a disciplinary power over a senator disrupting proceedings, because the senator would be, for those purposes, merely a stranger?

**Mr Evans**—Merely guests of the House of Representatives, exactly.

**Senator BRANDIS**—Mr Evans, just to complete the point, we were talking before about joint sittings, and I think we had agreed that section 57 of the Constitution is the only constitutional basis for a joint sitting. Wasn't it the position, though, for about three years after the territorial senators legislation was enacted but before the casual vacancies amendment was made in 1977, that casual vacancies for territory senators were filled by a joint sitting or some form of joint meeting of the Senate and the House of Representatives?

**Mr Evans**—Before the territories had self-government in effect and had a self-governing legislature which could make the appointment, yes, the two federal houses met to fill the vacancy. The same difficult questions arose in relation to those gatherings, although they were under statute and not under resolution. But there were plenty of people who were willing to tell you that the statute was not constitutional.

**Senator BRANDIS**—But that was never challenged, was it?

**Mr Evans**—No.

**Senator BRANDIS**—So we will never know?

**Mr Evans**—No.

**CHAIR**—There was a joint meeting, wasn't there?

**Mr Evans**—Indeed, yes.

**Senator BRANDIS**—There was just one, wasn't there?

**Mr Evans**—I attended one—a very disorderly one, too, I might say. I should note that it was disorder created by members of the House of Representatives.

**Senator BRANDIS**—Hear, hear, Mr Evans!

**CHAIR**—Senator Brown?

**Senator BROWN**—President, can you tell the committee at what stages during Thursday the 23rd and Friday the 24th that you consulted with the Clerk about events and took advice?

**The PRESIDENT**—Consulted with the Clerk?

**Senator BROWN**—Asked for the Clerk’s advice about events.

**The PRESIDENT**—I did not.

**Senator BROWN**—Why not?

**The PRESIDENT**—It did not seem necessary.

**Senator BROWN**—But surely it did. There was a sitting of the Senate in progress on both days and events that we are all aware of were taking place but you did not think it was warranted to get your Clerk’s advice on the matter?

**The PRESIDENT**—That is presuming that I had any doubts about what had happened and I did not at the time.

**Senator BROWN**—Can you tell the committee: was this a joint house sitting or meeting? If it was a meeting, what is your deliberation on that? What is your definition of what that meeting was?

**The PRESIDENT**—I have said on more than one occasion today that I believed on the Thursday and the Friday that we were sitting under the standing orders of the House of Representatives that had been agreed to by the Senate and the House of Representatives.

**Senator BROWN**—Did that mean that the Senate was sitting as a separate body within that joint arrangement?

**The PRESIDENT**—I think that matter has already been discussed today.

**Senator BROWN**—Well, I am asking you—

**The PRESIDENT**—It is open to question. As I said, my belief all the way through was that, because of the resolution of the Senate that was passed prior to those two meetings and the fact that the Speaker was chairman of those meetings, we were conducting those proceedings under the standing orders of the House of Representatives.

**Senator BROWN**—‘So far as they are applicable’—those are the words contained in the resolution of the Senate.

**The PRESIDENT**—Yes.

**Senator BROWN**—What does that mean?

**The PRESIDENT**—I will take that on notice, if you like, and get a long, detailed answer for you. As far as I am concerned, I have already answered that question.

**Senator BROWN**—No, I don’t want you to take it on notice because you determined you did not need advice from the Clerk, so you had made a determination there. I am asking you, President: what did it mean when it said that the rules of the House of Representatives ‘shall apply to the meeting so far as they are applicable’?

**The PRESIDENT**—‘So far as they are applicable’ meant that, if there were disruptions to the Senate, the Speaker had the power to take the appropriate action under the standing orders of the House of Representatives.

**Senator BROWN**—But it does not say that, does it?



**The PRESIDENT**—It says ‘as applicable’.

**Senator BROWN**—This motion gives the Speaker no powers. It outlines no powers for the Speaker of another place over senators. It says that there will be a joint meeting of the two houses and that the House rules shall apply as far as they are applicable. Did you consider that ‘as far as they are applicable’ did not extend to the Speaker of another place having jurisdiction over senators?

**The PRESIDENT**—I assumed that they were applicable to the correct conduct of the chamber at the joint sitting. After all is said and done, the Speaker was in the chair—I was not—and he took the appropriate action.

**Senator BROWN**—You took the authority of the Speaker and the advice of the Speaker—you have told the committee that on a number of occasions—but you did not take advice from the Clerk on those same matters?

**The PRESIDENT**—The Clerk did not give me any advice and I did not ask for any because I presumed that the decisions made by the Senate and the House of Representatives on the conduct of both those sittings had been decided.

**Senator BROWN**—Isn’t it therefore open to be assumed that, without getting the advice you should have got, you transferred your authority to the Speaker of the House and put the Senate into the situation where the Speaker, who is a nominee of the government, would make decisions over the Senate? You did not know where the dividing line was—where the rules were not applicable in that situation?

**The PRESIDENT**—As I said, the Senate made a decision to give the Speaker authority to chair those meetings and also to apply the standing orders where applicable. I believe that that is what the Speaker did.

**Senator BROWN**—I will not labour the point, but the point is that you did not know where they were applicable and where they were not applicable. And you cannot give this committee any—

**The PRESIDENT**—As we have heard here this morning, nobody seems to know.

**Senator BROWN**—Should you not have made it your business to find out?

**The PRESIDENT**—I was not aware of that until those legal questions were raised this morning. The Clerk has already indicated that there is a wide divergence of views on joint meetings or joint sittings.

**Senator BROWN**—President, you signed a letter to the Usher of the Black Rod called ‘security directive’, which we have had given to us this morning. The letter begins:

You are aware that the House of Representatives and the Senate voted this morning to exclude Senators Brown and Nettle ...

Did the Senate make a vote to exclude Senators Brown and Nettle?

**The PRESIDENT**—No, the Senate did not. I believe the joint meeting of the Senate and the House of Representatives, under the standing orders of the House of Representatives, did.

**Senator BROWN**—We have established that there was a meeting of the Senate and there was another meeting coming up the next morning for the visit of President Hu. Two senators

were excluded from that meeting of the Senate the following morning even though there had not been a vote by the Senate to have them excluded—as you have just said.

**The PRESIDENT**—That is your version of events.

**Senator BROWN**—Had there been a vote of the Senate? You have just said there was not—that is the case, isn't it?

**The PRESIDENT**—There was a vote of the joint meeting—and my recollection is that the Speaker called it unanimous—and he instructed the suspension of the two Greens senators for 24 hours.

**Senator BROWN**—We have established that there was not a vote of the Senate. It is another matter that there was a call for a division, within that joint meeting, which was ignored by the Speaker. That division was not taken. Seeing you were advocating that the House of Representatives rules applied pretty widely, can you tell the committee where, in the House rules, it says that if a senator—or a member, for that matter—is asked to leave the House, that member must do so? Could you quote that standing order?

**The PRESIDENT**—I do not have it in front of me.

**Senator BROWN**—Would you like to find that standing order and furnish it to the committee?

**The PRESIDENT**—I can take that on notice.

**Senator BROWN**—Thank you. Then it says that there is provision in the House standing orders for a vote. We know about that vote taking place. President, the motion passed by the Senate says in 1(b):

... the only proceedings shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the President of the United States of America, after which the Speaker shall forthwith adjourn the House and declare the meeting concluded ...

Did that happen?

**The PRESIDENT**—No it did not, because you and I both know that there was a motion passed to exclude senators.

**Senator BROWN**—But the vote of the Senate said that that should happen—that 'forthwith' after the President's speech was adjourned the meeting would be concluded. That did not happen. Is that not a breach of the Senate motion and indeed the House motion outlining the conduct of that meeting?

**The PRESIDENT**—The decision of both places was that the chairman of the joint meeting would be Speaker. My understanding is that the Speaker used his authority in proper conduct of a meeting to carry that meeting out.

**Senator BROWN**—Section 4 of the motion moved by both houses says:

... the foregoing provisions of this resolution—

including that there shall be an immediate adjournment with nothing else taking place—

so far as they are inconsistent with the standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders ...

Did not the Speaker breach the motion by the House and did you not effectively agree with that breach which took place in the Senate?

**The PRESIDENT**—How could I agree with it if I was not chairing the meeting?

**Senator FAULKNER**—On a similar issue to the one Senator Brown is questioning you on—and I raised this in the Senate chamber during one of the reference resolutions that we had last week—who determined that we would have prayers? Prayers are not provided for in either the House or the Senate resolutions. I am not critical of that fact; we start Senate and House proceedings with prayers. It was sensible for us to do that in a joint meeting in those circumstances but prayers were not allowed for in the provisions of the orders of both chambers. Mr Clerk, would you agree that, on the basis of the motions that were agreed to in the chambers, this seems an anomaly? Am I right to draw that conclusion?

**Mr Evans**—Yes, in so far as the resolutions say that the only business transacted shall be the addresses.

**Senator FAULKNER**—Mr President, can you shed any light on this?

**The PRESIDENT**—As I have said on numerous occasions this morning, I presumed the standing orders and the procedures of the House of Representatives would be binding. I suppose you could say the same thing about the fact that there was nothing specific in the arrangements for the day on how to cope with people interjecting and disrupting the meeting.

**Senator FAULKNER**—That is the point Senator Brown is making. I am taking it back a step and asking about prayers. The incidents that Senator Brown is talking about are controversial. I do not think the fact that there were prayers said at the commencement of the joint meeting is controversial. But the point is it is not provided for in the joint order that was agreed to by both houses.

**The PRESIDENT**—It is something the Speaker and I did not discuss.

**Senator FAULKNER**—You are not aware of how that happened?

**The PRESIDENT**—No, I am not aware of how it happened.

**Senator FAULKNER**—But you see the inconsistency here.

**The PRESIDENT**—Yes, but the Speaker—

**Senator FAULKNER**—The Speaker just did it.

**The PRESIDENT**—presumably started off the meeting like he would any other.

**Senator FAULKNER**—So he just did it.

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Is that a problem for the Senate, if the Speaker just decides to—

**The PRESIDENT**—It was not for me. We start our—

**Senator FAULKNER**—Yes, I know we do, and I am not critical of that at all. It is just that I was very surprised when we commenced with prayers. I am used to it in the Senate, and colleagues are obviously used to in the House of Representatives. I do not have any objection to that, or any criticism of it. It is just that it was not allowed for in what we agreed to—

which, in some sense, is a similar issue to the one that Senator Brown is raising: nor were there provisions to do a range of other things. How can this happen?

**The PRESIDENT**—It was something that was not discussed and it is obviously something that should be considered by the Procedure Committee when they are looking at the other matters.

**Senator FAULKNER**—Yes. But the difference here, as I think you probably would agree, Mr President, is: the fact that prayers were said is not controversial; the fact that, first of all, senators were called to order and subsequently named and then excluded from a subsequent joint meeting is controversial. So of course as we look at these issues I suspect we need to be consistent with all matters in relation to the resolutions that established the joint meeting in both chambers. It seems to me, on the issue that Senator Brown is canvassing with you, that it is as strong to effectively go to a matter that was not provided for in the resolutions that is not controversial as much as something that was not provided for and is.

**Senator BROWN**—Yes. The point that I am making and have put to you, Mr President, is that the Speaker broke the rules of the resolution passed by both the House and the Senate by not concluding the sitting after the address had been given. We have established that the Senate was sitting separately, but I want to go back to the letter that you sent, jointly with Speaker Andrew, to the Usher of the Black Rod.

**Senator MURRAY**—I am sorry, Senator Brown, but before we leave that can we just establish once and for all whether a vote of the Senate took place. As far as I am concerned I was not asked for my vote, neither did I give my vote. I just think that should be clarified. Mr Evans, did a vote of the Senate take place to exclude Senator Brown and Senator Nettle?

**Mr Evans**—The Speaker named the two—this was at the end of the meeting on Thursday, or what should have been the end of the meeting on Thursday. The Speaker named the two senators as having committed an offence, called on the Leader of the House of Representatives, Mr Abbott, to move a motion for their suspension, then put the question on that motion in the normal fashion and declared it carried on the voices.

**Senator MURRAY**—By the House of Representatives.

**Mr Evans**—I think he did that on the basis that members of the House of Representatives and senators were voting together on that question.

**Senator MURRAY**—But it cannot be so, because the Senate standing orders specifically state that if people are contrary to that view they can say so and call a division. There were two voices that called for a division. I heard them; they were in front of me. That did not occur. Therefore a vote of the Senate could not have occurred because the division was not taken.

**Mr Evans**—The first question is: is it competent for senators and members to be voting together on a question like that in any case? That is what we discussed this morning. The clever answer to Senator Murray's point is that under the rules of the House of Representatives, which were applying to this meeting, you need five voices to call for a division. But then some people who were in the vicinity say that there were more than five.

**Senator BROWN**—I think there were a good many more, in effect.

**Mr Evans**—They say that there were more than five people calling for a division anyway and that the Speaker ignored the calls for a division. So the whole thing is very problematic from start to finish.

**Senator MURRAY**—I do accept that there was a House of Representatives vote. I accept that that occurred under their rules. I cannot accept for myself, I must put it on record, that there was a vote of the Senate with regard to this matter.

**Senator BROWN**—The President has said that there was not a vote of the Senate.

**Senator BRANDIS**—On that point, you have told us earlier this morning, Mr Evans, that in your view this certainly was not a joint sitting and you do not favour the view that it was even a joint meeting. The expression that you have adopted is that it was a simultaneous meeting of the Senate and the House of Representatives. I hope I am putting your position correctly.

**Mr Evans**—Yes.

**Senator BRANDIS**—To the extent to which it was a meeting of the Senate, who was the Presiding Officer?

**Mr Evans**—That is one of the difficult questions that these meetings give rise to. The rules say that the Speaker presides over this meeting, but how can the Speaker be presiding over a meeting of the Senate? That is one of the very difficult questions that arises.

**Senator BRANDIS**—That is my point. The Speaker cannot preside over a meeting of the Senate and, obviously, he cannot because only a senator can. And if it was neither a joint sitting nor a joint meeting, perhaps it was not a meeting of the Senate at all because, to the extent to which it might have been a meeting of the Senate, it was not properly constituted because there was no senator presiding over the meeting of the Senate. If that is right, perhaps all it was was a meeting of the House of Representatives simultaneously with a purported but in fact legally invalid meeting of the Senate.

**Mr Evans**—That is a view that you could argue. If that is the case then—

**Senator BRANDIS**—What do you think of that view?

**Mr Evans**—If that is the case then it is the Senate which has decided to hold this invalid meeting of the Senate.

**Senator BRANDIS**—If it were an invalid meeting of the Senate—in other words it was not a meeting of the Senate, it was just a meeting of the House of Representatives—once again the Speaker in disciplining a senator was doing nothing other than exercising the power in relation, in effect, to strangers that the Speaker of the House of Representatives undoubtedly has at meetings of the House of Representatives.

**Mr Evans**—That is the sort of ingenious argument designed to get the Crown out of trouble!

**Senator BRANDIS**—It might be an ingenious argument, Mr Evans, but it might also be right.

**Mr Evans**—The contrary argument is that this was a meeting of the Senate because the Senate had said it was a meeting of the Senate. Therefore, the Speaker had no power to make

any directions in relation to a meeting of the Senate and the members of the Senate and the House of Representatives had no power to vote to exclude senators from a meeting of the Senate.

**Senator BRANDIS**—How can there have been a meeting of the Senate if there were no senator presiding?

**Mr Evans**—As I have said this is one of the many difficulties that arise in relation to this.

**Senator MURRAY**—My question to Mr Evans is simply this: whether you were to accept Senator Brandis's proposition or you were to accept your proposition that it was a meeting of the Senate, under either of those scenarios a vote of the Senate did not occur.

**Mr Evans**—Indeed. A vote of the Senate could not have occurred if there were no meeting of the Senate.

**Senator MURRAY**—And a vote of the Senate did not occur on the simultaneous meeting because our votes require standing orders to be observed and two voices to allow a division to be carried out. The division was not carried out, and I put it on the record that I was not asked for my vote and neither did I give my vote.

**Mr Evans**—But then if there was no meeting of the Senate there was no reason why you should have been asked to vote. You could not vote, in fact.

**Senator BRANDIS**—That is right; as you say, if there was no meeting of the Senate and only a meeting of the House of Representatives, this was merely the case of the House of Representatives exercising its disciplinary power over strangers.

**Senator FAULKNER**—If I had a white flag I would just wave it!

**Mr Evans**—I go back to the point that this is one of the many difficult questions that arise in relation to these strange gatherings that we have had four of. My point, going back to 1991, is: let us not give rise to difficult questions by creating the circumstances in which they do arise.

**CHAIR**—How does the song go Senator Faulkner? There will be no white flag raised above my head.

**Senator FAULKNER**—That is the best I can do. Let's get on with it.

**Senator BROWN**—I would agree with that point that there should be no such meetings without the parliament separately and together determining the rules and the constitutionality of them. But I want to move on to the President's statement that the letter to the Usher of the Black Rod and to the Serjeant-at-Arms, which came jointly from you and the Speaker, after the Thursday morning meeting, contained the words:

We hereby authorise you and officers under your direction to take appropriate measures, including in the event that it is necessary, preventative force, to enforce the suspension—

of Senator Nettle and me. You said that the original words were a little bit stronger. What were they?

**The PRESIDENT**—They were stronger.

**Senator BROWN**—What were the words?

**The PRESIDENT**—I do not have them in front of me. I do not remember actually.

**Senator BROWN**—Can you get them for the committee?

**The PRESIDENT**—I do not know. That is something I will think about. Does it really matter?

**Senator BROWN**—Yes, it does.

**The PRESIDENT**—Why?

**Senator BROWN**—Because we are trying to establish the way in which extremely important decisions are made about whether or not elected members of parliament can take part in a meeting with other elected members of parliament. It is very important to determine how those decisions were made. I would ask you to—

**The PRESIDENT**—The reason that letter was jointly signed was that the Speaker of the House of Representatives wanted the security attendants to know that, if they had to stop either senator entering the House of Representatives under his instructions, they had written authority. I became involved because the security staff operate under joint authority of the presiding officers.

**Senator BROWN**—I am asking you again whether you will furnish the committee with the original words.

**The PRESIDENT**—I will see if I can find a copy of the original draft that was sent to me, but I do not know whether that is available. I will see.

**Senator FAULKNER**—You say ‘sent’ to you. I thought there were meetings about this.

**The PRESIDENT**—It was something that came to me as a suggested draft for approval. I do not really recall the word-by-word description, but my adviser and I were not happy about it and we sent back different wording.

**Senator FAULKNER**—But prior to that there was an agreement between you and the Speaker that there would be a joint letter or a joint security directive, I assume.

**The PRESIDENT**—Yes.

**Senator FAULKNER**—And was that done in a face-to-face discussion or by telephone?

**The PRESIDENT**—If I recall correctly, it was done over the phone. But, when we received the letter for approval, we were not happy with it and we sent it back with changed wording. Then it was agreed on the wording. But I do not know whether a copy of that draft that was sent to me exists.

**Senator FAULKNER**—You did not run the draft past the Clerk?

**The PRESIDENT**—No.

**Senator BROWN**—That brings me to the next point. Did you consult anybody about the jostle that took place at the back of the chamber after President Bush’s address to get advice as to whether or not senators had been unfairly treated in that circumstance?

**The PRESIDENT**—I saw photos and some illegal broadcasting of that incident, but that matter is a matter for the Speaker because it was in the House of Representatives and the Speaker was the presiding officer in charge of the proceedings.

**Senator BROWN**—What you are saying here is that really, although there was a sitting of the Senate taking place, and its aftermath, in all matters you acceded to the decisions of the Speaker?

**The PRESIDENT**—That was a decision of the Senate, surely.

**Senator BROWN**—I do not think so. The Senate said ‘as far as the rules are applicable’. If you read again—and I trust you will—the motion of the Senate, it does not do that at all. I would have thought that you, as President of the Senate, would have been very keen to defend the interests of the Senate at all times and to make sure that those interests were being upheld, including by getting advice from your senior advisers. But what we have here is effectively you simply becoming subservient to the Speaker under those circumstances, and therefore to the executive. That is the process as it unfolds here unless you can tell me to the contrary. I would like to know what you say about that.

**The PRESIDENT**—The matter of disturbance in the House of Representatives chamber, I believe, is under investigation and as far as I am concerned I will see what happens with it.

**Senator BROWN**—But you are not investigating that even though you are the Presiding Officer for the Senate and that was a Senate meeting?

**The PRESIDENT**—How many investigations do you need? It is being investigated, as is the illegal use of a camera, and when those reports become available that is something that the Speaker and I will discuss.

**Senator BROWN**—What is your comment on the fact that the Usher of the Black Rod has told us that the order to use physical restraint or preventative force as necessary was not transmitted in a way in which it applied to Senate officers?

**The PRESIDENT**—You mean the Clerk’s advice to the Black Rod? I was not aware of it.

**Senator FAULKNER**—Were you clear, Mr President, what was acceptable and what was not acceptable in relation to what attendants—not Senate attendants but other attendants—might do? Is it clear? In other words, what is preventative force? How do you define it?

**The PRESIDENT**—If the Speaker has given instructions on the decision of the joint meeting that his decision as chair of the meeting was that the two senators were banned from the chamber for 24 hours, that decision has to be upheld.

**Senator FAULKNER**—But you have signed a letter that has gone out as a security directive. The Clerk of the Senate, Mr Evans, has given different instructions to Senate chamber attendants—

**The PRESIDENT**—I was not aware of that, Senator.

**Senator FAULKNER**—You were not aware of it until I asked these questions today?

**The PRESIDENT**—I was not aware of it until you asked that question this morning, no.

**Senator FAULKNER**—You are aware of it now.



**The PRESIDENT**—Yes.

**Senator FAULKNER**—You now know that the Clerk of the Senate—because of questioning at this estimates committee—in fact issued a separate directive to Senate chamber staff. But you are a signatory to this letter and I think the key issue here is: does anything go? What is preventative force? When you signed this letter what did this mean? What were you authorising Parliament House staff to do? What were they entitled to do to stop these senators going into the chamber? Could they shoot them or could they just punch them? Could they physically block them? Could they tackle them? What is preventative force?

**The PRESIDENT**—My view was to stop senators bursting into the chamber and embarrassing the President of China who was speaking to a joint meeting. Given the performance the day before, as a Presiding Officer I was keen to ensure that the guest of parliament was treated in the appropriate manner and not embarrassed like the President of the United States. That was my reason for signing that letter.

**Senator FAULKNER**—I accept that you determined there was a proper reason to sign the letter. I accept that. I assume that neither you nor anyone else would sign a letter unless you thought it was justified. So I accept that you thought it was justified. I am not questioning that. I am asking you what it means. You have signed a letter that says:

We hereby authorise you—

—‘you’ being the Serjeant-at-Arms and the Usher of the Black Rod, but they have passed it on to every security attendant in the building except Senate chamber attendants, so let us be clear who we are talking about—

and officers under your direction to take appropriate measures, including in the event that it is necessary, preventative force, to enforce the suspension.

It is another issue as to whether that is appropriate or not. There have been a lot of questions asked here about other matters. My question goes to what that means. You must have had in your mind, signing such a letter, what was acceptable and what ‘preventative force’ was. How on earth are these attendants supposed to know what it means?

**The PRESIDENT**—I believe that they would understand that if they were barring the entrance of people who, by resolution of the meeting, were not to attend they could not push their way through.

**Senator FAULKNER**—What do you understand they could do to the senators concerned?

**The PRESIDENT**—Preventing them in this particular case—

**Senator FAULKNER**—How?

**Senator BRANDIS**—Mr Chairman, I raise a point of order. Honestly, those questions are completely unfair to the President. He is being asked to characterise the meaning of language in a letter for events that never occurred.

**Senator FAULKNER**—The President signed this letter.

**Senator BRANDIS**—Yes, and he is being asked to characterise that language in light of events that never occurred.

**Senator FAULKNER**—What does it mean? People were authorised to take a certain course of action. Senator Brandis, you have had three-quarters of an hour to ask very interesting hypothetical questions.

**Senator BRANDIS**—No more hypothetical than asking what would have happened if—

**CHAIR**—Order, Senator Brandis! Senator Faulkner, you have the call.

**Senator FAULKNER**—Thank you very much. I think it is important for us to understand what this means, given that Mr President is one of two signatories to a letter, and also given the fact that the Usher of the Black Rod has provided instructions to certain staff in relation to their behaviour. There are two separate approaches. The Senate chamber staff were instructed by the Usher of the Black Rod not to use preventative force, yet, under the Usher of the Black Rod's name, a letter went out to other members of staff instructing them to use preventative force. We have established that that is the situation, Mr President. What I am doing is trying to also establish whether you can tell us what 'preventative force' means and if those to whom the security directive was sent—who were asked to use preventative force—understood what it meant.

**Senator MURRAY**—Mr Chairman, on the point of order: I suggest that the line of questioning be continued for this reason: if the consequence of the letter was that a senator might be assaulted in the criminal sense of the word, then the question will arise as to whether this was an unlawful instruction. That is why it is necessary to understand what is meant. If the word 'preventative' was surrounded by appropriate qualifications so that a senator could not be assaulted in the criminal sense of the word, then it might be seen to contribute to the proper order of a meeting. That is why I think the question should be allowed.

**Senator BRANDIS**—The particular question to which I took objection has been lost in the discussion. My point of order is that it is not fair to the witness, Senator Calvert, who is the co-author of the letter, for him to be asked anything more than what he intended by the use of that expression. Senator Faulkner's questions went beyond that. It is a perfectly fair question to ask: what did you intend by the use of that expression? But, beyond that, it is not fair to Senator Calvert.

**CHAIR**—I will allow the line of questioning.

**Senator FAULKNER**—Thank you, Mr Chairman. Now it is over to Senator Calvert to answer it.

**The PRESIDENT**—As I tried to indicate to you, Senator, in my view it was to try to prevent forceful entry.

**Senator FAULKNER**—How?

**Senator BROWN**—I may be able to help. It does not say that. It says 'preventative force'—that is, the use of force by the attendants.

**The PRESIDENT**—What happens if someone tries to force their way through when a security officer has been told to keep someone out? What if someone tries to push their way through or assaults that particular officer?

**Senator BROWN**—Exactly. What would have been—

**The PRESIDENT**—Surely, they are allowed to try and prevent that happening. What words would you use other than ‘preventative force’? What is the point of giving the instruction if you cannot use a term to try and stop someone entering the chamber?

**Senator FAULKNER**—Let us nail this down: are you aware, Mr President, if instructions were given to parliamentary staff about how they might fulfil this security directive? Can someone assist me there? It may need to be someone from Joint House, but let us try to nail it down now. Was any more detail, apart from the security directive, provided to parliamentary staff?

**The PRESIDENT**—Not that I am aware of.

**Senator FAULKNER**—Black Rod, can you assist us?

**The PRESIDENT**—The security controller may have given more detail. Perhaps he can give us those answers during the—

**Senator FAULKNER**—Can the Black Rod assist us at all?

**Ms Griffiths**—Mr Crane would have advised all the security supervisors. I was unaware of what was involved in that.

**Senator FAULKNER**—Mr Chairman, should we deal with this now or wait until we are dealing with Joint House? I do not mind.

**CHAIR**—I think we should wait until we deal with Joint House, Senator Faulkner.

**Senator BROWN**—I might help a little by saying that there is no way and no possibility that either Senator Nettle or I would have used physical force under those circumstances. But we were very well aware that we were being prevented from entering a Senate meeting without the authority of the Senate. That is a grave injustice and a wrong, as far as the democratic functioning of this parliament is concerned.

**Senator JACINTA COLLINS**—Mr Evans, you may have covered this earlier in relation to the instructions on your advice that were provided to Senate security attendants. Was there a basis for the instruction that they not touch a senator?

**Mr Evans**—That direction was not given to the security attendants; it was given to Senate staff. The security attendants, of course, are not Senate staff.

**Senator JACINTA COLLINS**—Okay.

**Mr Evans**—What I said to Ms Griffiths was that no Senate officer is to lay hands on a senator or physically interfere with a senator in any way.

**Senator FAULKNER**—And you did not see fit, Mr Evans, to tell the President that you had given an order to Senate chamber staff that countermanded a security directive from the President of the Senate?

**Mr Evans**—I took the Presiding Officers’ instruction to be directed to the security staff only.

**Senator FAULKNER**—But it was directed to the Usher of the Black Rod.

**Mr Evans**—Yes.

**Senator JACINTA COLLINS**—Mr Evans, in terms of the advice that you gave to Senate chamber officers, was there a basis for that direction?

**Mr Evans**—The basis of it, firstly, was that it would be highly undesirable to have Senate officers assaulting a senator; secondly, that the authority for keeping senators out of a meeting of the Senate was extremely dubious, to say the least, and people should not be acting on instructions that were dubious if they could possibly avoid it.

**Senator JACINTA COLLINS**—Was there a basis in precedents for this?

**Mr Evans**—No.

**Senator JACINTA COLLINS**—I seem to recall one incident when there was an attempt to bar me from accessing the chamber with an infant. That was characterised as assault and that might have helped to clarify Senate officer behaviour.

**Mr Evans**—I am not totally aware of that occasion.

**Senator JACINTA COLLINS**—This was about eight years ago.

**Mr Evans**—I hope you weren't physically interfered with, Senator.

**Senator JACINTA COLLINS**—Not consequent to behaviour from our whip.

**Mr Evans**—Probably the formal situation was that you were given advice that it was not in order for you to enter the chamber.

**Senator JACINTA COLLINS**—And that was changed.

**Mr Evans**—In any case that would have been entirely under the procedures of the Senate and not purported joint decisions of some sort.

**Senator FAULKNER**—But isn't this embarrassing, Mr Evans, to the Senate that here the President is providing a directive to certain parliamentary staff and you are providing a different directive to Senate chamber staff? The President of the Senate is embarrassed at a Senate estimates committee hearing because he does not even know that you have done it.

**Mr Evans**—As I said, I interpreted the directions from the Presiding Officers to be directed to the security staff only, and that was a reasonable interpretation, given that they were instructed to stop the senators at the glass walkways and the Senate staff would not be there at that particular geographical location. As Senator Brandis would no doubt say, there was room for the two instructions to operate concurrently without conflict.

**Senator FAULKNER**—I have no idea what Senator Brandis would say. I do find it hard to predict what Senator Brandis will say from time to time.

**Senator JACINTA COLLINS**—Harry thinks he is a genius.

**Senator FAULKNER**—Mr President, is it your understanding that your security directive did not apply to Senate chamber staff?

**The PRESIDENT**—Absolutely. The joint letter was for the security officers so that they had written authority and not Senate staff—there were only four or five involved, weren't there?

**Senator FAULKNER**—Just before we leave it, the Senate chamber staff come under the authority of the Usher of the Black Rod, too, don't they? You and the Speaker sent a directive to the Serjeant-at-Arms and the Usher of the Black Rod. You do not say in this directive, 'PS: Usher, this doesn't apply to Senate chamber staff'? But you knew it wouldn't?

**The PRESIDENT**—I found that out since, yes.

**Senator FAULKNER**—Are the Senate chamber staff officers under the direction of the Usher of the Black Rod?

**Ms Griffiths**—Yes.

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Aren't you in this letter, Mr President, authorising the Usher of the Black Rod and officers under the direction of the Usher of the Black Rod to take appropriate measures, including preventative force? That is what it says.

**The PRESIDENT**—As I said earlier, it was a letter to give the security staff authority to use preventative force to carry out the decision of the joint meeting.

**Senator FAULKNER**—Did you at any stage say to any Senate staff, 'This security directive does not apply to Senate chamber staff'?

**The PRESIDENT**—No, I did not.

**Senator BRANDIS**—Ms Griffiths, if there were to be a direction to you from the President of the Senate and a direction to you on the same matter from the Clerk which you thought could have been inconsistent, what course would you appropriately adopt?

**Ms Griffiths**—I would consult with the Clerk of the Senate as to my dilemma.

**Senator BRANDIS**—Between the President and the Clerk, if there were to be an inconsistency, whose instruction would prevail?

**Senator MURRAY**—Mr Chairman, I raise a point of order. Were you listening to that, Chair?

**CHAIR**—To be honest, Senator, I was not. I was engaged elsewhere.

**Senator MURRAY**—Perhaps Senator Brandis could restate the question. My point of order, Chair, is that I think this is highly hypothetical, and I want you to rule on it.

**Senator BRANDIS**—I will speak to the point of order. It is not hypothetical.

**Senator MURRAY**—Can you repeat what you said for the chair?

**Senator BRANDIS**—Yes. I directed a question to Ms Griffiths, and the question was: in the event that there were a direction to you from the President of the Senate and a direction from the Clerk which were arguably inconsistent, which direction should prevail?

**Ms Griffiths**—I would not carry out either direction until I had clarified it with both the Clerk and the President.

**Senator BRANDIS**—That tells us what course of action you would adopt to try to resolve the dilemma, but who do you understand has the ultimate authority in the event of an

inconsistent direction? It is the President, isn't it? I am directing this question to Ms Griffiths, because she was the person who was the recipient of the communication.

**Ms Griffiths**—Yes, the President.

**Mr Evans**—Before we leave that line of questioning, I would not like it to appear that we were conceding that there was a conflict between the two instructions. I said to Ms Griffiths, 'As you and the Senate staff will not be out on the glazed gallery standing guard, as it were, we can interpret the instruction as applying only to the security staff—and it is called a security directive.' I said, in effect, 'There is room for the two instructions to act concurrently.'

**Senator BRANDIS**—Mr Evans, I am not suggesting that I dispute your characterisation of this but, as I understood the questions from opposition senators, there seemed to be dispute as to your characterisation of this. Your reservation on your position is well taken, at least in relation to my questions, but I suspect that that is not the characterisation others will seek to impose upon what you have said.

**Mr Evans**—The answer to the question of whose direction Ms Griffiths follows—the President's or mine—would depend very much on what the direction related to. In relation to dealing with an individual member of the Senate department, for example, the President would have no power to give a direction, and my direction would have to prevail because it would be the lawful direction. So the question could only be answered by looking at what the direction related to.

**Senator BROWN**—As I see it, the difficulty arising here is that we have a President who is not consulting with his staff but falling into agreement with what is coming from the Speaker in another place. I think that is leading to some very big problems. Mr President or Mr Evans, do you know of a precedent for a letter of this nature being sent to potentially use preventative force against a member of parliament?

**The PRESIDENT**—It is the first time it has happened to me, but then again it is the first time I have known the proceedings of a joint meeting to be disrupted in the way they were. They were unusual circumstances.

**Senator BROWN**—Have you been to a joint meeting previously? You have been to one, haven't you?

**The PRESIDENT**—Yes.

**Mr Evans**—The answer is no, I do not know of any precedent.

**Senator BROWN**—There is inherent potential for assault on a member of the Senate here. Mr President, I would have thought that under those circumstances you would have sought very good advice from your senior officers about entering that terrain. Can you explain to the committee why you did not?

**The PRESIDENT**—I certainly did not expect any assault on security, on a member of the Senate or on anybody else.

**Senator BROWN**—Even though you are authorising the use of preventative force?

**The PRESIDENT**—You cannot always guarantee that what you think might happen will not happen. As you know, I said earlier today that the Speaker and I did not think there would be any disruptions during the joint meeting; but there were, and other actions came later.

**Senator BROWN**—Did you discuss with the—

**Senator FAULKNER**—Hang on—how do you know what he thought? You said there were no discussions with the Speaker prior to the joint meeting.

**The PRESIDENT**—I am talking about discussions prior to when we signed the written authority for security.

**Senator WONG**—I thought you gave evidence earlier, Mr President, that you signed that letter after at least a telephone conversation with the Speaker.

**The PRESIDENT**—Yes.

**Senator BROWN**—So there were discussions?

**The PRESIDENT**—How do you mean there were discussions? There were discussions about the letter, yes.

**Senator BRANDIS**—Senator Calvert, do you regard resisting force as itself being the use of force?

**The PRESIDENT**—Sorry?

**Senator BRANDIS**—Let me give you an example. If an attendant or an officer were to bar entrance to Senator Brown, for instance, by refusing to permit the senator, following Speaker Andrew's directions, from entering the door or passageway, but the senator sought to force his way through, would you regard passively resisting the use of force by a senator seeking to effect that entry as being itself force? Is blocking somebody's way force?

**The PRESIDENT**—Blocking someone's way was what I think we intended.

**Senator BRANDIS**—Yes, that is my point. It seems to me that if somebody is blocking somebody else's way they are not the person using force but they are preventing the use—

**The PRESIDENT**—Exactly, that is what my thoughts about this matter were.

**Senator BROWN**—What we have not been able to get from you, President, is the extent to which the words 'preventative force' could have been employed, I think unlawfully, against members of parliament about to enter a chamber meeting to which they had a right of entry because there had been no Senate order to the contrary. We may have to pursue this further. Do you know if there were any staff meetings or any meetings of security people to discuss what level of force could be employed against the senators under those circumstances?

**The PRESIDENT**—No.

**Senator BROWN**—You did not inquire about that?

**The PRESIDENT**—I am not aware of any meetings that went on.

**Senator BROWN**—We have the period between the two sittings. You told the committee earlier that about a week earlier the Chinese Ambassador had contacted, I think the Speaker,

but the parliament about concerns that there were about the forthcoming visit of President Hu Jintao. Could you give us more detail on that?

**The PRESIDENT**—No, I do not think—

**Senator MURRAY**—Are we leaving the area of preventative force now Senator Brown?

**Senator BROWN**—I would be happy for you to follow on with that.

**Senator MURRAY**—I have one question for my own clarification, if you would not mind. My question is: were all the security attendants normally employed by the Senate or the House of Representatives or the Joint House Department?

**Mr Evans**—I'm sorry I did not catch the question.

**Senator MURRAY**—Were the security attendants persons normally in the employ of either house or the Joint House Department.

**Mr Evans**—Does the senator mean before they were transferred to the Joint House Department?

**Senator MURRAY**—I will be explicit. My concern is that an order was given that preventative force could be used. If that were to be used by a 'foreign' person who happened to be a security attendant for the day, I think that brings an entirely different complexion to the matter.

**Mr Evans**—The point I was checking with Ms Griffiths was by the morning of the 24th all the security attendants were under the control of the Joint House Department which means that they were under the control of the Speaker and the President jointly. None of them were any longer in the Senate department.

**Senator MURRAY**—Who was their employer at that time?

**Mr Evans**—The two Presiding Officers were their employers on the 24th acting through the Joint House Department.

**Senator FAULKNER**—Was there a different situation on the 23rd or the 22nd?

**Mr Evans**—That depended on which staff they were. As you know, before the transfer some security staff were attached to the Senate department and some were attached to the House—

**Senator FAULKNER**—When was the transfer?

**Mr Evans**—Midnight on the 23rd, I am told.

**Senator FAULKNER**—Has there been a transfer back?

**Mr Evans**—No. There has been no transfer back. I am not sure what you are referring to.

**Senator FAULKNER**—What is the background to the transfer on the 23rd?

**Mr Evans**—This was part of the reorganisation of the security function which involved the administrative location of all the security staff in the Joint House Department.

**Senator FAULKNER**—Not specifically for the Bush or Hu visit?

**Mr Evans**—No, no.



**Senator FAULKNER**—It just so happened to take effect—

**Mr Evans**—It so happened that it occurred on midnight of the 23rd.

**Ms Griffiths**—Midnight of the 22nd.

**Senator FAULKNER**—When was that key date?

**Mr Evans**—We have just had a correction to that. They were transferred at midnight on the 22nd with effect from the 23rd.

**Senator FAULKNER**—That was handy.

**Mr Evans**—Let me just clarify that. There was no connection between this occurring on the 22nd and the Bush and Hu visits. I think that is what Senator Faulkner is asking—is that correct?

**Ms Griffiths**—No connection at all.

**Senator FAULKNER**—Who made the decision about those key dates, and when was that decision made?

**Ms Griffiths**—This was a decision taken in previous months in negotiations that our HR area were having with Joint House. We had previously said, as a result of the review of the administration of the parliamentary departments, that we would aim to get the security staff transferred to Joint House by the end of the year. We were able to transfer the required documents over before that time, so we were able to meet that date. Then the Public Service Commissioner, Mr Podger, signed an instrument of transfer dated 30 September 2003.

**Senator FAULKNER**—That is the instrument of transfer. The instrument of transfer included those two key dates of the 22nd and 23rd, did they?

**Ms Griffiths**—Yes. Previously the administrative staff with security were transferred to the Joint House Department—on 1 July.

**Senator FAULKNER**—And no-one gave any thought to the fact that, by sheer coincidence, this was to occur at the midpoint between the President Bush joint meeting and the President Hu joint meeting? That is just a total coincidence, is it? That is what you are saying? Fair enough.

**Mr Evans**—The point of the correction that I made earlier was that I had previously said, on advice from Ms Griffiths, before we had the documentation, that it was at midnight on the 23rd but that, on this instrument, it was actually midnight on the 22nd. It says that it has effect from 23 October. Presumably on the morning of 23 October all these people were located in the Joint House Department.

**Senator FAULKNER**—That is the morning of the Bush meeting?

**Mr Evans**—The Bush visit, and presumably that was a coincidence.

**Ms Griffiths**—It was.

**Senator FAULKNER**—That is what I am asking—whether it was a coincidence.

**Mr Evans**—To my knowledge, it was, and Ms Griffiths is confirming that to her knowledge it was a coincidence.

**Senator FAULKNER**—We will have to check with Mr Podger.

**Senator MURRAY**—To continue with my line of questioning, I want to know whether at all times, when this order was given that preventative force could be used, the security attendants who might have used preventative force were obeying a lawful order from their employers—is that correct?

**Mr Evans**—Whether it was lawful is a very moot question that we cannot determine here—at least, I hope we do not determine it here—but they were directed, as officers of the Joint House Department, subject to the control of the two Presiding Officers jointly.

**Senator MURRAY**—And they were specifically employees of the Joint House Department?

**Mr Evans**—At that time they were, yes—and still are.

**Senator BRANDIS**—Can I pursue that?

**CHAIR**—No. Senator Wong.

**Senator WONG**—Thank you, but Senator Murray has covered the issues I wanted to raise.

**CHAIR**—In that case, Senator Brandis, go ahead.

**Senator BRANDIS**—If we can finally go off the issue of the meaning of these words, Senator Calvert, the way I read this document, this bit of the circular, the word ‘preventative’ seems to relate to the conduct that is designed to be prevented. Am I right that, when you say ‘preventative force’, that means enough force to prevent the direction of the Speaker being violated? That is what it means to me—and no more.

**The PRESIDENT**—Of course.

**Senator BRANDIS**—Hence the words ‘in the event that it is necessary’.

**The PRESIDENT**—I would have hoped that it would not have been necessary, and as it turned out it was not necessary. I hope we do not see a repeat occurrence of what happened.

**Senator BRANDIS**—And ‘sufficient to prevent the order of the Speaker being violated’ was simply to block access.

**The PRESIDENT**—Absolutely. That is why they were stationed where they were at the end of the glass walkway.

**Senator BRANDIS**—Nothing more than that.

**The PRESIDENT**—Nothing more than that.

**Senator BRANDIS**—And nothing more than that happened?

**The PRESIDENT**—No, nothing more than that happened, that I am aware of.

**Senator FAULKNER**—Can you confirm that, Mr Evans? What do you understand ‘preventative force’ is?

**Mr Evans**—It could include, for example—and this is the sort of example that I kept raising—that, if the two senators attempted to force their way past the attendants, the attendants were to block their way. If the two senators then assaulted the attendants in order to force them out of the way, the attendants would have to use force themselves in order to

prevent them passing. The force could escalate in that way. If the senators struggled violently and continued their attempts to assault the attendants, the attendants might have to restrain them in a very forceful fashion. The amount of force required to prevent them entering could escalate to include virtually anything.

**Senator BRANDIS**—Depending on how much force the senators themselves used.

**Mr Evans**—Indeed.

**Senator BRANDIS**—So the role of the attendants in obeying this direction was passive and reactive. To the extent to which, in this scenario you have contemplated, Mr Evans, it could escalate, it would only, from the point of view of the attendants, escalate in response to an escalation of force by the senators.

**Mr Evans**—It would be basically reactive, yes. This is a matter which is very familiar to policemen, Mr Chairman, as I am sure Senator Brandis knows.

**Senator BRANDIS**—Quite. I do not think you need to be very smart to work out who would be the author of the force in that scenario.

**Mr Evans**—That is what the policemen always say, Mr Chairman.

**Senator FORSHAW**—Do you want to quit now, George?

**Senator BRANDIS**—And, Mr Evans, when police are being assaulted by violent acts, rightly so.

**Mr Evans**—Exactly, Mr Chairman.

**Senator MURRAY**—The point is, Mr Chairman, if the order were unlawful in the first place, if the meeting of the Senate had not approved the order that was made, then you have a question of whether people are being unlawfully prevented from attending.

**CHAIR**—Then we are going back over old ground.

**Senator MURRAY**—Exactly; and that is the difficulty, faced with instructions like these.

**Senator BROWN**—However, I can help the committee by saying that, when approaching the three gentlemen who were authorised by the President to block our way, it was quite clear that force was being used to prevent two senators from entering the House of Representatives chamber without authority having been given by the Senate to use that force. It is an inherent force, and it was there before us. Senate Nettle and I had no dispute with those officers, but the dispute—

**CHAIR**—Senator Brown, is this a question or is this testimony?

**Senator BROWN**—I am just helping to elucidate the events and how that situation arose. I will go on to the matter of what happened after and before the Senate hearing, but there is one question I want to ask because I do not want to let this pass. I may have asked this earlier, Mr President, but did you discuss with the Speaker the restraint on Senator Nettle by a staff member of the parliament, after the address by President Bush, which has been very clearly demonstrated on the footage that we have seen?

**The PRESIDENT**—I think I commented on that. I said the Speaker was having an investigation into what was happening. I have not had any discussions with anybody about it.

**Senator BROWN**—As the interference was with a senator, why are you not having an investigation as President of the Senate? This is looking after the interests of the Senate here, Mr President. Are you going to entertain an inquiry under your authority into that interference with a senator?

**The PRESIDENT**—I thought the Senate had already resolved to refer the matter to Privileges. They have, haven't they?

**Senator BROWN**—I ask you the question: has the Senate resolved and, if it did, why did you take no earlier action?

**The PRESIDENT**—You had given notice of motion No. 4, which includes:  
... whether there was any other improper interference with Senator Brown or Senator Nettle ...  
and that matter has been referred to Privileges.

**Senator BROWN**—Yes, but some time took place before that during which the Speaker undertook to inquire into the matter. I am asking you why you did not inquire into the matter before the Senate took it up.

**The PRESIDENT**—There were various interpretations of what happened in the House of Representatives chamber. The Speaker had already indicated he was going to investigate matters regarding cameras and that other matter that occurred. I would rather not comment on that because it is before the Privileges Committee.

**Senator BROWN**—But I am asking, as a defender of the Senate's interests—and you are the ultimate authority on this, President—why did you not undertake immediately to inquire into somebody else interfering with a Senator in the way that we saw depicted on those CNN pictures of Senator Nettle being held back by the coat?

**The PRESIDENT**—There were a lot of people milling around at the time. I do not know who was helping who.

**Senator BROWN**—But surely you would have an inquiry to find out, wouldn't you?

**The PRESIDENT**—It may be that that particular person was trying to help Senator Nettle from being jostled—I do not know. That is a matter for the Privileges Committee to determine.

**Senator BROWN**—No, it is not; I am putting it to you that it is a matter for you to inquire into until such time as the Senate determines otherwise. But you did nothing, did you?

**The PRESIDENT**—I have not yet, no.

**Senator BROWN**—When it comes to the contact from the Chinese Embassy and/or government and/or their agencies of any sort, can you tell us when that began in relation to the visit of President Hu Jintao to the parliament?

**The PRESIDENT**—Chinese Ambassador Tao paid a courtesy call on me about two weeks before the visit. It was a courtesy call to say how important this was—that this was the first visit of this Chinese President outside of China and he hoped that everything would go well. There were the usual concerns, because he was taking the matter very seriously.

**Senator BROWN**—What were the concerns that he expressed?

**The PRESIDENT**—He was hoping that everything would be organised in the right fashion, that we could all work together and that the proper courtesies would be paid. I have not got a copy, but he did have notes he spoke from which had to be interpreted. Basically it was just a courtesy call as he was concerned that all the proceedings and the organisation of the visit were going ahead properly.

**Senator BROWN**—Would you care to give the committee your copy of notes taken at that meeting.

**The PRESIDENT**—I did not have any notes.

**Senator BROWN**—Were none taken?

**The PRESIDENT**—There was no need to—it was a courtesy call.

**Senator BROWN**—It was more than a courtesy call; he was discussing—

**The PRESIDENT**—I am sorry, Senator, it was a courtesy call.

**Senator BROWN**—I will allow you to keep your definition. Did he raise the issue of the speech to parliament and any possible concerns they had about security and/or protests arising from the speech?

**The PRESIDENT**—What was the first part of your question?

**Senator BROWN**—Did the ambassador at this courtesy call, as you call it, raise issues of concern about security and/or protests as far as the President was concerned?

**The PRESIDENT**—There were not any in particular that I recall, but he did say that he hoped the visit went well. He may have mentioned that he hoped there would be no demonstrations. I recall very strongly him saying that he hoped that the President would not be embarrassed, but he did not go into any detail.

**Senator BROWN**—Did you give him an assurance that the President would not be embarrassed?

**The PRESIDENT**—That would be impossible. I did say that we would do all we could to ensure that all the courtesies would be paid and that the Speaker and I would do the best we could to make sure that they were. I know that he also paid a courtesy call on the Speaker later.

**Senator BROWN**—What did you understand by him using the word ‘embarrassed’?

**The PRESIDENT**—My understanding was that the ambassador was concerned that we have a very successful visit by his President.

**Senator BROWN**—And would not be embarrassed by what?

**The PRESIDENT**—Embarrassed by any people demonstrating and causing disruption.

**Senator BROWN**—In the parliament or outside?

**The PRESIDENT**—We did not speak about in the parliament. He was, I think, just generally speaking.

**Senator BROWN**—So no reference was made to any particular person or groups?

**The PRESIDENT**—No, no reference was made to any particular person or groups.

**CHAIR**—Senator Brown, we are due to have a break now. Do you have a few more questions on the specific issue of that meeting or is now a convenient time?

**Senator BROWN**—I think we can come back.

**Proceedings suspended from 12.45 p.m. to 2.00 p.m.**

**CHAIR**—The committee is still putting general questions to the Department of the Senate. Mr President, I think you had something to say.

**The PRESIDENT**—I want to make a couple of points, reiterating what I said this morning. Firstly, there seems to be some misunderstanding in the media about the evidence that was given this morning relating to the constitutionality of the joint sitting and the security directive that the Speaker and I issued on the Thursday afternoon following the exclusion of the two Green senators. I want to say again that there is no doubt in my mind that the authority existed to exclude the two senators from the chamber. The Speaker had that authority whichever way you look at it—whether it was a joint meeting or whether we were invited there as guests of the House of Representatives. We have to play by rules and 99 per cent of the people who were in that chamber believed they were there under the agreements made between the Senate and the House of Representatives and I think they all expected members and senators to behave themselves. They did not allow for what did occur.

On the other matter regarding the Clerk's instruction to his Senate attendants, they were in the chamber. The directive that the Speaker and I signed was to the security staff and it was headed 'Security Directive', so I believe that that was clearly directed to the security staff. Quite frankly, the 3½ hours we have spent this morning talking about this matter would not have happened if Senator Nettle and Senator Brown had abided by the standing orders we believed we were working under.

**Senator BROWN**—I submit to you that it would not have happened had the Speaker abided by the rules as laid out in the vote of both chambers, but particularly the Senate. But he did not. He broke those rules and that is a matter for other places to judge. As it was a meeting of the Senate, why were Hansard staff not present?

**The PRESIDENT**—Given that there were senators and members sitting in both seats and the broadcast was not on, it would have been impossible to get any voice from anybody. It was a very noisy chamber. It would have been impossible. I do not think that Hansard have been in attendance at other joint sittings, have they, Clerk?

**Mr Evans**—I am not sure of that. I would need to check on that—probably not, I suspect.

**Senator BROWN**—Regarding this particular sitting, I just want to establish whether you had a part in deciding that the Hansard staff would not be at the table, as they are present at the table in every sitting of the Senate?

**The PRESIDENT**—It was not a matter that we discussed. But given the fact that there were set speeches—and I know there was a *Journal* issued after the sitting—I think it was seen that it was impossible to have Hansard present. The Clerk informs me that that there was a *Hansard* transcript but it was not done by having Hansard staff in the chamber.

**Senator BROWN**—But according to the standing orders there is only ever supposed to be one speaker at a time and, if I am not wrong—and please correct me if I am—the point of

having Hansard present on the floor is not to get speeches, as such, but to make sure that any other interjections and any other asides that may come from the speakers are picked up. Can you tell us why on this occasion it was decided that Hansard would not be in the chamber?

**The PRESIDENT**—I do not know why they were not there. I did not see that there was any reason. I do not suppose that anyone was expecting any interjections given it was supposed to be an event where everybody was going to abide by the rules.

**Senator BROWN**—But the point is not whether it is expected. A decision was made by you, because it could be nobody else in relation to Senate sittings on those two days, that Hansard would not be present. I ask you: did you speak with other senators about this?

**The PRESIDENT**—No.

**Senator BROWN**—I think that you should have. We were talking this morning about the approaches made by the ambassador for China in the lead-up to the two joint meetings.

**The PRESIDENT**—Yes. I was going to make a short statement about that.

**Senator BROWN**—Please do.

**The PRESIDENT**—Something was brought to my attention over lunch. You asked me this morning whether there were any groups mentioned and I said there were not any groups mentioned. But he did mention your name in passing and I said that I could not guarantee that you or anybody else would not create any problems. I think his reply was something like, ‘Well, that’s democracy,’ or words to that effect. But it was only in passing that your name was mentioned.

**Senator BROWN**—So the ambassador raised my name in the course of that discussion?

**The PRESIDENT**—When he was talking about whether there were likely to be interruptions in the parliament during the joint meeting by Senator Brown or anybody else, I said that I could not guarantee that. I think he made a comment like, ‘Well, that’s democracy,’ or words to that effect. But that was the only time that any particular names were raised.

**Senator BROWN**—On the evening of the 23rd and morning of the 24th, what new contact was made by the Chinese authorities? What was the next contact you had after that meeting with the ambassador?

**The PRESIDENT**—By the Chinese authorities? It was about two or three minutes before the President arrived, as I have told you earlier, when we went into the Speaker’s suite when the foreign minister arrived.

**Senator BROWN**—But before that, the previous evening, you were not aware of any approach by the Chinese authorities to anybody?

**The PRESIDENT**—No.

**Senator BROWN**—When the Chinese authorities arrived that morning, what happened?

**The PRESIDENT**—The Speaker and I were standing outside—I think it was before the arrival time—

**Senator BROWN**—This is outside the parliament?

**The PRESIDENT**—Yes, outside parliament at the entrance. A white car arrived and a gentleman got out who identified himself—I did not know who he was. One of the Prime Minister’s staff told us that it was the foreign minister. He said he had some concerns and we went into the Speaker’s suite and he raised concerns about the likelihood of senators in the chamber disrupting the chamber.

**Senator BROWN**—Did he mention any names?

**The PRESIDENT**—I do not recall. He might have said Greens senators, I am not sure. He went in with the Speaker first; I came in behind and by the time I sat down we were talking about dissidents. He mentioned dissidents—

**Senator BROWN**—In relation to what?

**The PRESIDENT**—To interrupting proceedings.

**Senator BROWN**—Was he referring to members of parliament or was he referring to—

**The PRESIDENT**—No, I am sure he was referring to guests of Greens senators.

**Senator BROWN**—Did he mention anybody?

**The PRESIDENT**—Yes, he mentioned one particular person. I cannot pronounce his name but I think you know who he is.

**Senator BROWN**—Mr Chin Jin?

**The PRESIDENT**—Yes, I think that was the name. The Speaker assured him that those guests had already been located in the glassed-in area upstairs, as I indicated earlier this morning, on instructions from him the day before. I might add that, while we were waiting for the President to arrive, there were some other Chinese nationals outside who had late invitations and who were guests of Laurie Ferguson. We also allowed those people to go through to the overflow chamber.

**Senator BROWN**—Who was the man? What was his position, name and station?

**The PRESIDENT**—Are you talking about the Chinese person?

**Senator BROWN**—Yes.

**The PRESIDENT**—He was the foreign minister, I believe.

**Senator BROWN**—That is Mr Li?

**The PRESIDENT**—I am not sure what his name was but I was told that he was the Chinese foreign minister and he spoke very good English.

**Senator BROWN**—Did he have other people with him?

**The PRESIDENT**—He only had a secretary but he did not speak.

**Senator BROWN**—What did you say to Mr Li?

**The PRESIDENT**—I said very little. The Speaker did most of the talking because Mr Li was on that side of the Speaker’s area. The Speaker reassured him as far as he was able that there would not be any interruptions to President Hu, that the two Greens senators were not coming into the chamber and their three guests had been placed in the area upstairs. He said, ‘Oh, well,’ and the Speaker said, ‘That is the best we can do,’ and Mr Li’s—if that is what his



name was—parting words were, ‘We will keep our fingers crossed,’ and off he went. No more than two to three minutes later, President Hu arrived.

**Senator BROWN**—Was he on time?

**The PRESIDENT**—He was slightly late but the reason we were late getting into the chamber was that, in our run-through the day before, we had not allowed for the vast number of media who wanted to take photos while the President was signing the Speaker’s book and the President’s book. We had photos taken while we were doing that and there was television and whatever. Then we had to form up in the order of the way we were going to enter the chamber. The Speaker explained through an interpreter to President Hu the reason that he was following me, and of course that had to be interpreted back. As a result of that, we were two or three minutes late in coming into the chamber.

**Senator BROWN**—On the previous day, when the decision was made to remove the Greens guests from the galleries, why didn’t you consult the relevant senators about that decision?

**The PRESIDENT**—The Speaker made that decision; it was his decision because he was in charge of the chamber. He indicated that to me late in the afternoon.

**Senator BROWN**—Isn’t it the case that you have not consulted with your own staff and advisers about this matter? Now you are not consulting with senators about matters to do with their guests and that in fact you had abrogated all responsibility to the Speaker for what happened in a sitting of Senate.

**The PRESIDENT**—The Speaker made the decision to put those guests where he did because of the likelihood of a repeat of what happened the day before. I think he had every right to do that, and I concur with that. If you and your guests had behaved yourselves on the first day, we would not be talking about this now, would we?

**Senator BROWN**—That is a matter of your opinion. But we are talking about it now because of the decisions you failed to make.

**The PRESIDENT**—It is a pretty reasonable assumption.

**Senator BROWN**—I am trying to understand why it is that you abandoned your role as the President of the Senate—defending the interests of the Senate—in this circumstance, which you did, didn’t you?

**The PRESIDENT**—I think it was my role in the interests of the Senate to make sure that the proceedings of the Senate and the House of Representatives were not interrupted as they were the day before and that we did not embarrass a guest of such high standing from the People’s Republic of China.

**Senator BROWN**—What gave this guest of high standing from the People’s Republic of China precedence over elected members of parliament in the way in which they were approached and addressed and discourse occurred? What made you think that in our Senate meeting there should be a different set of rules applying to this stranger in the House to—

**The PRESIDENT**—It was not a question of rules; it was a question of common courtesy and making a guest feel welcome. You do not invite a guest into your home and then abuse

them, Senator. That is what you did to the President of the United States, and that is what I expected you were going to do to President Hu.

**Senator BROWN**—Are you aware of President Hu's record in terms of—

**The PRESIDENT**—I am not here to debate that. He was our guest—he was a guest of Australia and he was our guest in the chamber. That is the reason the Speaker and I took the decision we did.

**Senator BROWN**—But did you not take into account the way in which President Hu treats guests and people who—

**CHAIR**—Senator Brown, I think I know what you are going to ask.

**Senator BROWN**—The President has raised the matter—

**The PRESIDENT**—I am not a spokesman on foreign policy; I am only a spokesman on what happens in the chamber.

**CHAIR**—Order! Senator Brown, this is beyond budget estimates.

**Senator BROWN**—When it came to the decision to mark out the guests of the Greens and those of Mr Organ, the House of Representatives member for Cunningham, why did you not entertain talking about the matter with Mr Organ? I know that Mr Chin Jin was Mr Organ's guest. Can you explain to me why you decided, whatever your argument might be, to exclude the guest of Mr Organ from the chamber or to agree to that exclusion by the Speaker? Surely that runs counter to your argument.

**The PRESIDENT**—As I said before, it was the Speaker's decision. He gave the instruction and I concurred with it.

**Senator BROWN**—Are you aware that the Speaker had any communication with the People's Republic of China or any of their officers in the time leading up to this decision to exclude the Greens guests?

**The PRESIDENT**—No. The only times that I am aware that the Speaker had discussions with any of the Chinese were, as I said earlier, when the Chinese Ambassador came up and made a courtesy call—as he did to me—and when the foreign minister arrived with his adviser three minutes before the President arrived.

**Senator BROWN**—There were no communications between you or Parliament House—

**The PRESIDENT**—Not on my part, but the Speaker may have. I do not know. You had better ask him if you can.

**Senator BROWN**—Let me finish my question and then you can answer it. There was no communication between you and parliamentary officers or members of government and the people representing the government of the People's Republic of China in that fortnight?

**The PRESIDENT**—I had discussions with my staff and we went through a rehearsal, as I said earlier, of what happened in the chamber. We had a walk-through of how we went in, what we did and what we said. But that was as far as it ever went.

**Senator BROWN**—Then you did discuss, in those circumstances, what the situation was regarding guests in the chamber?

**The PRESIDENT**—No, I did not say that. I just said that we had discussions about how we were going to enter the chamber, ceremonially. As I said, the Speaker had already made a decision about your guests and he indicated that to me on the Thursday afternoon.

**Senator BROWN**—Did any members of the government or the executive approach you about this matter?

**The PRESIDENT**—No. You asked me that this morning and I said no.

**Senator BROWN**—I am glad to hear it reconfirmed.

**The PRESIDENT**—This is starting to sound like a court of law.

**Senator BROWN**—Were there any other members of the Chinese party in the parliament before or during the 23rd and 24th of last month?

**The PRESIDENT**—There may have been. Surely, they would have made the same arrangements as the Americans. They probably would have been in contact with security or whatever. That is probably what happened. I am not sure one way or the other what it was. Perhaps you could ask the security controller that. I did not have anything to do with that side of it.

**Senator BROWN**—It has been said—and I am amongst those who are saying it because I have been passing on the observation—that there was a Chinese representative at the gallery. Is that wrong?

**The PRESIDENT**—I do not know. I think you should ask the Speaker because the gallery, as the Black Rod said earlier, was being organised by the Department of the Prime Minister and Cabinet.

**Ms Griffiths**—Yes, there were ceremonial and protocol officers at the gallery plus security staff.

**The PRESIDENT**—Perhaps the head of security could tell you.

**Senator BROWN**—Were there any ‘foreign’ people amongst those attending outside the gallery and taking part in that security arrangement?

**Ms Griffiths**—I do not know. You would have to ask the Executive Leader of Security, Mr Crane.

**Senator BROWN**—Okay. Why, President, when the guests were removed without consultation to the glazed area above usually kept for schoolchildren, did you not provide them with translation facilities?

**The PRESIDENT**—I had nothing to do with that. You mean: why did not the Speaker or whoever was responsible—

**Senator BROWN**—I would have expected that you, looking after the interests of senators, would have felt responsible to ensure that those guests who were removed still had the opportunity of listening to the presentation.

**The PRESIDENT**—They should have had the opportunity. If they did not, it was an oversight by somebody.

**Senator BROWN**—They did not. I submit that it is an oversight by you because this was at your say-so and in consultation with you. I did not know about it, but you did.

**The PRESIDENT**—As I said earlier, the speaker made the decision to put those people in that area with the overflow guests from the senators and members. If those overflow guests, including your guests, were not provided with translation equipment, I was unaware of that. If they were not, someone made a mistake and I will try to find out who it was.

**Senator BROWN**—There were empty seats in the galleries, President.

**The PRESIDENT**—Which gallery?

**Senator BROWN**—In the public galleries, during the speech by President Hu.

**The PRESIDENT**—Which gallery though—the one on your left or the one on the right or the one facing us?

**Senator BROWN**—In the galleries. I am saying that there were seats there and that our guests were not overflow guests. They were redirected guests who were guests of members of parliament the same as every other member of parliament had guests there.

**The PRESIDENT**—I have already explained to you why they were redirected.

**Senator BROWN**—You have just referred to them as overflow guests and I am just—

**The PRESIDENT**—There were other overflow guests there and there was an area in the gallery that was not full. That was because it was set aside for part of the Chinese president's retinue. Similarly, the day before, you may recall—although you might not be able to recall it because it was behind you—there was an area set aside for members of the American contingent that was not completely filled, but that was set aside for that purpose I understand.

**Senator BROWN**—A phone call was made by people at the gallery to the Speaker's office regarding the guests of the Greens after which they were redirected upstairs. Were you party to that phone call?

**The PRESIDENT**—No.

**Senator BROWN**—Did you know about it?

**The PRESIDENT**—No.

**Senator BROWN**—Did you ask the Speaker at any time to keep you informed about matters relating to senators and their guests?

**The PRESIDENT**—If the Speaker had anything to tell me, he would have done so, I am sure. As I have already indicated, the only other guests that I am aware of with late invitations were Mr Ferguson's guests, and I know they were directed to the overflow gallery. That was very late in the day. I am not aware of any other matters relating to guests. That was a matter for the Speaker. I think PM&C were handling a lot of those matters.

**Senator BROWN**—I put it to you that you abandoned your responsibility to the Senate and to senators throughout this episode. I ask you to comment on this: you ought at all times to have been vigilant to see that the Senate's interests were looked after, and that means those of any members of the Senate. On the evidence you have given, you simply handed that

across to the Speaker. Do you have a defence regarding that proposition? I have drawn it from the evidence you have given today, President.

**The PRESIDENT**—With due respect, you can assert what you like. As far as I am concerned the Speaker and I had a duty to ensure that the joint meetings on both days were conducted in the best way possible, that there were no security breaches, and that our guests were treated in an appropriate manner as guests of the parliament and of Australia, and I believe we did that. If we had to take some actions that you did not like, I am sorry if you do not agree with what we have done, but if I was asked to do it again I am pretty certain that I would agree with the Speaker having regard to the precautions he took. I believe those members and senators who attended those joint hearings had the right to hear the President of the United States and the President of China in silence.

**Senator BROWN**—In total silence?

**The PRESIDENT**—Without interruption.

**Senator BROWN**—Yes, in total silence.

**The PRESIDENT**—Why not?

**Senator BROWN**—Well, I am not going to get into a debate with you. I ask you: have you been a guest of the People's Republic of China?

**CHAIR**—Senator Brown, this hearing is about budget estimates. While I may agree with some of your views on these issues, this is not the time or the place for them.

**Senator FAULKNER**—On a point of order, Mr Chairman: if Mr President has been a guest, as President of the Senate, and moneys were expended on that visit and so forth, I think the question is in order. But if Senator Calvert has done that in another capacity, I would say it is out of order. The question ought not be required to be answered by the President if he has been a guest in another capacity. He is appearing before this committee as President of the Senate.

**CHAIR**—I may be misunderstanding you: do you mean if Senator Calvert as President of the Senate has been a guest of a foreign country?

**Senator FAULKNER**—I would have thought in relation to these estimates that that question is in order.

**The PRESIDENT**—To save any argument I will answer that question, if you don't mind.

**CHAIR**—Certainly, Mr President.

**The PRESIDENT**—I have not been to China. I have not been a guest of the Chinese government but I have been a guest of the Chinese Ambassador here for dinner one night.

**Senator BROWN**—Thank you; that was easy. Did you have any conversation with the Speaker about Mr Organ or anybody else wearing the Tibetan flag in a black armband, as had been pre-announced?

**The PRESIDENT**—Certainly not.

**Senator BROWN**—And he did not talk to you about that?

**The PRESIDENT**—The Speaker?

**Senator BROWN**—Yes.

**The PRESIDENT**—No, I don't think he mentioned it. He did mention in passing something about black armbands, but I don't—

**Senator BROWN**—In what way did he mention that?

**The PRESIDENT**—I think he just said that he had spoken to Mr Organ about wearing armbands. I did not take that much notice of it because it was only in passing.

**Senator BROWN**—Did Mr Li, the foreign minister for China, make reference to that?

**The PRESIDENT**—No. Mr Li, as I said earlier, raised with us the matter of two Green senators being in the chamber. He was led to believe there were two Green senators in the chamber and three guests—'dissidents' he called them—in the gallery who were likely to interrupt the President's speech. The Speaker repeatedly gave them assurances, as best he could, that that was not going to happen. They seemed satisfied with that. He said, 'We'll keep our fingers crossed,' and he left.

**Senator BROWN**—Did Mr Li ask whether they were in the chamber or whether they were going to the chamber?

**The PRESIDENT**—I think he asked the Speaker whether they were in the chamber and the Speaker said, 'No, they aren't because they have been banned from the chamber'—or words to that effect.

**Senator BROWN**—What else did he say about them being present in the chamber?

**The PRESIDENT**—Nothing.

**Senator BROWN**—Mr Li did not indicate that this was a problem to him?

**The PRESIDENT**—He was concerned about senators in the chamber—two senators in particular—and the guests interrupting the President's speech. That was the sum total of their concerns. The Speaker gave them assurances, as best he could, that that would not happen. They seemed satisfied with that and Mr Li left.

**Senator BROWN**—Did he indicate that proceedings could be delayed or prevented if there were—

**The PRESIDENT**—No. I read somewhere that the Speaker was threatened—or both of us were threatened—that the President would not turn up if steps were not taken. That is not true. There were no threats at any stage.

**Senator FAULKNER**—How did you become aware of the impending visit of the Chinese foreign minister?

**The PRESIDENT**—We didn't know until he turned up. A white car pulled up. I think we both thought it was pre-security. As you can imagine there were whole teams of Chinese people and our security people milling around the front door. They were all running around with radios and mobile phones up to their ears and the Speaker and I were waiting for the vehicle. We heard that it had left and then this car pulled up and out hopped the foreign minister.

**Senator FAULKNER**—And really you expected the President to hop out of the car?

**The PRESIDENT**—We did. It was a bit of a shock, I must admit.

**Senator FAULKNER**—What was the role of the staffer of the Prime Minister that you mentioned a little earlier?

**The PRESIDENT**—I think it was the PM&C coordinator at the front entrance who was to line us up—the protocol person.

**Senator FAULKNER**—So it was not the Prime Minister's staff, then. We ought to be clear about this for the record. It was a member of the Department of the Prime Minister and Cabinet staff?

**The PRESIDENT**—Sorry, yes, I believe that is who it was.

**Senator BROWN**—You were saying earlier that some people had indicated that their guests were X but they were in fact Y and according to the Chinese—

**The PRESIDENT**—No, the Speaker indicated to me that he had concerns that there had been some invitation swapping. Whether that had happened I do not know.

**Senator BROWN**—What was his concern?

**The PRESIDENT**—Obviously it was raised with him that people who were invited were not the people who were going to turn up.

**Senator BROWN**—That was raised with him by whom?

**The PRESIDENT**—I am not sure. He just said that there had been indications of invitation swapping. So obviously it would have been raised with him by concerned officials—whether they were our people or Chinese officials, I do not know. Perhaps you should put that question to the Speaker.

**Senator BROWN**—I am putting it to you because the Speaker is not here. Do you know? Did you check to see if that had happened?

**The PRESIDENT**—No, because I do not believe that was my role. The Speaker was responsible for that and security people were acting on his advice.

**Senator BROWN**—President, what was your role?

**The PRESIDENT**—I was there as President.

**Senator BROWN**—Then it was your role to check on what the guests were trying to do.

**The PRESIDENT**—I do not physically have to go around and check on everybody's invitations. Goodness me! We expected people to behave in an honourable manner and to act like senators and members.

**Senator BROWN**—And they did at all times.

**The PRESIDENT**—We do not have to go around asking everyone individually if they were going to flout the laws of the Senate, flout the invitation laws or be rude to people. We should not have to do that.

**Senator BROWN**—We are talking about your taking part in subservience to a foreign power and the impact that had on this parliament. That is what we are talking about and it is a very serious matter, President. You misjudge me if you think it is taken lightly. You have said

to the committee that there was concern about guests being swapped. Let me put it to you that on the Sunday before these meetings the Greens had publicly indicated that Mr Chin Jin and two Tibetans would be invited and that they were duly given their accredited invitations.

What I put to you is that the People's Republic of China had seen and been furnished with the original guest list and then they had come to the Speaker and/or you complaining that the original guest list had been changed in the case of Mrs Organ, who was not coming anymore but whose seat was to be taken up by Mr Chin Jin as a representative of the movement for democracy in China. He was specifically under view by the Chinese authorities and they were opposed to the swap being made. Following that, the Speaker, with you doing nothing about it, had these guests, including Mr Chin Jin, removed to the behind-glass gallery in deference to this concern from the People's Republic of China. That is what happened, isn't it?

**The PRESIDENT**—Thanks for the information.

**Senator FAULKNER**—Chair, I want to address a few of those issues but I will do so in Joint House because I think that will save some time. There are a number of issues I have flagged, and I am hoping they will not take much time, that we will deal with in relation to matters associated with this line of questioning about the joint meetings for President Bush and President Hu. I will do that, if I can, when Joint House come to the table.

**CHAIR**—Yes.

**Senator FAULKNER**—There are one or two others areas I want to canvass quickly first so we can move along. Mr President, could I ask you very briefly for an update on where the new Secretary of the Department of Parliamentary Services is up to. Could you quickly advise us on that?

**The PRESIDENT**—I am waiting on advice from Ms Williams and Mr Podger, who I understand will have some recommendations coming to us before the end of this month.

**Senator FAULKNER**—But where is the actual process up to? Have interviews been conducted?

**The PRESIDENT**—As I said before, the process will be completed by November. I understand some interviews have been taken.

**Senator FAULKNER**—There is an interview panel obviously?

**The PRESIDENT**—The Public Service Commissioner and Ms Helen Williams, who is the only other person that has held the statutory office of Public Service Commissioner, have been invited to assist.

**Senator FAULKNER**—You mean the only other person who has held the statutory office of Parliamentary Service Commissioner?

**The PRESIDENT**—Parliamentary Service Commissioner, yes—the Public Service Commissioner.

**Senator FAULKNER**—There are plenty of them.

**The PRESIDENT**—Parliamentary Service Commissioner. She is assisting in the process.

**Senator FAULKNER**—So it is a panel of two, is it?



**The PRESIDENT**—They are going to make recommendations to the Speaker and me.

**Senator FAULKNER**—Could someone just outline briefly what the detail of this process is? It is still not clear to me where we are up to, what has been put in train and what part of the process we are up to.

**The PRESIDENT**—The Parliamentary Service Commissioner has been advising us. As you know, he did the original brief. Expressions of interest were called for. That is a common practice. Then he got Ms Williams to help him. Following the relative merits of those people that expressed an interest, I expect that he will report to me and the Speaker on persons he thinks we should interview. We hope to have that matter completed before the end of November.

**Senator FAULKNER**—I have got an answer to a question on notice from you, but I am just trying to understand where the process is up to. At the moment, it is at the point of interviews with—

**The PRESIDENT**—We are waiting for the recommended interviewees from him so that we can make a decision before the end of November, which is the time frame we set in place. I understand that Mr Podger has been away for a few weeks and that has delayed the process a little, but we are still hoping that we will be able to make a decision on the position before the end of November so that the Department of Parliamentary Services is established from 1 February 2004.

**Senator FAULKNER**—You received a report from Mr Podger. That is correct, isn't it?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—That report may recommend a person for appointment to the position or might indicate there are two or more people of equal merit for the position—is that correct?

**The PRESIDENT**—I would expect that, but I have not seen the report yet. It could be one, it could be two or it could be three. I am hoping that we will get a clear report from those people who have been doing the work for us.

**Senator FAULKNER**—You think this is common practice—this sort of procedure?

**The PRESIDENT**—I have not had to do it myself but I understand it is common practice.

**Senator FAULKNER**—I am not aware of it ever having taken place before.

**The PRESIDENT**—We have not had a joint services department before.

**Senator FAULKNER**—So it is not a common practice; it is a new practice.

**The PRESIDENT**—We have tried to keep it as open and as transparent as possible by calling for expressions of interest. We are looking for recommendations from the Parliamentary Service Commissioner. That is why he employed Ms Helen Williams, an arms' length person, to advise him on those matters.

**Senator FAULKNER**—At this stage you cannot say to me whether there will be interviews or not.

**The PRESIDENT**—No I cannot because I have not received his report yet. His report may recommend one outstanding candidate; I do not know.

**Senator FAULKNER**—Has your advice been sought on this, Mr Evans?

**Mr Evans**—No, I am not involved in this exercise.

**Senator FAULKNER**—What guarantees or assurances do we have about the processes being sufficiently independent when it comes to the appointment of the Parliamentary Librarian?

**The PRESIDENT**—That is another question.

**Senator FAULKNER**—It is another question, yes.

**The PRESIDENT**—I understand that the Parliamentary Library Committee will become involved in the appointment.

**Senator FAULKNER**—Will they?

**The PRESIDENT**—A member and a senator from the Parliamentary Library Committee will be involved in the process of appointing the Parliamentary Librarian.

**Senator FAULKNER**—How?

**The PRESIDENT**—They will be on the panel.

**Senator FAULKNER**—A panel is going to be established, is it?

**The PRESIDENT**—There will be the Speaker, me and a senator and a member from the Library Committee, both from different sides of the fence.

**Senator FAULKNER**—When was that decision made?

**The PRESIDENT**—About three meetings of the Library Committee ago.

**Senator FAULKNER**—Where is the process up to, apart from having made that decision about the selection committee?

**The PRESIDENT**—We are ready to go on that but we want to involve the new Secretary to the Joint Services Department in that process.

**Senator FAULKNER**—There appears to be more transparency in relation to the appointment of the Parliamentary Librarian than there is in relation to the Secretary to the Department of Parliamentary Services. Do you think that is a fair conclusion to draw?

**The PRESIDENT**—I think the matter of the librarian was one of those matters where, if you recall, when we were discussing this matter about the proposal to appoint a joint services department, the statutory appointment of the librarian was a very important part. I think there were some assurances given that the Library Committee would be involved in that appointment. That is exactly what we are doing. As far as the appointment of the secretary to the joint services department is concerned, we are being advised by both the Parliamentary Service Commissioner and the former Parliamentary Service Commissioner on recommendations as to who should be appropriate for that position. If you think there should be a panel appointed for that purpose—

**Senator FAULKNER**—I am comparing what appears to be a more transparent process—this is an assumption on my part—in relation to the Parliamentary Librarian’s appointment than the appointment of the secretary to the joint services department. I think that is a reasonable point to make.

**The PRESIDENT**—We have never had this position before, but we have had positions of clerks. I am not sure how they are selected. I do not know whether they have a panel selection.

**Senator FAULKNER**—Part of the thrust of the Podger report, surely, was to ensure that there would be independence for the Parliamentary Librarian. That is clear. I would have thought that to have a process independent of the new departmental secretary was required. I would have thought that was a requirement in terms of the demands that arose from the restructuring.

**The PRESIDENT**—I do not think that it is unusual for a head of department position to be advised on by someone such as the Parliamentary Service Commissioner. In this case, there is one and one former one. That certainly should give some independence to it.

**Senator FAULKNER**—Who agreed to the processes for the appointment of the parliamentary services department secretary?

**The PRESIDENT**—You mean the joint services secretary?

**Senator FAULKNER**—Yes. Isn’t it called the Department of Parliamentary Services?

**The PRESIDENT**—Secretary of Parliamentary Services.

**Senator FAULKNER**—Joint Department of Parliamentary Services. That is what it is called, isn’t it?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Who determined the appointment processes?

**The PRESIDENT**—The Speaker and I did, on the advice of—

**Senator FAULKNER**—You did not make it a requirement for Mr Podger to have someone assist him?

**The PRESIDENT**—Yes, we did. We asked him to get another independent person to advise him on people we could interview. I think he suggested that the former Parliamentary Service Commissioner, who was seen as an independent person, could give us that sort of advice. I am not sure, but I think under normal circumstances appointments such as this are always in consultation with the Parliamentary Service Commissioner.

**Senator FAULKNER**—One of the reasons I raise this is that I was very concerned to read in the *Canberra Times* newspaper—a very good newspaper—on Sunday, 12 October this year, the name of an individual who, according to that newspaper, it has been assumed all along would be the person earmarked for the job. Did you see that article?

**The PRESIDENT**—No, I did not.

**Senator FAULKNER**—That would concern you, wouldn't it—the name of a person assumed to be earmarked for the job mentioned in a newspaper while this appointment process is under way?

**The PRESIDENT**—In a position such as this, I guess there is always speculation about who might and might not be appointed. I did not see that article, and I would be very disappointed and very surprised if that name came from either of the people we have asked to advise us.

**Senator FAULKNER**—I am not suggesting it did.

**The PRESIDENT**—Then I guess anybody could come out and speculate on who might get the job.

**Senator FAULKNER**—But we may have an appointment process here which does not even involve an interview.

**The PRESIDENT**—I do not know who—

**Senator FAULKNER**—No, but we may have. I am not saying we will have but, on the procedures you yourself have determined are satisfactory, we may have an appointment process that does not even involve an interview.

**The PRESIDENT**—I do not believe that is the case. The Speaker and I would certainly interview whoever was recommended to us, and we have to make the final decision.

**Senator FAULKNER**—To read in the newspaper speculation that the person who is earmarked for this job has been the chief of staff of the Speaker—

**The PRESIDENT**—I do recall that now. I can assure you—

**Senator FAULKNER**—You told me a moment ago you did not recall it.

**The PRESIDENT**—I did not know who you were talking about. I heard something and I thought it was only someone having a go at him; I did not realise it was in the paper. He is certainly not an applicant for the position. He just laughed it off.

**Senator FAULKNER**—So you know who the applicants for the position are?

**The PRESIDENT**—No, I do not know who the applicants are.

**Senator FAULKNER**—How do you know he is not an applicant?

**The PRESIDENT**—Because he told me he was not.

**Senator FAULKNER**—So you did raise it with him?

**The PRESIDENT**—No, somebody else raised it with him. I just thought they were having a joke—

**Senator FAULKNER**—The whole process sounds like a shemozzle to me.

**The PRESIDENT**—and he said, 'You don't think I'd apply for that job, do you?' But when you just mentioned that name—

**Senator FAULKNER**—I would have thought that for you and the Speaker, when this sort of speculation is made public in the media, there would be some concerns.

**The PRESIDENT**—If I had seen that article I would have been concerned.

**Senator FAULKNER**—It is a pity, isn't it, that there is not an adequate apparatus around you to draw these sorts of things to your attention?

**The PRESIDENT**—As I said, we were waiting on advice—

**Senator FAULKNER**—At least you knew about the speculation, even though you had not seen the media article. I suppose that says something about the rumour mill here in Canberra.

**CHAIR**—There is always speculation, Senator Faulkner. It does not worry you often. It does not worry me either.

**Senator FAULKNER**—I think you would be worried about ensuring that there is a bit of integrity in some of these process in relation to the appointment of a secretary of a parliamentary department.

**CHAIR**—Sure, but—

**Senator FAULKNER**—As far as I can see, we could have a person appointed here without even an interview.

**CHAIR**—Gossip in the *Canberra Times* does not necessarily amount to much.

**Senator FAULKNER**—I do not know; it does not necessarily—

**CHAIR**—Anyway, I am debating; I should not do that.

**Senator FAULKNER**—We know from the President that the person who was speculated about has not applied for the job. That leaves 20 million others who might have.

**The PRESIDENT**—Senator, it is the first time a position as head of a department such as this has been advertised, I am advised

**Senator FAULKNER**—Is that right?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Let us have the detail of that then.

**The PRESIDENT**—It is the first time a position as the head of a parliamentary department has been advertised.

**Senator FAULKNER**—So the job of the Secretary to the Joint House Department was not advertised when he was appointed? That is what you are saying.

**The PRESIDENT**—If my advice is correct, I do not believe so.

**Senator FAULKNER**—Mr Evans, you obviously got through without any advertisement for your position.

**Mr Evans**—I do not know whether any positions have been advertised in the past. That is not something I have checked on.

**Senator FAULKNER**—I accept the evidence that the President has provided to us.

**The PRESIDENT**—I do not believe that has been the case. The applications go to an independent person for assessing. That is the path we took.

**Senator FAULKNER**—The key point here is that people need to be assured—and I hope you would accept this—that the process is proper and rigorous. I am sure you agree that it is reasonable for this committee to be assured of that.

**The PRESIDENT**—Yes. It certainly will be. In retrospect I think I have seen some names. We did get a list of some names of those who had shown some interest, but it was not a final list. That was about two meetings ago.

**Senator FAULKNER**—Two meetings ago of what?

**The PRESIDENT**—Our Presiding Officers meetings. We were advised that some names had been put forward but there were others to come.

**Senator FAULKNER**—So Mr Podger has made a preliminary report to you?

**The PRESIDENT**—No, I think he just informed the Speaker's senior adviser of two or three names of those who had expressed interest, and there were others—

**Senator FAULKNER**—That is absolutely outrageous, if it is true.

**The PRESIDENT**—Sorry—he made a preliminary report with a list of names in it, I am advised.

**Senator FAULKNER**—He did make a preliminary report?

**The PRESIDENT**—Yes, but just a list of names. He will go through those names and assess them and give us a final report when he returns from overseas or wherever he has been, and then we will make a decision, given that advice, before the end of November.

**Senator FAULKNER**—So are we at the point of a shortlist, would you say?

**The PRESIDENT**—Yes, but there is no recommendation to the Presiding Officers yet.

**Senator FAULKNER**—Are you aware, Mr Evans, whether positions for secretaries of parliamentary departments are advertised internally—government gazettes, this sort of thing?

**Mr Evans**—I am not aware of what processes have been followed in past cases. I would need to check that. It is not something on which I have information available to me.

**Senator FAULKNER**—I would be interested to know about the pattern, but I accept what the President has said.

**The PRESIDENT**—If there is any more up-to-date information, I will get back to you on that.

**Senator FAULKNER**—I am sure the committee would be interested if there is any more information.

**The PRESIDENT**—Certainly.

**Senator FAULKNER**—The answer to the question on notice that you provided to me, as I recall it, did not involve any preliminary reports to the Presiding Officers.

**The PRESIDENT**—That may have happened since. I am not sure of the date on which I gave the answer to that question on notice. How long ago was it?

**Senator FAULKNER**—I think it was received by the committee earlier this month. The secretary could confirm that. Now you are saying that we are likely to have an appointment by the end of November?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—As opposed to November, it is now the end of November?

**The PRESIDENT**—No, I think I said the end of November originally. We want to be in a position to appoint someone before the end of November.

**Senator FAULKNER**—The end of November?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—As I understand it, in the information you have previously provided to the Senate via my question on notice, there was no indication that the Parliamentary Service Commissioner would be providing interim reports to the Presiding Officers on this process.

**The PRESIDENT**—That has happened now, and hopefully we will have a final report in the very near future.

**Senator FAULKNER**—Was it a written report that Mr Podger provided? I hope there was no gossiping about the names of—

**The PRESIDENT**—No.

**Senator FAULKNER**—a shortlist of candidates at the Presiding Officers meeting. Is it a written report?

**The PRESIDENT**—It was a written report to us both.

**Senator FAULKNER**—So a formal report to the Presiding Officers?

**The PRESIDENT**—Yes.

**Senator FAULKNER**—Effectively, if you like, a status report on where the process was up to?

**The PRESIDENT**—Exactly.

**Senator FAULKNER**—Can you say when that was provided to you?

**The PRESIDENT**—We can provide that to the committee on notice.

**Senator FAULKNER**—But it was Mr Podger who took the initiative of suggesting that Ms Williams assist him in this process, wasn't it?

**The PRESIDENT**—I think so, yes.

**Senator FAULKNER**—It wasn't the Presiding Officers' idea at all; it was Mr Podger's idea?

**The PRESIDENT**—I think there were certain people suggested and the Presiding Officers suggested, after discussions, Ms Williams as a possibility.

**Senator FAULKNER**—But that initiative came from the Parliamentary Service Commissioner, didn't it? That is what you told me in answer to a question on notice, so I

don't want you to take too much credit for the fine idea here, given that you have previously given me an answer to a question which said it was Mr Podger's idea.

**The PRESIDENT**—We put Ms Williams's name forward as one of the people.

**Senator FAULKNER**—Anyway, I would appreciate it if you would keep the committee up to speed on this matter.

**Senator BROWN**—Has there been any discovery regarding the poisoning of the bogong moths? Has there been any movement on that front?

**The PRESIDENT**—Joint House have an answer on that. The only thing I am aware of is that the small bird that Senator Bartlett presented me with last week has been identified as having died of a collision with one of the walls. However, I think Joint House can answer better than me.

**Senator FAULKNER**—It happens a lot in this building, doesn't it—people colliding with walls?

**Senator BROWN**—Including glass walls.

**Senator FAULKNER**—But not birds necessarily.

**Senator BROWN**—Have you any more information on what the cause of the absence of the birds is?

**The PRESIDENT**—I sent a letter to you this morning regarding the questions you asked about poisons. As far as I am aware, we are still waiting on an analysis of the bogong moths as to what may or may not be contained in them. I am sure Joint House could give a better answer than I could.

**Senator FAULKNER**—We need to move on quickly. We can come back to that when we have Joint House here. I wanted to ask Mr Evans about the discussion paper on section 57 of the Constitution. Has there been any Senate involvement in the development of that discussion paper at all? I assume not, but I just wanted to check that.

**Mr Evans**—In the development of the discussion paper? No, I certainly have not been involved and I am sure the Department of the Senate has not been involved.

**Senator FAULKNER**—Has there been any activity in the Department of the Senate as a result of the preparation or publication of that particular discussion paper?

**Mr Evans**—I am about to send off to the consultative group who are gathering information about the discussion paper a response to their invitation for comment on it.

**Senator FAULKNER**—This is the group which includes—

**Mr Evans**—It is chaired by Mr Neil Brown.

**Senator FAULKNER**—Mr Brown, Mr Lavarch and so forth?

**Mr Evans**—Yes.

**Senator FAULKNER**—Is that an individual submission or on behalf of the Department of the Senate as Clerk of the Senate?

**Mr Evans**—It would be my individual response to the invitation.



**Senator FAULKNER**—Did they request a submission from you?

**Mr Evans**—The chair of the group, Mr Brown, called on me and said that they would be happy to receive one.

**Senator FAULKNER**—Thank you for that. I have a number of other questions, Mr President. I might place those on notice in the interests of trying to move through the agenda as quickly as I can. These are questions for the Department of the Senate. Obviously there are issues I have flagged for Joint House that we will need to come back to.

**Senator BROWN**—Going back to a note I had, Ms Griffiths, about your liaison with PM&C about the guest list into the gallery for the joint sittings, when did you first become aware that there was concern about the guests of the Greens for the sitting for President Hu?

**Ms Griffiths**—On the Friday morning.

**Senator BROWN**—Did you have liaison with Prime Minister and Cabinet about that matter?

**Ms Griffiths**—No.

**Senator BROWN**—Thank you.

**CHAIR**—There being no further questions for the Department of the Senate, thank you Mr Evans and officers.

[3.04 p.m.]

#### **Department of the Parliamentary Library**

**CHAIR**—The committee welcomes Mr Templeton and officers of the Department of the Parliamentary Library. I will first call for general questions of the Department of the Parliamentary Library.

**Senator FAULKNER**—I wanted to raise a number of issues, but in the interests of time I might place some questions on notice. I understand that staff leave arrangements were dealt with differently in the Department of the Parliamentary Library and DPRS than in other parliamentary departments at the time of the Bush and Hu visits. Perhaps they were not dealt with differently in the Department of the Parliamentary Library. Perhaps they were only dealt with differently in DPRS. I wanted to check this out. Could you indicate to the committee if that is the case and, if so, what the background to it is?

**Mr Templeton**—As you would be aware, the Speaker and the President put out a circular, I think, on the Thursday before President Bush's visit, in which they detailed the arrangements for the restriction of access to various parts of the building and some of the parking areas. In part of that circular there was a suggestion that non-essential staff might wish to be stood down. I understand that both the Department of the House of Representatives and the Department of the Senate did stand down some of their non-essential staff. In both DPRS and DPL a circular was issued saying that, if staff wished to take leave on Thursday, the 23rd, which was the day of President Bush's visit—and it only concentrated on Thursday, the 23rd, because there were no restrictions envisaged around the building for Friday, the 24th—they could either take flex leave or recreation leave. But the staff of both departments who were in this building, in my view, were essential for the services which the departments

were required to provide to senators, members, committees, electorate offices and the like. That was the difference. I am not sure what happened in Joint House; I do not know whether they stood staff down or not.

**Senator FAULKNER**—Annual leave or flex leave are a different sort of leave, aren't they?

**Mr Templeton**—Yes. They come off the individual's leave or flex credits.

**Senator FAULKNER**—So you had DPRS and Parliamentary Library staff being treated very differently to the staff in the chamber departments.

**Mr Templeton**—The non-essential staff in the chamber departments.

**Senator FAULKNER**—Did you also put an onus on supervisors' prior agreement?

**Mr Templeton**—Yes. It is a standard requirement for any flex or recreation leave that an employee takes that they must have the agreement of their supervisor that they can be spared.

**Senator FAULKNER**—Why were all staff essential in DPRS and the Parliamentary Library?

**Mr Templeton**—All the staff in Parliament House were providing services to senators, members, committees and electorate offices.

**Senator FAULKNER**—It seems remarkable to me that, in the two departments for which you have responsibility, discretionary leave could not be provided as it was in the other parliamentary departments.

**Mr Templeton**—I am only aware that it was provided in the Department of the Senate and the Department of the House of Representatives. We had in the building on the Thursday all senators and members and a significant number of former senators and members—who are also entitled to use our services. My judgment was that a lot of senators and members would take the opportunity to use the library services because there were no formal proceedings going on beyond the end of President Bush's address to the House of Representatives chamber. A fair bit of work was done by DPL on that day.

**Senator FAULKNER**—I was going to ask whether that was borne out—

**Mr Templeton**—I spoke to Ms Adcock about that on the Thursday afternoon. Ms Adcock, you might like to pass on what you passed on to me.

**Ms Adcock**—I was on the inquiry desk in the afternoon and there were quite a number of calls and visits from members and senators and former members.

**Senator FAULKNER**—How would that compare to a normal pattern on a sitting day?

**Ms Adcock**—Anecdotally at least, the staff who were on that desk said that there were more members coming in on that day than we perhaps would see on a normal sitting day.

**Senator FAULKNER**—Did staff have a problem with flexibility because of not being able to get in by the time of the lock-out and that sort of thing—those people who might have needed to get to appointments and could not get in or out?

**Mr Templeton**—I had no reports of anyone having any difficulties getting into the building or being caused any difficulty for appointments. For DPRS, we ran a shuttle bus from West Block to Parliament House and back.

**Senator FAULKNER**—Do you ever give discretionary leave?

**Mr Templeton**—Not really. People in both departments have four weeks annual leave; they have access to flex leave; and, as part of the certified agreements that were negotiated, we also have the period from Christmas Eve through to the day after New Year's Day. There are an extra two days in there which we have put into the certified agreements. We give some limited flexible special leave for things like Melbourne Cup events, but the leave provisions for staff are very generous.

**Senator FAULKNER**—Dr Verrier, has a formal report from the IFLA trip been finalised yet?

**Dr Verrier**—Yes, there has.

**Senator FAULKNER**—Would it be possible for the committee to be provided with a copy of that?

**Dr Verrier**—Certainly.

**Senator FAULKNER**—And I wonder if Mr Templeton could take on notice the final costs for that particular trip.

**Mr Templeton**—Yes, certainly.

**Senator FAULKNER**—I also wonder if we could have, on notice, a breakdown of the external consultancies. I think a gross figure is provided in the annual report but, if we could have a breakdown of that, I would appreciate it.

**Mr Templeton**—Yes, we can certainly do that. If you would like the costs of the IFLA travel, I can give you the exact figures now. For Dr Verrier, it was \$15,546; for Ms Adcock, \$15,052; and for Mr Johnston, \$13,782.

**Senator FAULKNER**—Thank you for that. Where are we up to in terms of this tick-tacking with the Department of Defence in relation to requests for information from the Parliamentary Library and the like? Can you give us a very brief status report on that?

**Mr Templeton**—This was discussed at the Library Committee meeting on 9 October, and the report was given to the Library Committee that, following some concerns that had been expressed, I had written to the Secretary of the Department of Defence, Mr Smith, and expressed the hope that we would be able to get more prompt information and assistance from the Department of Defence. He wrote back to me and said that, notwithstanding their other priorities, yes, they would do all they could, but they did have other priorities as well. His exact words were:

Defence will endeavour to respond as quickly as possible to requests for information that has been published or which can readily be made publicly available. You would appreciate, I hope, that our responsiveness to such requests will need to be balanced with many competing priorities, including providing responses to Questions on Notice and the many representations which parliamentarians make directly to our Ministers and Parliamentary Secretary.

That was a letter to me from Mr Smith of 18 September.

**Senator FAULKNER**—And that is where the matter lies at the moment?

**Mr Templeton**—Yes.

**Senator FAULKNER**—Do you have a view about how satisfactory that response from Mr Smith is as far as the library is concerned?

**Mr Templeton**—I think probably Dr Verrier would be better placed to answer that in terms of the response that the defence group has been getting out of the Department of Defence, but there have been, as you would appreciate, many requests going to Defence.

**Senator FAULKNER**—Yes, I do appreciate that. Dr Verrier, could you make a comment about the appropriateness of that response as far as the library is concerned?

**Dr Verrier**—The issue of timing remains a difficulty for us. There is also potentially an issue of compromise of confidentiality if requests are required to go through a central point in a department. We remain somewhat frustrated in not being able to respond to all requests in as timely a manner as we would like because of the regime in Defence where things go through the central clearing house. I think the acronym is DMPLS.

**Senator FAULKNER**—Are there any other departments or agencies that have a vetting process similar to Defence?

**Dr Verrier**—There have recently been a number of incidences of other departments requiring us to refer matters through ministers' offices or through something comparable, yes.

**Mr Templeton**—In terms of your question, I do not think any of the other departments have a big centralised unit within the department, as Defence has.

**Senator FAULKNER**—So this is now a growing pattern is it?

**Dr Verrier**—There have perhaps been more incidents in the last few months than is normal, yes.

**Senator FAULKNER**—What ministers are insisting on that?

**Dr Verrier**—I have the portfolio titles here rather than the ministers' names. There are about 12 departments or agencies involved. They include: the Office of the Status of Women; the Department of Communications, Information Technology and the Arts; the Department of Agriculture, Fisheries and Forestry; Quarantine; the Therapeutic Goods Administration; the Department of Health and Ageing, the Australian Taxation Office; Treasury; Defence; DOFA; and the Australian Federal Police.

**Senator FAULKNER**—Is this as a result of some decision made by executive government to change these approaches? Is this driven by the bureaucracy or the government?

**Dr Verrier**—I am not in a position to answer that.

**Senator FAULKNER**—It seems to be a recent growing pattern.

**Mr Templeton**—We are not aware of any central decision, but as you say there have been a number of incidents. As Dr Verrier said, since about May we have had 14 incidents affecting about 10 different agencies or departments. This matter was discussed at the Library Committee on 9 October, and the Library Committee asked me to write to the heads of the

departments or agencies concerned. I have done that and we will be reporting back to the Library Committee with the responses to those letters when we get them.

**Senator FAULKNER**—Are you concerned about this growing pattern, Mr President?

**The PRESIDENT**—It is a matter that has been raised at the Library Committee more than once, and I would prefer to wait until we see what answers we get before I comment on it again. It seems funny to me that it has happened in more recent times. We will wait and see what sort of answers we get.

**Senator FAULKNER**—I am not asking you to develop a conspiracy theory about it. We have this problem with vetting in the Department of Defence. I think ‘vetting’ is a fair description of what happens in the Department of Defence, don’t you, Dr Verrier? There is a central vetting process.

**Dr Verrier**—That assumes that I know their motivation. The motivation that is provided to us is efficiency. Efficiency and vetting are perhaps not the same thing.

**Senator FAULKNER**—I will stick with ‘vetting’. I would have thought that the vetting process in the Department of Defence, which now appears to be a growing pattern in other agencies, would be a matter of real concern to you.

**The PRESIDENT**—It is something I will keep an eye on, Senator. If it continues I might have to make some further inquiries.

**Senator FAULKNER**—I hope you would. Mr Templeton, would you be able to table that exchange of correspondence with Mr Smith? I appreciate you have written to other agencies.

**Mr Templeton**—Yes.

**Senator FAULKNER**—That would be useful. I appreciate that. We might follow that through at a later stage. I flag with you that we might take a close look at this in this particular committee as well as the Library Committee. It was never known for its activism on any issue. I can say that as someone who has served on it in great frustration on a number of occasions.

**Mr Templeton**—I am sorry to hear that you were frustrated on the committee, Senator, but I assure you that in the discussion on 9 October there was considerable interest and no lack of activism on this matter by the committee members.

**Senator FAULKNER**—I am pleased to hear that. That is out of character for the Library Committee, which tends to be a do nothing committee, but if it is going to show a bit of activism about something and protect the interests of the library, not to mention members and senators, that is excellent. I have no other questions for the library. I was just having a mild dig at the Library Committee, who are useless.

**Senator MURRAY**—Mr Templeton, when we last met we discussed this potential Spam Bill. Can you confirm whether in the end the library was consulted by the government with respect to their bill?

**Mr Templeton**—No. Neither the library nor the Department of the Parliamentary Reporting Staff were consulted on the spam legislation.

**Senator MURRAY**—And were you consulted by the Senate committee that looked into the matter?

**Mr Templeton**—Not that I am aware.

**Senator MURRAY**—So you have had no input at all into a professional view from the parliamentary side of things on the Spam Bill?

**Mr Templeton**—Not on the Spam Bill, no.

**Senator MURRAY**—Dr Verrier, you look like you can make a contribution.

**Dr Verrier**—Thank you, Senator. I do not know the details of this, but I would expect that because it is a bill there would be senators and members who would be talking to the relevant staff in our law group to discuss aspects of the bill.

**Senator MURRAY**—Back to you, Mr Templeton. I am correct, aren't I, that your department has oversight of our parliamentary systems?

**Mr Templeton**—The Department of the Parliamentary Reporting Staff does, yes. But in answer to the question were we formally approached by government or the Senate committee, to the best of my knowledge the answer is no, and I will double-check that.

**Senator MURRAY**—Will the library, Dr Verrier, be providing senators who have to deal with the debate with a library view on the bill over and above the normal digest?

**Mr Templeton**—We have done the *Bills Digest*. I am not sure that we would be—other than in individual discussions, as Dr Verrier indicated, with members and senators talking to the relevant research specialist—in a position to add much to the argument.

**Dr Verrier**—On request we would do so, yes. As Mr Templeton says, that is routine. We would not necessarily decide to write an additional paper to the *Bills Digest* at this stage; we will simply respond to members' concerns as raised with us individually, confidentially.

**CHAIR**—Any further questions?

**Senator FAULKNER**—Again, I might place some questions on notice, just so we can move the show along a bit.

**CHAIR**—I thank the Department of the Parliamentary Library.

[3.23 p.m.]

#### **Department of the Parliamentary Reporting Staff**

**CHAIR**—I call on general questions for the Department of the Parliamentary Reporting Staff.

**Senator FAULKNER**—A little earlier, Mr Templeton, an issue was raised in the committee hearing—I think you may have been present when it was raised—about the fact that Hansard reporters were not present in the chamber at the time of either the Bush or Hu joint meetings of the parliament. I just wondered if you could confirm that that was the case.

**Mr Templeton**—That was the case, yes.

**Senator FAULKNER**—My recollection is that it was the case also with previous joint sittings. Could you confirm that?

**Mr Templeton**—That is correct, Senator.

**Senator FAULKNER**—Thank you for that. Could you indicate to the committee whether, present or not, the Hansard or DPRS procedures effectively are the same in the circumstances of a joint meeting, in terms of the *Hansard* transcript and record?

**Mr Templeton**—Hansard provided a report of the joint meeting. Because of accommodation pressures in the chamber, we were advised by the Speaker's office that Hansard would not be in the chamber. So that obviously inhibited any ability to take down interjections or anything other than what was available on the sound system or the video system.

**Senator FAULKNER**—The normal practice, of course, when an interjection is responded to, is that the interjection is included in the *Hansard* record. That is true, isn't it?

**Mr Templeton**—I will defer to Ms Barrett on this, but yes, I think that is the general rule—if an interjection is responded to or it subsequently becomes the subject, particularly in the House of Representatives, of the Speaker warning or naming the person making the interjection.

**Senator FAULKNER**—Ms Barrett, you can confirm that that is the general procedure?

**Ms Barrett**—Generally that is correct. The decision is usually made on a case by case basis, depending on whether the interjection is actually audible—whether it is able to be recorded if it is not available on the digital audio recording system, because the microphones are not open except for those of speakers. If an interjector is called to order, we do not tend to record what is said after the call to order.

**Senator FAULKNER**—I recall, Mr Templeton, in Mr Bush's address to the joint meeting that there was an interjection that he did respond to. That interjection came from one of our number here in the Senate, Senator Nettle, who interjected. I think the President's response to that was, 'I love free speech.' Do you recall that incident?

**Mr Templeton**—I recall the President's response, yes.

**Senator FAULKNER**—I went to the *Hansard* transcript to see what the interjection was and the actual interjection is not there, although it does indicate that a senator was interjecting. I was interested in understanding—and I think you may well have explained this—why the particular interjection in this instance, given that it was specifically responded to, was not recorded in the *Hansard* transcript.

**Mr Templeton**—It was responded to but unfortunately there were no Hansard staff present in the chamber and we did not have any means of accurately and impartially, if you like, ascertaining what the interjection was.

**Senator FAULKNER**—Was there any attempt at any stage to ensure that the interjection was expunged from the record?

**Mr Templeton**—Interjection expunged?

**Senator FAULKNER**—Yes, the interjection expunged.

**Mr Templeton**—No, not that I am aware of.

**Senator FAULKNER**—I just want to be clear on that.

**Mr Templeton**—I am just surprised. I had not heard that suggestion before.

**Senator FAULKNER**—No, be clear: I am just wanting to understand the procedures.

**Mr Templeton**—I was expressing my surprise.

**Senator FAULKNER**—No, don't get me wrong here. I am not alleging that someone did make such an approach.

**Mr Templeton**—The short answer is no.

**Senator FAULKNER**—How then were all the other bits and pieces in relation to the *Hansard* transcript able to be transcribed? I refer, for example, to what the Speaker said, what Mr Abbott said—all this sort of thing? That was perfectly easily able to be transcribed, was it?

**Mr Templeton**—That was on the videotape and obviously the Speaker's microphone is open all the time, as is the case with the President in the Senate. The Speaker called Mr Abbott; the microphone at the dispatch box was open. So yes, they were all on the tape.

**Senator FAULKNER**—This was all transcribed from the tape, was it?

**Ms Barrett**—Yes, from the digital audio recording system.

**Senator FAULKNER**—Is that done extemporaneously?

**Ms Barrett**—That is the normal procedure for recording all proceedings in the chambers.

**Senator FAULKNER**—Were Hansard staff responsible for the transcript?

**Mr Templeton**—Yes.

**Senator FAULKNER**—Produced in the normal way?

**Mr Templeton**—Yes.

**Senator FAULKNER**—This goes back, I assume, to the point that was originally being discussed by the committee regarding the presence of Hansard staff in the chamber. I accept that that has not been the pattern with these joint meetings. I am not suggesting any special arrangements were made. In fact, I don't think they were; I think it was standard operating procedure, in as much as we have one for these joint meetings. If Hansard had been present, it would have been perhaps possible in this instance for an interjection to be recorded but, because Hansard were not there, this did not occur. Is that right?

**Mr Templeton**—That is correct. Perhaps possible; that is correct.

**Senator FAULKNER**—Did anyone approach Hansard about the *Hansard* transcript in this case, about its accuracy or otherwise?

**Mr Templeton**—I think Senator Brown spoke to Mr Fowler, Director (Chambers), and the circumstances of our not being in the chamber were explained to Senator Brown.

**Senator FAULKNER**—You could guarantee, then, that no draft *Hansard* transcripts contained the interjections?

**Ms Barrett**—Yes.



**Senator FAULKNER**—That is the important issue here. I want you to be able to give that guarantee to the committee. You can give that guarantee, categorically, Ms Barrett?

**Ms Barrett**—As far as I am aware, what was said was inaudible over the digital audio recording system, and we had no other way of recording it.

**Senator FAULKNER**—I am asking a different question now. Can you guarantee to the committee that there was no change to the earlier *Hansard* transcripts—what we call the ‘pinks’ in the Senate and ‘greens’ in the House of Representatives? What are they called for a joint meeting?

**Mr Templeton**—The ‘awfully browns’ or something. We did not do pinks or greens for the joint meetings.

**Senator FAULKNER**—So my terminology ‘draft transcript’ covers the point. The interjections were not contained in a draft transcript. You can give me that assurance, Ms Barrett?

**Ms Barrett**—I certainly have not seen a draft transcript containing any interjections. I do not think it would have been possible for them to have been recorded and transcribed.

**Senator FAULKNER**—I appreciate that you have not seen it.

**Mr Templeton**—We will double-check with Mr Fowler.

**Senator FAULKNER**—I would appreciate that. That would be helpful. You did not have contact from any media organisations—CNN or those sorts of groups about the draft transcripts?

**Mr Templeton**—Not that I am aware.

**Senator FAULKNER**—I want to be clear on that. How quickly were you able to get this transcript out?

**Ms Barrett**—I believe it was transcribed within the normal performance standards, that is, within two hours of the end of the speech.

**Senator FAULKNER**—What occurs in the chamber—not that I avail myself of the opportunity to do this very much because I plead guilty to talking too much—is that senators have an opportunity to clear pinks and members have an opportunity to clear greens. Was any opportunity provided in this case to you or the President of the United States of America or the President of China or their offices or parties to clear proof copies?

**Mr Templeton**—No.

**Senator FAULKNER**—Thank you.

**Senator BRANDIS**—Mr Templeton, unless it has been changed in the more mature edition, I noticed in the *Hansard* of President Hu’s speech that there was no record or acknowledgement of the fact that he spoke through a translator. For the sake of perfecting the historical record would it not be appropriate for the *Hansard* to note that fact?

**Mr Templeton**—I had not considered that aspect.

**Senator BRANDIS**—The words that were uttered in the chamber were not words in the English language. It struck me that strictly speaking there should be some acknowledgement on the *Hansard* record of that fact.

**Mr Templeton**—That is a good point and we could probably pick that up. Those transcripts will be made official *Hansards*. It is probably worth putting in a line saying it was through a translator.

**Senator FAULKNER**—I might place a few questions on notice to DPRS so that we can move along.

**Proceedings suspended from 3.34 p.m. to 3.51 p.m.**

**Joint House Department**

**ACTING CHAIR (Senator Murray)**—We have before us the Joint House Department. Senator Faulkner, you have the call.

**Senator FAULKNER**—I want to start on a few general points which were raised in this morning's hearings. Mr Bolton, can you give us an indication of the costs that have been borne by the parliamentary departments in relation to the visits of President Bush and President Hu? I understand from the evidence this morning they are not particularly significant, but if you could just give us a breakdown of those I would appreciate it.

**Mr Bolton**—I might ask Mr Terry Crane, who is the Executive Leader, Security, to advise of the costs which were incurred by security in those two visits.

**Mr Crane**—The additional costs for the visits of President Bush and President Hu were approximately \$47,000, which related to additional staffing. There were some other minor costs which involved the hiring of a shuttle bus to operate on the day. There was the hire of a tow truck for the day, which cost \$625, and there was the hire of some pot plants for the day, which came to \$1,695.

**Senator FAULKNER**—What were the pot plants used for?

**Mr Crane**—They were used at the front, on the forecourt.

**Senator FAULKNER**—Just to make it look pretty or to create some sort of a barrier, or both?

**Mr Crane**—It was designed to create a visual barrier.

**Senator FAULKNER**—Between what and what?

**Mr Crane**—For the President's arrival.

**Senator FAULKNER**—So no member of the public could see the arrival?

**Mr Crane**—I would have to say that they probably would not have been able to see it clearly from the authorised assembly area, but that was the purpose of the pot plants.

**Senator FAULKNER**—That ensured that no person from outside the building could see the arrival of the President? This is a security measure, I assume?

**Mr Crane**—That is correct.

**Senator FAULKNER**—So these pot plants were hired for security reasons?

**Mr Crane**—That is correct.

**Senator FAULKNER**—It makes quite an effective barricade, does it—a pot plant?

**Mr Crane**—It is clearly not a barrier, Senator, but it is a visual barrier.

**Senator BROWN**—Can I just ask why that barrier was put there for President Bush but not for President Hu?

**Mr Crane**—All the security arrangements that were put in place on the two days were based on the threat assessments that we had received.

**Mr Bolton**—There was a different level of threat assessment for President Bush as opposed to President Hu.

**Senator BROWN**—And that determined whether the pot plants were in or were not?

**Mr Crane**—It significantly changed all of the security arrangements for the day.

**The PRESIDENT**—President Hu did not use that entrance—

**Mr Bolton**—Or the front entrance either.

**The PRESIDENT**—he came in the House of Representatives side entrance.

**Senator FAULKNER**—What was the tow truck used for?

**Mr Crane**—It was not used on the day. It was a contingency in case there was any attempt to block Parliament Drive.

**Senator FAULKNER**—I see. Were the other costs borne, effectively, extra staffing costs?

**Mr Crane**—That is correct.

**Senator FAULKNER**—So it is staffing costs, the tow truck and the pot plants?

**Mr Crane**—That is correct. And the shuttle bus, which I do not have the precise cost of.

**Senator FAULKNER**—Was that the shuttle bus used to ferry staff that I think Mr Templeton might have mentioned?

**Mr Crane**—No. That shuttle bus that Mr Templeton referred to was to bring his staff from West Block, if required. The shuttle bus that I refer to was used to transport people from the temporary car park that was set up on the median strip of Melbourne Avenue to the House of Representatives and Senate entrances.

**Senator FAULKNER**—For staff working at Parliament House?

**Mr Crane**—That is correct.

**Senator FAULKNER**—Thanks for that. Is this the additional cost borne by all parliamentary departments, or just the Joint House Department?

**Mr Crane**—That is simply the cost that I am responsible for. It does not include the other parliamentary departments.

**Mr FARMER**—I think the Black Rod indicated that you may have a clearer indication of the costs borne by the Department of the Senate. That was my understanding this morning. It was suggested we check any additional costs with you.

**Mr Bolton**—Those are the costs borne by the Joint House in regard to the security function. We do not have any other costs. If you are asking about other costs in Joint House, we put in the plants, which we organised through another section of Joint House, but they were part of the security costs. We do not have any other costs.

**Senator FAULKNER**—Could I now just check with the Black Rod? I may have misunderstood her earlier evidence.

**Ms Griffiths**—The figures I was referring to were the overtime figures and the other costs that Mr Crane has referred to. They come out of the security budget, which is funded jointly by the Senate and the House of Representatives.

**Senator FAULKNER**—Yes, that is what I thought. To be clear, is any cost borne by the Department of the Senate in any security role included in these figures?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—They are not borne by the Department of the Senate; they are borne by Joint House. There are no additional costs borne by the Department of the Senate?

**Ms Griffiths**—No.

**Senator FAULKNER**—Thanks for that. I appreciate that information. I go next to the issue that was touched on a little earlier in relation to what occurred with press gallery security in the broad. You would be aware that there has been a significant amount of commentary and media attention on the question of the rogue camera that was winkled into one of the galleries in the House of Representatives chamber. Are you well aware of that and the background to it, Mr Bolton?

**Mr Bolton**—I am aware of it.

**Senator FAULKNER**—Can you please explain for the benefit of the committee precisely what happened and what you do know about the existence of that camera in the upper-floor gallery in the House of Representatives?

**Mr Bolton**—Once again, I think the person who was controlling the activities in that area—that is, Mr Crane—might be able to help.

**Mr Crane**—My understanding of what happened in relation to that is that there was a pooled arrangement for the US media under the control of officials—media liaison people—from the Department of the Prime Minister and Cabinet. My understanding is that the US media had been advised not to take cameras in. The media pool was screened when they arrived at Parliament House that morning and were then escorted up to the gallery. I do not have an explanation for how the camera got into the gallery.

**Senator FAULKNER**—What do we mean when we talk about the ‘media pool’?

**Mr Crane**—There was a group of media who were accredited or approved to be in the gallery for the speech by the US President, and that group was under the control of a media liaison officer.

**Senator FAULKNER**—A media liaison officer or office?

**Mr Crane**—An officer, I understand

**Senator FAULKNER**—Who is the media liaison officer?

**Mr Crane**—The media liaison officer for the Bush visit was, as I understand it, a contracted employee of Prime Minister and Cabinet. I am not totally clear on the arrangement. It would be a question best directed to Prime Minister and Cabinet.

**Senator FAULKNER**—I will do that at a later stage. So it was someone contracted by the Department of the Prime Minister and Cabinet?

**Mr Crane**—That is my understanding.

**Senator FAULKNER**—Were they dealing with both our Australian media and the international media or just the international media?

**Mr Crane**—I am not aware of what the lines of responsibility were between the visiting media and the Australian media.

**Senator FAULKNER**—Who, in the broad, is responsible for the security arrangements of journalists and the media? Who is responsible for that? Where does the buck stop? Doesn't it stop with one or other of the parliamentary departments, given it is security arrangements inside Parliament House?

**Mr Crane**—The Joint House Department, under an MOU with the two chamber departments, is responsible for the provision of security. The arrangements in place on the day were that a liaison officer had been appointed to the visiting US media.

**Senator FAULKNER**—What were the arrangements that were in place on the day?

**Mr Crane**—If you are referring to the issue about what happened in the Australian media gallery—

**Senator FAULKNER**—I am not only referring to what happened in the Australian media gallery—and there are certainly some issues in relation to that—I am wondering who has final responsibility for security in relation to the media, both international and domestic? Does the buck stop on your desk, Mr Crane?

**Mr Crane**—Within Parliament House, I am responsible for security.

**Senator FAULKNER**—Within Parliament House?

**Mr Crane**—That is correct.

**Senator FAULKNER**—So, if there is a breach of security, you are responsible for it?

**Mr Crane**—Yes.

**Senator FAULKNER**—Having established that, was there a breach of responsibility in relation to a rogue camera in one of the galleries of the House of Representatives?

**Mr Crane**—There was no authorisation for the camera to be there. So, yes, there was a breach.

**Senator FAULKNER**—Was there a rogue camera in one of the galleries?

**Mr Crane**—I did not see it myself, but clearly there was.

**Senator FAULKNER**—As you are in charge of security, when did the people who were responsible for security become aware of it?

**Mr Bolton**—There is a distinction to be made there, but I think I can answer your questions. What it comes down to is this: when Joint House provides security services in the chamber, we are subject to the directions of the Serjeant-at-Arms for the House of Representatives and the Usher of the Black Rod for the Senate. I have asked some questions. I will give you the information I have, and then maybe Mr Crane can tell me if I have got it wrong. As far as I understand, in terms of the inner pool that travels with President Bush, there was a media liaison officer that was appointed by Prime Minister and Cabinet because they pulled together this whole visit. Other than the security people checking that there was nothing untoward being brought into the building, they were left in the control of the Prime Minister and Cabinet officer. It would appear, because of evidence which was shown on the television, that the camera was inside the chamber, which was beyond the broadcasting rules of the House of Representatives. I have heard that that camera was caught on other cameras. They were not looking for it, but it was filmed, so they know that there was another camera there. I was told that by the Serjeant-at-Arms. Because it happened within the House of Representatives chamber, the Serjeant-at-Arms has been directed by the Speaker to conduct an inquiry into the matter.

**Senator FAULKNER**—Who was the media liaison officer? Surely people must know who this person was, given the security implications.

**Mr Crane**—The person I was dealing with was Daniel Bolger.

**Senator FAULKNER**—As far as you understand, was Mr Bolger on some sort of consultancy or contract arrangement with the Department of the Prime Minister and Cabinet?

**Mr Crane**—As I understand it.

**Senator FAULKNER**—He had responsibilities in relation to both the international and Australian media—is that correct?

**Mr Bolton**—No, the Australian media was handled here. The press gallery at Parliament House was handled through Parliament House, wasn't it, Terry?

**Senator FAULKNER**—I am asking you; I do not know. You are in charge of Joint House, Mr Bolton, not me.

**Mr Bolton**—When you get down to some operational detail, you do not want too many cooks in it to spoil it. I am there and available to help out if someone needs assistance, but in this case—

**Senator FAULKNER**—Sorry, you are in charge.

**Mr Bolton**—Yes, and I take responsibility. As I understand it, in relation to the Australian press gallery, there was consultation with the secretary of the press gallery. Mr Crane can tell you what happened with the Australian press.

**Mr Crane**—My understanding is that the media liaison officer from Prime Minister and Cabinet was responsible for the media arrangements associated with the visit. Separately to that, my understanding is that the Australian media that attended in the media gallery for the address was organised through the press gallery. I had discussions with Mr James Grubel about the security arrangements. I did a walk-through of the gallery with him on the day

preceding the address by President Bush. He was responsible for determining the allocation of seats within the gallery.

**Senator FAULKNER**—We will get to the Australian press gallery later. I am trying to concentrate on the rogue camera in a gallery of the House of Representatives. Let me go back a step. Has anyone established what gallery it was in? It was in one of the glassed in galleries, wasn't it?

**Mr Crane**—No, that is not my understanding.

**Senator FAULKNER**—Was it in a public gallery?

**Mr Crane**—My understanding, from the vision that has been on TV, was that it would have been in the northern gallery.

**Senator FAULKNER**—How big was the camera?

**Mr Crane**—I do not know.

**Senator FAULKNER**—It was just an ordinary sized television camera, wasn't it?

**Mr Crane**—I do not know. I did not see the camera.

**Senator FAULKNER**—You saw it on television, so you are in front of me.

**Mr Crane**—I have seen the vision from that camera, which was clearly taken from the northern gallery, but I have not seen the camera.

**Senator FAULKNER**—Were there any security checks on what people were carrying into the gallery?

**Mr Crane**—There were, Senator. When the media group first arrived they had a lot of equipment and boxes which they were proposing to take into the gallery. My security people stopped them from taking a significant amount of that into the gallery.

**Senator FAULKNER**—How did this camera get into the gallery?

**Mr Crane**—In my view it was taken in by the media contingent that was authorised to be in the north gallery.

**Senator FAULKNER**—Yes, sure; there is a media contingent authorised to be in the north gallery. Are they authorised to have cameras with them?

**Mr Crane**—My understanding is that some were authorised to have still cameras with them. I am not sure how many it was.

**Senator FAULKNER**—So was it authorised equipment or not? How are we satisfied that it might not have been a gun, for example?

**Mr Crane**—Because it would have been screened, Senator, when they came into the building.

**Senator FAULKNER**—So it was screened. Is there any record of a screening?

**Mr Crane**—There were a number of cameras there during the day, Senator. There were a number of groups of US media. For example, one pool arrived at the Senate entrance shortly before the arrival of the President and went into the marble foyer to take footage of the arrival. Other crews went to the Prime Minister's area, where they took footage of the meeting

between the Prime Minister and the President. So there were a number of cameras. All the equipment that came into the building was screened.

**Senator FAULKNER**—The equipment taken into the building was screened. What checks, if any, were there on those entering the galleries?

**Mr Crane**—They arrived as a pool, Senator. They were escorted by a Prime Minister and Cabinet liaison person, and then they were allowed access to the gallery.

**Senator FAULKNER**—But there was security screening up there, wasn't there?

**Mr Crane**—Not for the pool that arrived.

**Senator FAULKNER**—Was there for the Australian media?

**Mr Crane**—Yes, Senator.

**Senator FAULKNER**—So the Australian media was subject to screening procedures but not the pool that arrived. Who made the decision that they would not be screened? Why weren't they screened?

**Mr Crane**—Because they had to come directly from, as I understand it, the meeting between the Prime Minister and the President and there would have been insufficient time to screen them before the President started his address. But they had already been screened when they entered the building. So in terms of the safety of the equipment they had with them—

**Senator FAULKNER**—Everyone in the Australian media had been screened, as is the case with all of us who enter the building. Every senator, every member, all of you, all visitors—everyone is screened. All the Australian media would have been screened, wouldn't they?

**Mr Crane**—That is correct.

**Senator FAULKNER**—Every morning or every afternoon or every night, whenever they come into the building. So that is a load of old codswallop, isn't it? Everybody who comes into this building is screened, as they should be—no exceptions.

**Mr Bolton**—That is true, Senator. Coming out of this whole episode, there obviously has to be some tightening of procedures in the future. Part of that will be that we, as a parliament, and as officers of the parliament, cannot trust and leave control of some of these groups to other people who we believe have been fully briefed, know what is required, know what the rules were, and yet we had a breakdown.

**Senator FAULKNER**—Did Mr Bolger have special rules for some in the international media and different rules for the Australian media?

**Mr Crane**—Not that I am aware of, Senator.

**Senator FAULKNER**—Did Mr Bolger have special rules for some in the international media as opposed to others in the international media?

**Mr Crane**—I cannot answer that, Senator.

**Senator FAULKNER**—Did you have any contact with Mr Bolger?

**Mr Crane**—Throughout the visit?



**Senator FAULKNER**—Yes.

**Mr Crane**—Yes, I did.

**Senator FAULKNER**—When did you first meet Mr Bolger?

**Mr Crane**—Probably a couple of weeks before the visit, once the US advance team arrived.

**Senator FAULKNER**—How was Mr Bolger's role explained to you?

**Mr Crane**—That he was the media liaison officer.

**Senator FAULKNER**—For whom?

**Mr Crane**—For the media, and he would be looking after their movements and coordinating the movements around Parliament House.

**Senator FAULKNER**—What cooperation were you able to give him? What advice were you able to give him? What was the outcome of your discussions with him?

**Mr Crane**—We had several discussions over a couple of weeks.

**Senator FAULKNER**—What did you discuss?

**Mr Crane**—It would have been access arrangements for media. As I said, there were several issues.

**Senator FAULKNER**—Did you agree to access arrangements for the media?

**Mr Crane**—Yes.

**Senator FAULKNER**—Is there a document that outlines them or was this just some sort of conversation you had with him?

**Mr Crane**—No. All of the arrangements were covered in our operational order. We in security prepared an operational order, which stepped through the sequence of events for the day and the arrangements that were to be put in place.

**Senator FAULKNER**—Yes, but for the international media—whatever Mr Bolger's responsibilities were—did you nail something down in writing with Mr Bolger?

**Mr Crane**—No.

**Senator FAULKNER**—So it was just an informal discussion, was it?

**Mr Crane**—No, we attended a number of meetings.

**Senator FAULKNER**—Where were they held?

**Mr Crane**—In some of the committee rooms within Parliament House and on several of the walk-throughs that we did with the US advance team we discussed these issues—on those occasions.

**Senator FAULKNER**—Is Mr Bolger an Australian or an American?

**Mr Crane**—He is Australian as far as I am aware.

**Senator FAULKNER**—I am just asking. I have never met him; I do not know. Is he a journalist by background or what?

**Mr Crane**—I do not know anything about his background.

**Senator FAULKNER**—Is he competent?

**Mr Crane**—It is not for me to comment on that.

**Senator FAULKNER**—Why not? You are the only one I know who has had any dealings with him. It did not seem to work very well, did it? I am still trying to establish how the hell this camera—it could have been a bazooka, for all I know—got into the north gallery of Parliament House.

**Mr Crane**—It could not have been a weapon because everyone entering the building and all equipment entering the building was screened.

**Senator FAULKNER**—Can you explain to me why Australian journalists who work in this building every day were required to undertake two screening procedures, and some international journalists—all of whom were sitting in an open gallery, the Australians and the international journalists—had one screening procedure? Can you explain that to me?

**Mr Crane**—Yes. The decision to screen the Australian media attending the gallery was taken on the basis that all of the visitors to the gallery on that day were also being screened. I admit that there was a group of people who were not screened twice. That was a requirement we needed to have in place so that they could take up their position prior to the address by the President beginning.

**Senator FAULKNER**—So security measures were circumvented because we were running out of time?

**Mr Crane**—They were not circumvented.

**Senator FAULKNER**—They were circumvented. You just told us that there was not enough time to screen some people twice, so they got in with only one screening. That is circumvented as far as I can see. They got rushed into the gallery because we were running out of time. So security was compromised, wasn't it, Mr Bolton?

**Mr Bolton**—That is your version of events.

**Senator FAULKNER**—No, I am asking.

**Mr Bolton**—No, I do not believe so. You have got to say, 'What are we trying to protect here?' These were a group of American people who had been accredited by the United States people to come to Canberra to cover the President's visit. They were happy with them, and they were happy with them having access to that chamber. Just because of circumstances of timing we had to get them in there quickly. They were coming from another place and they had to be there on time.

**Senator FAULKNER**—I do not hold a particular brief for any journalist more than anyone else in this building. But we know, because we have read in the Australian media, about examples of what happened to certain journalists. Take for example Paul Kelly, the Editor-at-Large of the *Australian* newspaper, quite a prominent Australian journalist. I read—and I think this is a fair recollection of what he said—that he got harangued for about half an hour and fluked, effectively, getting into the press gallery in the chamber. And yet these other

characters were just whisked in without any second security check at all. How do you justify that?

**Mr Bolton**—You make a risk assessment at the time and the risk assessment was—

**Senator FAULKNER**—The risk assessment was that Mr Kelly was a risk.

**Mr Bolton**—No.

**Senator FAULKNER**—These characters carrying movie cameras were not a risk, is that it?

**Mr Bolton**—They are part of a group that was actually travelling with the President. They are well known. Heads of state do not put people on their aeroplanes or in their group unless they are checked out. They were happy for them to be there and to get in quickly and therefore that was done.

**Senator FAULKNER**—I am sorry, who are they? Who was happy for them to be there quickly?

**Mr Bolton**—The people who overlooked the President's total security. They were under control of—

**Senator FAULKNER**—And who are they? I thought it was you. You told me that you were in charge.

**Mr Bolton**—We were not in charge of the President's security; we are in charge of security at Parliament House.

**Senator FAULKNER**—The security in Parliament House, that is right. Are you saying that whoever is in charge of the President's security within Parliament House overrides your authority?

**Mr Bolton**—No, the risk was in relation to the American President and they were happy for them to be there and cover the thing.

**Senator FAULKNER**—How do you know that?

**Mr Bolton**—As it turned out on the day, Mr Crane was not in the situation to be able to check them twice, that is all.

**Senator FAULKNER**—How do you know that? How do you know that the people in charge of the President's security were happy for them to be there?

**Mr Bolton**—This is the group that has been cleared to travel with the President.

**Senator FAULKNER**—I am sorry. You just told this committee that the people in charge of the President's security were happy for them to be there. I am happy to accept that. I am just asking you how on earth you know that is the case.

**Mr Bolton**—I am sure they would not have allowed them to come here to this country to cover it if they did not have some clearance.

**Senator FAULKNER**—So you do not know that is the case. Or are you so sure?

**Mr Bolton**—They did not have any discussions about it.

**Senator FAULKNER**—You did not have any discussions about it, but that does not stop you from giving evidence that they were perfectly happy. Let us just get it tight, Mr Bolton: you do not know whether they were happy or not, do you?

**Mr Bolton**—They were under the control of the media liaison officer who brought them into the building and who controlled their access. He asked us to do various things and we accommodated that.

**Senator FAULKNER**—And is this media liaison officer a security expert?

**Mr Bolton**—Probably not.

**Senator FAULKNER**—Probably not. Is he a media expert or a security expert?

**Mr Bolton**—I do not know what he is. He was engaged by the Department of the Prime Minister and Cabinet, hopefully because he had some skills in relation to media liaison.

**Senator FAULKNER**—Are you aware of the efforts that were made to ensure that the media who accompanied President Bush understood all the rules and procedures that relate to the Australian parliament and the rules for journalists and the media here? What efforts were made to establish, with those people, what our home-grown arrangements are?

**Mr Crane**—That role was fulfilled by the media liaison officer from the Department of the Prime Minister and Cabinet who briefed and travelled with the American media and was responsible for their positioning within Parliament House whilst the President was here.

**Senator FAULKNER**—So you are quite confident that this media liaison officer, Mr Bolger, was aware of all that level of detail about arrangements here in Parliament House?

**Mr Crane**—I cannot vouch for what Mr Bolger was aware of.

**Senator FAULKNER**—How do you know he briefed them on this? You don't, do you?

**Mr Crane**—I was at meetings when the American media and Mr Bolger were there and there were discussions during walk-throughs about what the arrangements would be.

**Senator FAULKNER**—Did that include these characters that came in late from whatever occurred in Mr Howard's office. Were they there?

**Mr Crane**—The liaison people were there. We certainly did not walk through with all the media contingent.

**Senator FAULKNER**—Of course not; they were not there were they?

**Mr Crane**—We walked through with the US media liaison people as well.

**Senator FAULKNER**—They were not subject to the same rules as the Australian media, were they?

**Mr Crane**—They were not screened a second time.

**Senator FAULKNER**—They were not subject to the same rules and stringent requirements—and by the way I am not suggesting necessarily that stringent requirements are not appropriate, I am not in a position to make that judgment. I certainly believe that it is appropriate that there be adequate levels of security in Parliament House, particularly if there is a threat assessment that indicates that they are warranted. I have no problem with that at all

but it seems to me that this is an extraordinarily slipshod performance. What have we done to try to nail down how this all happened? You said the Speaker has instigated an inquiry. Do we know where that is up to?

**Mr Bolton**—I do not know particularly where it is up to, Senator. I was put on notice before. I do not know what has happened but obviously Mr Crane has some other people who work with him and I understand that one of the officers of the security staff was going to be interviewed as a result. I said that that was perfectly appropriate.

**Senator FAULKNER**—Can you give the committee a status report of where you understand investigations are up to in relation to the rogue camera incident? Can someone indicate that to the committee, please?

**Mr Bolton**—It is being conducted by the Serjeant-at-Arms and we do not know. As late as last Friday, I did not know where it was up to.

**Senator FAULKNER**—The Serjeant-at-Arms is conducting it?

**Mr Bolton**—Yes.

**Senator FAULKNER**—For the Speaker?

**Mr Bolton**—Because it is something that happened in the House of Representatives chamber. I presume he is making inquiries of people like Mr Bolger, and of other people, including a Parliament House security staff member.

**Senator FAULKNER**—Are you happy with that approach, Mr President?

**The PRESIDENT**—I am, as far as it goes. One thing I would like to say, Senator, is that you and I both know that these media people who were with the President would have to have the highest security ratings or they would not even be with him. That is not making any excuse for the fact that they were not screened twice.

**Senator FAULKNER**—I do not know what security clearances those people have.

**The PRESIDENT**—It seems obvious that a camera was smuggled into the chamber.

**Senator FAULKNER**—Yes.

**The PRESIDENT**—And that is what we have to get to the bottom of.

**Senator FAULKNER**—That is a concern to you, isn't it?

**The PRESIDENT**—It is a concern to me and it is a very major concern to the Speaker.

**Senator FAULKNER**—Are you satisfied that an inquiry conducted by the Serjeant-at-Arms is the appropriate way to go?

**The PRESIDENT**—That is an appropriate way to go for a start. If it does not come up with the right answers, of course we might have to take some other action. But I hope that the Serjeant-at-Arms is successful in reporting to us on what really happened.

**Senator FAULKNER**—Who, if anyone, in Joint House Department, has made a submission to that inquiry? Can you help us, Mr Bolton or Mr Crane?

**Mr Crane**—I was asked whether Mr Shane Stroud, who is a deputy security officer—or is virtually in that situation—would be interviewed and I said, 'Fine.'

**Senator FAULKNER**—Does he work in Joint House?

**Mr Bolton**—Yes.

**Mr Crane**—Yes.

**Senator FAULKNER**—Why, particularly, Mr Stroud?

**Mr Bolton**—I believe he was probably in proximity of that area at the time. It was part of his role on the day to be around those gallery levels.

**Senator FAULKNER**—What is his official function? What responsibilities does he have in Joint House?

**Mr Crane**—Mr Stroud is the manager, security operations.

**Senator FAULKNER**—So he is available to be called to the table now, is he?

**Mr Bolton**—He is not here now.

**Senator FAULKNER**—But he could come to the table if this committee decides we would like to hear from Mr Stroud, which we may well do. He can come to the table; that would be helpful. Wasn't there 45 minutes between the last event that the US media had to cover and the commencement of President Bush's speech? You have told us that a great rush is why they could not go through a second screening process. You are the expert on the visit, Mr Crane; you can confirm whether that is the case.

**Mr Crane**—No, I cannot.

**Senator FAULKNER**—That is what I have been told. It might not be right. Not all the information I am told is right; a fair proportion of it is, of course.

**Mr Crane**—That is not my understanding of the timing, Senator.

**Senator FAULKNER**—That is not right? How much time was available to these members of the United States press gallery between those official functions? Was it really the great rush we have been told about?

**Mr Crane**—The issue for us was that at the same time we had all of the guests arriving for screening into the galleries as well.

**Senator FAULKNER**—I am sure that is right but that sounds like an excuse. I do not doubt that what you say is correct. I am sure there were enormous pressures on you and on all Parliament House staff. I do accept that; it would be very difficult. You have very responsible positions and very significant responsibilities, particularly on this sort of occasion. I know that. I am asking this: how much time elapsed between the function that President Bush was involved in and him coming into the joint meeting? I was told it was a considerable amount of time. That might not be correct information but can you tell me how much time?

**Mr Crane**—I cannot give you a precise time.

**Senator FAULKNER**—I see. Do you know how many requests there were from the United States press gallery journalists to be able to take cameras into the gallery? How many requests were made?

**Mr Crane**—I do not know that.

**Senator FAULKNER**—Do you know if any requests were made—

**Mr Crane**—No, I do not.

**Senator FAULKNER**—before a camera was smuggled in?

**Mr Crane**—The requests would not have been made to me.

**Senator FAULKNER**—Surely not Mr Bolger again?

**Mr Crane**—That is correct.

**Senator FAULKNER**—The buck stops with Mr Bolger?

**Mr Crane**—No, it does not, Senator, but his role was media liaison. If they were looking to take a camera in it would have been directed through Mr Bolger.

**Senator FAULKNER**—Did Mr Bolger ask you for camera access for the US journalists?

**Mr Crane**—No.

**Senator FAULKNER**—Did he ask others for camera access for the US journalists?

**Mr Crane**—I cannot answer that. I do not know. He certainly did not ask me.

**Senator FAULKNER**—Who would make the decision if those requests came from Mr Bolger?

**Mr Crane**—They would have been referred to the Sergeant-at-Arms.

**Senator FAULKNER**—Mr President, as a Presiding Officer are you aware of any such request?

**The PRESIDENT**—No.

**Senator FAULKNER**—Mr President, do you know whether the Speaker intends to make the review that is being undertaken—the inquiries by the Sergeant-at-Arms—public?

**The PRESIDENT**—No, I do not. I can inquire if you wish me to. I was satisfied with the fact that he was very concerned about the rogue camera. He instructed the Sergeant-at-Arms to have an investigation as to how it happened. I am sure that when he gets something more he will inform me.

**Senator FAULKNER**—Are you aware of any requests for dispensation—whether from the United States press gallery or other sources—for cameras to be taken into the galleries?

**The PRESIDENT**—No, I am not, but that does not mean that it did not happen. All the action was on that side of parliament, as you know. It was in the Speaker's area with security, et cetera. I am not aware of any dispensation being asked for.

**Senator BROWN**—I can help with the Speaker's statement about the matter today in the House.

**Senator FAULKNER**—I am not aware of it.

**Senator BROWN**—Relevant to this subject, the Speaker said:

There are two other matters relating to President Bush's visit which I wish to address. Members will be aware that television film coverage of senators Brown and Nettle in the chamber began appearing nationally and internationally shortly after events in the chamber. This unauthorised footage was taken

from the northern gallery by an as yet unidentified US media operator and against my specific and repeated direction that such filming was not permitted. Investigation of this matter is not yet complete but preliminary assessments indicate that, notwithstanding my repeated refusal of requests from the Americans to permit coverage in addition to the nine parliamentary cameras, a camera was brought into the northern gallery and used. I understand that security attendants who saw the camera made the incorrect assumption that it had been authorised.

**CHAIR**—Can you identify that?

**Senator BROWN**—It is the statement by the Speaker to the House today entitled ‘Events surrounding the visits of President George W. Bush and President Hu Jintao’.

**Senator FAULKNER**—Has Joint House been made aware of any complaints about the security arrangements on the two days of the joint sittings?

**Mr Bolton**—I am trying to think whether it is one or two members of the public who might have written to the Speaker—not necessarily to the President—about the building being closed on the Thursday, the day of President Bush’s visit.

**Senator FAULKNER**—Have there been any formal complaints?

**Mr Bolton**—They were written.

**Senator FAULKNER**—Has there been any dialogue with the press gallery here in Parliament House about the events on the day?

**Mr Crane**—No, Senator. I have had no further discussions.

**Senator FAULKNER**—No complaints?

**Mr Crane**—Not that I have received.

**Senator FAULKNER**—Are you aware of the concerns expressed in newspaper articles and media commentary from some journalists about the heavy-handed nature of the security arrangements?

**Mr Crane**—I have read that article.

**Senator FAULKNER**—Are you able to shed any light on those instances?

**Mr Crane**—Yes, Senator, I can. As I have already indicated, there was screening of the media going into the gallery—if this is the specific issue that you are referring to; I am not aware of any other supposed heavy-handed treatment of the media. The operational order required that those entering either had their yellow Parliament House pass or the national visits media pass to allow them access to the gallery. Very early on in the screening arrangement, it appears that one of the PSS officers was not aware that the yellow Parliament House pass was sufficient to gain access to the gallery and, I understand, did refuse access to at least two journalists. This issue was raised with Mr Stroud, who went to the screening point, advised the staff of the contents of the operational order and the journalists were then allowed access to the gallery.

**Senator FAULKNER**—With respect to this operational order, did you physically hand a copy of that to Mr Bolger?

**Mr Crane**—I do not know that, Senator.



**Senator FAULKNER**—Who developed the operational order?

**Mr Crane**—It was developed within my area. A number of people have input into it. The objective of the operational order is for distribution to the security personnel, so that they have a complete list of what is transpiring during the visit, the timings and what the requirements are. It details how many officers are on each post, what their duties are and so forth.

**Senator FAULKNER**—Is there any reason—and there might be; that is why I am asking you the question in this way—now why that operational order cannot be tabled in this committee? There may be; I do not know what it contains. It sounds unremarkable in what you have said but there may be some sensitive material in it.

**Mr Crane**—It is classified security-in-confidence. It does contain operational issues in relation to security arrangements within Parliament House. I would want to take that on notice and get advice.

**Mr Bolton**—This sort of thing may be applied in the future, obviously, so we do not want to have it in the public domain.

**Senator FAULKNER**—I am interested specifically in those arrangements that have been applied to the Australian press gallery and also to visiting international journalists. I appreciate there may be a range of other material contained in there. I accept the point that is made about the fact that there might be confidential security material contained within it, but I would appreciate it if you might look at seeing if certain elements of that might be able to be provided. The committee are always, as I think you know, sensitive about those sorts of things and we will take your advice on it. But I would appreciate you having a look at whether at least some of that material might be able to be made available.

**The PRESIDENT**—The Speaker and I did write to Malcolm Farr, the president of the press gallery, raising concerns about unauthorised filming, photography and television broadcasting on those two days, particularly with respect to photographs taken on 23 October in the chamber of Senators Brown and Nettle when they were interjecting and in the galleries of various persons which have already appeared in newspapers, certain video film of events in the chamber on 23 October which appeared on various days on Australian television networks, and also photographs taken on 24 October of Senators Brown and Nettle in the private areas of the building and also filming of those senators in the private areas of the building. I am more than happy to table this letter for the committee's perusal.

**Senator FAULKNER**—That might be helpful, Mr President, in these circumstances.

**CHAIR**—If I could just butt in for a second—

**Senator FAULKNER**—By all means.

**CHAIR**—Mr Crane, can I just remind you on behalf of the committee that in this committee's guise as an estimates committee we are unable to receive information in camera per se. It is only in another guise, when we are considering annual reports or whatever, that we can perhaps receive information in camera. In the guise as an estimates committee we are unable to do so.

**Senator FAULKNER**—To be frank, I am not interested in receiving any material confidentially.

**CHAIR**—I understand that. I just want to make that point clear.

**Senator FAULKNER**—I am saying to Mr Crane and Mr Bolton particularly that, in relation to those issues that have been the subject of questioning by the committee, if they are able to provide some of that material that does not compromise any security considerations we would appreciate their having a look at doing that if they are able to. I have a range of other questions but I had better allow other senators to have a bit of a bite of the cherry.

**CHAIR**—Senator Murray first and then Senator Brown.

**Senator MURRAY**—Thank you. I do not have that much on this area because Senator Faulkner has picked up on many of the questions. I just want to confirm a few things in my own mind. Mr Crane, in relation to the security attendants who were responsible for security around the parliament, we had evidence earlier that they are and were employees of the respective departments in the parliament. That is accurate, is it?

**Mr Crane**—Yes, they were. They are now employees of the Joint House Department.

**Mr Bolton**—Yes, they are parliamentary officers and always have been, except externally. Internally, they are all parliamentary officers. Externally, the Australian Protective Service provides that service, so they are not parliamentary officers.

**Senator MURRAY**—So at no time were any foreign persons directing or giving instructions relative to how guests or the media were to be dealt with?

**Mr Crane**—That is correct.

**Senator MURRAY**—There is another question I want you to answer specifically. Mr Crane, you would have dealt with the foreign security advisers, I assume, relevant to the parliamentary security.

**Mr Crane**—Yes.

**Senator MURRAY**—From both countries, I mean. Was there a sense that you were to be extra vigilant with Australian guests and Australian media rather than guests of those foreign countries and their own media? Was there a deliberate emphasis that you should be biased on the one rather than on the other?

**Mr Crane**—No.

**Senator MURRAY**—Were any individuals particularised to you that you should be concerned about, with respect to the Australian media?

**Mr Crane**—No.

**Senator MURRAY**—So at all stages it was, in your view, objective and even-handed?

**Mr Crane**—Yes, definitely.

**Senator MURRAY**—That is all I have, Chair.

**Senator BROWN**—I will just go back to the pot plants first up. Did President Hu ask to come to the other entrance, not the front entrance of the parliament?

**Mr Crane**—It is not an issue that would have been raised with me, anyway.

**Senator BROWN**—Do you know, Mr Bolton?

**Mr Bolton**—No, I do not.

**Senator BROWN**—Do you know, Mr President?

**The PRESIDENT**—No, I do not. The arrangements were rather different for both presidents. I do not know who made the decision. The decision was for President Hu to come to the House of Representatives entrance. I think he left by way of the Prime Minister's courtyard—is that correct?

**Mr Bolton**—There were two visits in the day.

**The PRESIDENT**—He left by the same entrance.

**Mr Bolton**—Yes, because there was another visit during the same day.

**The PRESIDENT**—I understand he was not having discussions with the Prime Minister there and then. He was basically coming in, going to the chamber, making a speech and then departing. There were no other parts.

**Mr Bolton**—He came back later in the day for further discussions.

**The PRESIDENT**—He came back later in the day for further discussions with the Prime Minister.

**Senator BROWN**—Going back to the questions that Senator Faulkner has been asking, Mr Bolton and Mr Crane, I will sum it up by saying that the visiting media pool from the United States was screened and then taken up to the gallery. They were under the control of the media liaison officer contracted to Prime Minister and Cabinet, and his name was Daniel Bolger. Prime Minister and Cabinet pulled together this whole visit and was responsible for the media from the US for this visit. So we have it there that Prime Minister and Cabinet was effectively, through Mr Bolger, arranging and facilitating the US visitors going to the northern gallery as well as to wherever else they may have been in the parliament. Is that right?

**Mr Crane**—Yes.

**Senator BROWN**—And they were given, therefore, different treatment to the Australian media within the parliament insofar as attending the northern gallery was concerned, at least.

**Mr Crane**—Yes.

**Senator BROWN**—Australian media going to the gallery were vetted individually. On Mr Bolger's say-so and through Prime Minister and Cabinet, the American visitors were not put under that vetting at the northern gallery but got access to the gallery.

**Mr Crane**—Just to clarify a little bit, there were other elements of the US media who were screened a second time. Only the group that had to relocate from the Prime Minister's area to the gallery were not screened a second time.

**Senator BROWN**—Was Mr Bolger with that group?

**Mr Crane**—That is my understanding. I was not there myself so I did not see him arrive and I did not see the media contingent arrive.

**Senator BROWN**—Is there anything to dispute my conclusion from this that Prime Minister and Cabinet and the Prime Minister's office—because they were coming from his office—had indicated that there was an arrangement for these guests to go through to the northern gallery without being checked at the chamber door?

**Mr Crane**—I think that is taking it a step further. It was an operational issue in terms of the logistics of getting the group into the gallery prior to the President's address. So it was not an issue of consciously giving them any sort of preferential treatment.

**Senator BROWN**—Excepting that somebody had a camera and they got in through this arrangement.

**Mr Crane**—That is correct. That appears to be the case.

**Senator BROWN**—Which would have prevented that. I notice that the media operator is unidentified. Is a list being kept of the US media personnel who were there and who came into the gallery?

**Mr Crane**—I do not have such a list, Senator.

**Senator BROWN**—Does anybody have such a list?

**Mr Crane**—I do not know. I cannot answer that.

**Senator BROWN**—Where would you suggest I go to find out whether such a list exists?

**Mr Crane**—I would suggest the Department of the Prime Minister and Cabinet media liaison officer would have had such a list.

**Senator BROWN**—Surely that is central to finding out who it was who had the camera. So has any approach been made to PM&C to get that list?

**Mr Bolton**—As I said, the Serjeant-at-Arms is conducting an inquiry. I would presume that that would be one element of his inquiry. He would obviously have liaised with Mr Bolger about the arrangements and as to why a camera was there. I do not know because I am not a party to the inquiry.

**Senator BROWN**—So when it comes to an inquiry into what went wrong there, the Joint House staff hand back to the Serjeant-at-Arms the authority for that inquiry?

**Mr Bolton**—The arrangements are that when it comes to the chambers, the Joint House Department acts as an agent of both the Black Rod and the Serjeant-at-Arms. In other words, we supply the security that they request and we carry out the orders that they request be carried out in those areas.

**Senator BROWN**—President, before I go to questions about liaison with the US and China people in the lead-up to the speeches, you said that you had a courtesy call two weeks before the visit from the ambassador. You said later that there was no interim contact that you were aware of until the day of the visit.

**The PRESIDENT**—Personally I did not, no.

**Senator BROWN**—You did not know of any other contacts, because this was how I put the question to you earlier, between—

**The PRESIDENT**—I was not aware of it. I think I might have said there may have been, but not to my knowledge. I think I might have indicated there would have had to be meetings between security staff from both China and the US with our security people. I was not there and I do not know when or if they occurred.

**Senator BROWN**—The Speaker has told the House today—and I quote:

In the days preceding President Hu's visit, the Chinese ambassador expressed to me on several occasions his concern that people may seek to attend President Hu's address using invitations not issued in their names.

So the Speaker did not convey to you the fact that he had had several contacts with the ambassador about that or other matters?

**The PRESIDENT**—I think I said earlier today, if you check the *Hansard*, that I was aware of one visit that the ambassador made to him, and I was also aware that the matter of invitations was raised. But I am not aware that there was more than one visit or contact.

**Senator BROWN**—So when you told me this morning that you were not aware of other contacts, you were excluding that one about the invitations?

**The PRESIDENT**—No. I said the Speaker informed me that there were queries raised about the invitations. I was only aware of the one visit by Mr Tao. He made a courtesy call to the Speaker, just as he did to me. If he had other discussions with the Speaker, I am not aware of it.

**Senator BROWN**—Except that you were aware that he made contact with the Speaker to discuss the visitors to the gallery?

**The PRESIDENT**—No, I did not say that. I think I said to you this morning that I was aware of the Speaker's concern about invitation swapping, which was raised with him.

**Senator BROWN**—With whom?

**The PRESIDENT**—I do not know how that was raised, whether it was by personal visit, telephone or what. But I know that was a concern that was raised with the Speaker, because he told me.

**Senator BROWN**—By the ambassador?

**The PRESIDENT**—No, I am not sure whether it was by the ambassador or who it was. If you recall, I said that the Speaker told me there were concerns raised with him by the Chinese about purported invitation swapping. All I am aware of, as far as the ambassador is concerned, is that he paid one visit to me and one visit to the Speaker. If the Speaker had other discussions with Chinese security or the Chinese Ambassador, I am not aware of it.

**Senator BROWN**—Except that he did tell you that there had been queries about the potential for visitor swapping.

**The PRESIDENT**—Yes.

**Senator BROWN**—When did he tell you that?

**The PRESIDENT**—On the Thursday afternoon, I think.

**Senator BROWN**—Before that you had no indication of contact between the Speaker and the ambassador or the Chinese authorities?

**The PRESIDENT**—Yes, I did. I knew that the ambassador had spoken to him during a visit similar to the one he paid me two weeks or so beforehand. It was as a courtesy call, as you would expect from the ambassador, to discuss the arrangements for the visit.

**Senator BROWN**—Mr Bolton or Mr Crane, following up on that earlier question about security agents in parliament, how did the liaison go between you and the US security personnel and the Chinese security personnel in the lead-up to these visits?

**Mr Crane**—As I said, there was an advance team for the visits. In relation to the visit by President Bush, there was a liaison officer appointed who worked with my people in relation to—

**Senator BROWN**—That is Mr Bolger?

**Mr Crane**—No.

**Senator BROWN**—So this is another liaison officer appointed by whom?

**Mr Crane**—This was an American liaison officer who worked with us in relation to the security arrangements. I personally did not meet with any security officials in relation to the visit by President Hu, but some of my people would have met with them.

**Senator BROWN**—When?

**Mr Crane**—In relation to President Bush, I started my meetings with them from the Monday prior to the week of the visit, when the advance team first arrived.

**Senator FAULKNER**—Did the American security liaison officer accept Parliament House's primacy in security matters when the President was within the precincts of Parliament House?

**Mr Crane**—Absolutely. That was made very clear to them very early on in the process.

**Senator FAULKNER**—By you?

**Mr Crane**—Yes.

**Senator FAULKNER**—There wasn't any MOU or anything remotely like that—

**Mr Crane**—No.

**Senator FAULKNER**—but there was a clear understanding? How many agents or security personnel did the Americans actually have in Parliament House when President Bush was present in the building?

**Senator BROWN**—That was my next question—you saved me.

**Senator FAULKNER**—I didn't mean to.

**Mr Crane**—It is sometimes difficult to know who is security and who is not, but the numbers that I had were 11.

**Senator BROWN**—Did those persons go into the gallery during the proceedings?

**Mr Crane**—There were some security personnel in the galleries, particularly in the gallery where Mrs Bush was located.

**Senator BROWN**—President, you have not indicated at any time that there would not be foreign security personnel within the gallery at the time—I mean by that, within the chamber at the time?

**The PRESIDENT**—I would have expected—and there is no argument—security people there from the United States and from China for personal protection of both the President of China and President of the US.

**Senator BROWN**—Within the galleries?

**The PRESIDENT**—Within parliament.

**Senator BROWN**—What about within the galleries?

**The PRESIDENT**—One would expect, as the controller has said, to have personal security for Mrs Bush and also for Mrs Hu.

**Senator BROWN**—So there were Chinese personnel within the gallery on the second day?

**Mr Crane**—Yes.

**Senator BROWN**—How many?

**Mr Crane**—I do not have a number. I can take that on notice and get it for you.

**Senator BROWN**—Thank you. How many American personnel were there on the first day?

**Mr Crane**—It is my understanding that there would have been one in each gallery.

**Senator BROWN**—That is besides the parliamentary personnel within those galleries who are aware of where each other is and what each others' role is?

**Mr Crane**—That is correct.

**Senator BROWN**—Please feel free to protect the need for security when any of these questions come up. What is the system for checking foreign security agents when they come into the parliament, in terms of armaments and such devices that they may be carrying?

**The PRESIDENT**—I made a statement to the Senate about that. There have been guidelines for many years set out by previous presidents and senators that we do not comment on whether permission has been given on particular occasions for firearms to be carried in Parliament House. The usual guidelines were followed in this case for both visits, and no special arrangements were made for extra firearms for either President Bush or President Hu. The guidelines were adhered to.

**Senator BROWN**—Yes, but you are not saying that no firearms were allowed in.

**The PRESIDENT**—No, I am not saying that. We do not comment on that. I just said that there are guidelines and it is long established practice—I made that statement in parliament.

**Senator BROWN**—My question to Mr Bolton and Mr Crane was about checking firearms coming into the parliament. Is an independent check made by parliamentary security of foreign service agents or whoever they might be when that happens?

**Mr Crane**—As you are aware, all people entering the building are screened.

**Senator BROWN**—What is the arrangement for people who are bearing arms so that they are allowed to pass through screening? What arrangement is made there to ensure that what is being screened is acceptable to the parliamentary security authorities?

**Mr Crane**—I do not think I can go into that level of operational security.

**Senator BROWN**—I am concerned that the supremacy of parliament and its security arrangements at all times could only be possible if you are aware of the arrangements other security personnel have and what security apparatus they may be carrying; otherwise the contention that you are in control, know exactly what is going on in the parliament and have supremacy becomes hollow.

**Mr Bolton**—There is even a control over foreign nationals coming into this country with guns, no matter who they are with. That is undertaken via the Attorney-General's office, because the AFP comes underneath that. If there is any indication that they are going to have any, they have to get prior approval from the Attorney-General, so we have access to all that information. On top of that, the Australian Federal Police will always put someone with the foreign dignitary to be the Australian representative who works with those security people so that they understand what the arrangements in this country are and what they can do, and to liaise with them about how they should operate. Before anyone comes into this building the AFP people understand what the rules are and make prior inquiries as to whether or not they will be allowed into the building. They make a request. On certain occasions those requests are denied and on other occasions they are allowed. Those requests go all the way to the Presiding Officers.

**Senator BROWN**—Again, my question is: are you aware at all times of what security apparatus the foreign nationals have when they come into the parliament?

**Mr Bolton**—I don't think we are experts on firearms. We rely on the Australian Federal Police who are working with those foreign nationals to carry that out and tell us what is and is not appropriate.

**Senator BROWN**—Do they vet what is being carried and what is not?

**Mr Bolton**—We work on the notion that the Attorney-General has a role in relation to letting foreign nationals into the country with firearms and therefore he gets advice from the Australian Federal Police. I presume that they would check out exactly what is being brought in.

**Senator BROWN**—I would presume that if the supremacy of parliament is to be maintained when a security operation is in place, that cannot be left to anybody else; you must be in possession of that information at least.

**Mr Bolton**—We are advised by the Australian Federal Police of the details.

**Senator BROWN**—As far as individuals are concerned?



**Mr Bolton**—Yes.

**Senator BROWN**—Do the Australian Federal Police come with the foreign personnel and do they stay with them at all times?

**Mr Bolton**—They stay with them in this country because I do not think the government of this country, no matter of which political persuasion, is going to allow foreign nationals to walk around with guns in this country. They are assigned to them from the time they arrive in the country to the time they leave the country.

**Senator BROWN**—I want to move on to the question of the gallery guests and the Speaker's decision to remove the Greens' guests to a glassed-in area upstairs. When did you first become acquainted with that decision?

**Mr Bolton**—I think it would be our judgment.

**Mr Crane**—Perhaps if I could explain the role that we had in relation to the galleries. The parliamentary security service officers in the galleries assisted people in finding a seat within the gallery that they were assigned to. We did not have a role in terms of who was in what gallery.

**Senator BROWN**—Could you just explain that to me again?

**Mr Crane**—We had parliamentary security service officers, who are the white shirt officers that you see on a regular basis, in each of the galleries as we always do. As the guests came up with their entree card to the relevant gallery they were assisted in finding a seat. We made sure that they were in the right gallery and could find their way.

**Mr Bolton**—We had no role in who got into what gallery.

**Senator BROWN**—Because you have no role with the parliamentary security staff?

**Mr Crane**—The parliamentary security staff are my staff. Their role in relation to the galleries is to maintain the order in the galleries. Security, in general, did not have a role in the allocation of seating in the galleries.

**The PRESIDENT**—Senator Brown you keep on saying that they were removed from the gallery. They were not removed from the gallery at all; they were just placed in the enclosed gallery rather than in the open gallery.

**Senator BROWN**—So what happened on the day was that the three visitors arrived at the outside of the gallery and their cards were checked and found to be valid but somebody—at least one person and I think more—from the Chinese embassy was present—isn't that so?

**Mr Crane**—Not that I am aware of. I would suggest that there would have been a number of people from the Chinese embassy there on the day but—

**Senator BROWN**—Can you help there, President?

**The PRESIDENT**—There were quite a number of people from the Chinese Embassy in attendance but I do not know what you are referring to.

**Senator BROWN**—I am referring to somebody from the Chinese Embassy being present outside of the gallery to determine whether or not guests were acceptable to the Chinese Embassy or needed further scrutiny as far as the Chinese authorities were concerned.

**The PRESIDENT**—I am not aware of that. It may have happened.

**Senator BROWN**—Let me read to you from today's speech by the Speaker to the House of Representatives:

In the days preceding President Hu's visit, the Chinese ambassador expressed to me on several occasions his concern that people may seek to attend President Hu's address using invitations not issued in their names. He strongly urged me to require photographic identification. I declined to do so on the basis that the requirement for photographic identification was not made known in advance to prospective guests and that to require it without notice may prove difficult for guests, particularly children. I assured the ambassador that I would direct that all possible steps be taken to ensure the integrity of the galleries. To further ease the ambassador's concern, I suggested that I would permit several of his embassy staff to assist House staff in identifying people who may not have been the persons for whom invitations were issued. Photographic identification of people so identified would then be requested. I am advised that this process did not result in the identification of any persons holding incorrect invitations.

President, are you saying that you were not told by the Speaker that he was inviting several of the Chinese Embassy staff to assist the House staff in identifying people who they had trouble with?

**The PRESIDENT**—Those arrangements and discussions were held between the Speaker and the Chinese ambassador. I was not aware of that.

**Senator BROWN**—This is the first you have heard of it?

**The PRESIDENT**—It is the first I have heard of the fact that he had discussions with the Chinese ambassador about someone being there to identify people coming and going, if that is the case.

**Senator BROWN**—And it is the first you have heard that somebody from the Chinese Embassy was in the precinct and took part in the process of deciding who went into the gallery and who did not?

**The PRESIDENT**—I am not surprised that people from the Chinese Embassy were in the precinct, but I was not aware that they were actually—did you say they were identifying people?

**Senator BROWN**—Yes, vetting people.

**The PRESIDENT**—No, I am not aware of that.

**Senator BROWN**—But you knew that there were embassy staff in the precinct?

**The PRESIDENT**—Of course.

**Senator BROWN**—How did you know that, and who were they?

**The PRESIDENT**—Because there were embassy people in attendance within the chamber.

**Senator BROWN**—I am talking about outside the gallery, upstairs.

**The PRESIDENT**—I am not aware of that.

**Senator BROWN**—You were not aware.

**The PRESIDENT**—No.

**Senator BROWN**—And the Speaker had failed to convey to you as President this very crucial matter?

**The PRESIDENT**—The Speaker obviously gave instructions to his security people, and they carried out those instructions. I was not aware that he had had private discussions with the ambassador about—I know he was concerned about the so-called invitation swapping; he told me about that. But I was not aware of the photographic passes issue.

**Senator BROWN**—And in relation to the embassy staff present to help with that process near the gallery, you were not aware of that until now?

**The PRESIDENT**—No. I have heard about it since that day, but I was not aware about it before it happened.

**Senator BROWN**—What about you, Mr Bolton or Mr Crane?

**Mr Crane**—No. Just to clarify, I think you will find that what the Speaker was referring to there was a reception area that was established outside the link way on level 1. My people were inside the link way. They were not out at that reception desk area. Their role was that people came through the screening and then went to the galleries to which they had been allocated—

**Senator FAULKNER**—That is not right, is it?

**Senator BROWN**—It is not right.

**Senator FAULKNER**—Some went through the screening; some went around the screening. Some American journalists went around the screening.

**Mr Crane**—That is correct.

**Senator FAULKNER**—It was only the Australian journalists and other guests who went through the screening.

**Senator BROWN**—A member of my staff went with the two Tibetans to the gallery. She reported back to me—and this is corroborated by the Tibetans—that they were vetted.

**Mr Crane**—That they were screened?

**Senator BROWN**—That they were screened, if you like.

**Mr Crane**—Yes.

**Senator BROWN**—With the aid of what turns out to be a Chinese Embassy official.

**Mr Crane**—No, I am sorry, I am referring to electronic screening as they came in.

**Senator BROWN**—I am referring to the vetting of who went into the gallery or not. We are past the screening process and we are into—

**Mr Crane**—Where are they suggesting that happened?

**Senator FAULKNER**—But hang on here. They should have been screened.

**Mr Crane**—Yes, absolutely.

**Senator FAULKNER**—That is my point. I have no problems with the Tibetans, Uncle Tom Cobley or anybody else being screened. Everyone should have been screened.

**Mr Crane**—I think Senator Brown is referring to a different sort of screening.

**Senator FAULKNER**—He may be, but we are using the term ‘screening’ for going through an electronic screening device.

**Mr Crane**—Yes.

**Senator FAULKNER**—And so they should have been screened, along with everyone else.

**Senator BROWN**—So the Chinese Embassy staff were screened?

**Mr Crane**—Were screened?

**Senator BROWN**—Yes, before.

**Mr Crane**—Anyone coming in, apart from—as Senator Faulkner has pointed out—the media contingent from the US, was screened.

**Senator BROWN**—After we get to the point where people are about to enter the gallery after the screening, people were giving their guest cards to identify themselves as having validity in going into the gallery. Were Chinese Embassy staff present at that point?

**Mr Crane**—Not that I am aware of. My understanding was that the presentation of the invitation card took place outside the screening point. Then the people came in and were screened. Some of the security staff were there to then direct people to the galleries.

**Senator BROWN**—Okay. So the sorting out of people who went to the gallery or who were taken up to the glassed area occurred before the screening, as you put it?

**Mr Crane**—I cannot comment, because that was not a function of security. We were responsible for screening and then providing assistance to guests to go to the chamber in which they were seated.

**Senator BROWN**—You did not take a role in looking at the invitation cards to ensure that people had one before they—

**Mr Crane**—No.

**Senator BROWN**—Who did that? Whose responsibility was that?

**Mr Crane**—My understanding is it was staff from the Serjeant’s office and also from Ceremony and Hospitality.

**Mr Bolton**—Prime Minister and Cabinet.

**Mr Crane**—That is my understanding, Senator.

**Mr Bolton**—When you have big state dinners and things like that, they are being run on behalf of the government. To a large extent there are usually Ceremony and Hospitality people who control the guest list, who manage the guest list, and they get heavily involved, usually in just vetting who gets into the building. On some occasions they get assistance from different embassies for various reasons.

**The PRESIDENT**—On the Friday night at the state dinner that is exactly what happened to all of us: we were all screened and we all had to show an invitation.

**Senator BROWN**—Except that we are not talking about a state dinner and we are not talking about a function in the Great Hall. We are talking about a joint meeting of the parliament in the House of Representatives and we are talking about guests of members of parliament going to the gallery, as was provided for. We now have it on the word of the Speaker that embassy staff of communist China were there to help House staff in identifying people, and they did so, and they redirected three guests away from the gallery. This is the Chinese government having the say as to whether the guests got into the gallery or not—and the President or you cannot tell me that you had any part or knew anything about that process taking place?

**Mr Bolton**—If I can speak of behalf of Mr Crane and the rest of security, their job is to do what they are requested to do, and that was to escort people to the gallery after they had been vetted in the sense of, ‘Yes, you have this pass, and this is where your seat is.’

**Senator BROWN**—But you were not concerned about the behaviour of the guests of the three Greens MPs going to the gallery or you would have been involved?

**Mr Crane**—We were not involved in that aspect of the visit at all.

**Senator BROWN**—So there was no security concern as far as those guests were concerned?

**Mr Crane**—We do not have a role in assigning seats.

**Senator BROWN**—But there was no security concern about those guests that was brought to your attention? That is what you are telling me.

**Mr Crane**—No, they went through the normal screening.

**The PRESIDENT**—But, Senator, the Speaker had already made the decision the day before that those three guests were going to the enclosed gallery, and that is what I presume was happening.

**Senator BROWN**—Well, the Speaker had made that after several approaches from the Chinese Embassy, President, one of which you may have been aware about although it appears you were largely unaware of that, according to your evidence to the committee. Had that been the end of the matter we would not have had the Speaker admitting today in the parliament that he permitted, or he authorised, several of the embassy staff from communist China to assist the House staff—that means to overrule them, in effect, if necessary—in identifying people who may or may not have been persons for whom invitations were issued.

That is not the full story either, because it was not a matter of identifying people who may not have been persons for whom invitations were issued. Countermand me if I am wrong. The embassy staff of the People’s Republic of China actually pointed to the Greens’ guests, a call was made to the Speaker’s office, the Speaker then responded after the Chinese Embassy people had intervened and the three guests were removed to the upstairs galleries. You say you had no knowledge that that was happening, Mr Bolton or Mr Crane, and you had no concern for security there.

**Mr Crane**—We were not involved in that process at all.

**Senator BROWN**—Thank you. It was a political decision that was being made by the Speaker, that is the short and long of it, and at the direction of Beijing. If there is any other explanation you can give for that, President, this is your opportunity. On the matter of gallery guests, who decided who was going to come into the gallery and who was not, and how was the allocation of one person per MP made? How was the allocation for the extra media in the northern gallery decided and determined?

**The PRESIDENT**—The one guest per member or senator is as per previous occasions—similar arrangements were made for the two other joint sittings. As far as the media were concerned, the matter of how many media and where they were going to be was a matter for Prime Minister and Cabinet.

**Senator BROWN**—So Prime Minister and Cabinet was making the decisions about the media and the allocation of seats in the galleries?

**The PRESIDENT**—I believe so.

**Senator FAULKNER**—What else did they decide? Did they decide any seats for other groups as well as international media? I would have thought they were decisions that, at the end of the day, would be made by the Presiding Officers—that the ultimate responsibility for those sorts of things would rest with the Presiding Officers or the Serjeant, Black Rod and so forth.

**The PRESIDENT**—There were areas allocated for diplomats. That was set aside.

**Senator FAULKNER**—And fair enough, of course.

**The PRESIDENT**—There were areas set aside for people accompanying the President. There were areas set aside for guests of the Presiding Officers, deputy presiding officers and other officials of the parliament, and members and senators were allocated one guest each.

**Senator FAULKNER**—How many did the deputy presiding officer get?

**The PRESIDENT**—He probably did not get any preferential treatment.

**Senator FAULKNER**—He just tells me he did not, so why were you singling them out?

**The PRESIDENT**—No, I think most of the allocations were decided by Prime Minister and Cabinet.

**Senator FAULKNER**—Is that the way it normally works?

**The PRESIDENT**—I think so. It has not always worked that way, I do not believe, but it is my first effort, so we were told that—

**Senator FAULKNER**—You were told?

**The PRESIDENT**—We were informed that after having made the decision—

**Senator FAULKNER**—How were you informed? Did a note come through from PM&C or a brief or what?

**The PRESIDENT**—No, I think we discussed it during a normal meeting of the Presiding Officers.

**Senator FAULKNER**—Let us nail down the process. I am a little surprised about those decisions being made by PM&C. Let us just nail down how they communicated those requests to the Presiding Officers—or they are not requests; they sound like decisions, to be fair, don't they? How were you informed about it? Perhaps Mr Bolton can assist with this.

**The PRESIDENT**—Perhaps the Black Rod can help us.

**Senator FAULKNER**—Perhaps the Black Rod could assist us.

**The PRESIDENT**—Because allocations were made by the Black Rod, weren't they, through PM&C—the allocation of seating?

**Ms Griffiths**—Yes, it was based on what invitations were sent out for the previous joint meeting. So senators and members could invite one guest each; the Presiding Officers, the PM, the Deputy PM and the Leader of the Opposition were allocated a few more. PM&C determined the rest of the guest list.

**Senator FAULKNER**—Is that how it normally works?

**Ms Griffiths**—Yes.

**Senator FAULKNER**—Prime Minister and Cabinet do it?

**Ms Griffiths**—Yes.

**Senator BROWN**—Is that how it works in the Senate?

**Ms Griffiths**—No. For an opening of parliament it is different, because we control that. Previous Presiding Officers have determined that, because of limited seating, senators and members will still have one guest there, and then you can have two additional guests for the afternoon tea in the Members' Hall. Previously we have had a guest list which is based on what has been used for openings of parliament, going back indefinitely, which we determine. So ceremonial and protocol do not get involved in that at all.

**Senator BROWN**—How many seats were allocated by PM&C to the galleries?

**Ms Griffiths**—I do not know, Senator. The ceremonial and protocol section would be able to advise you of that.

**Senator FAULKNER**—But surely they would have advised the parliamentary officers about this in writing? There would have to be a paper trail on it. You would have to know.

**Ms Griffiths**—Yes. There is a list available of all the guests who were asked.

**Senator BROWN**—Could you provide that to the committee?

**Ms Griffiths**—Yes, but I do not know whether mine is the final one. All the ones that I was involved in we provided to a central database in the Serjeant-at-Arms' office. I have a booklet and I am happy to provide it. I do not think it is confidential but I might just confirm that first.

**Senator BROWN**—Thank you.

**Ms Griffiths**—I should clarify that the Speaker did determine the cameras and the still photographers on that day.

**Senator FAULKNER**—Not all of them.

**Ms Griffiths**—I do not think the ceremonial and protocol section were involved, except for the liaison officer. Certainly the Speaker determined how many still photographers were to go into the galleries.

**Senator BROWN**—When it came to the barring of two senators on the morning of the visit of President Hu, who were the officers whose lot it was to prevent the senators from entering the premises?

**Mr Crane**—That was me.

**Senator BROWN**—I thought I recognised you. It was a very civil exchange, wasn't it?

**Mr Crane**—Yes, it was.

**Senator BROWN**—Who else was there?

**Mr Crane**—There were a couple of officers from the Parliamentary Security Service whose names I do not have at the moment.

**Senator BROWN**—Nobody armed?

**Mr Crane**—No.

**Senator BROWN**—What was your understanding of the term 'preventative force'?

**Mr Crane**—My clear understanding was that my responsibilities were in accordance with the directive of the Speaker and the President to stop your access to the chamber. As you are aware, I simply did so by standing in front of you. We spoke—Senator Nettle was there—for a short period of time and that was the end of the issue.

**Senator FAULKNER**—How did you know how Senator Brown was going to approach the chamber? Was it an educated guess?

**Mr Crane**—It was fairly evident when the media started to congregate.

**Senator BROWN**—What does 'preventative force' mean? Was there any limit on the force that would have been used there on that day?

**Mr Crane**—Clearly the requirement was to have a situation in which no force was required, and that is what happened.

**Senator BROWN**—Is there any limit to the force that would be used if necessary?

**Mr Crane**—That is hypothetical. I cannot talk about what might have happened when an event did not take place.

**Senator BROWN**—I am not asking about that; I am asking whether under this term there is any limit to the force that could have been used to prevent Senator Nettle and me from proceeding.

**Mr Crane**—Any force would have been responsive and equivalent, in my view. That is probably the best way I can put it.

**Senator BROWN**—Did you discuss with other people what the terms in the Speaker's letter meant?

**Mr Crane**—No. I thought about it a lot myself.



**Senator BROWN**—Did the Speaker talk with you about it?

**Mr Crane**—No.

**Senator BROWN**—Were you acquainted with the original words in the draft letter that went out, or did you only receive the final letter?

**The PRESIDENT**—No draft letter went out.

**Senator BROWN**—It went out to you, President.

**The PRESIDENT**—No. The letter went backwards and forwards between the Speaker's office and my own as to the agreed wording.

**Senator BROWN**—Mr Crane, did security have any discussions with the Speaker about that before the letter finally arrived on your desk?

**Mr Crane**—No, but I knew that I was going to receive a directive.

**Senator BROWN**—I want to go back to the guests again. The guests went to the glassed enclosure upstairs where the schoolchildren normally sit. Were people allocated to keep a watch on them specifically up there?

**Mr Crane**—We had officers in every gallery.

**Senator BROWN**—Were people allocated specifically to keep a watch on those three people?

**Mr Crane**—No, they would have just been allocated to the gallery.

**Senator BROWN**—There was no talk with the people allocated to those galleries about the fact that the three Greens MP's guests were being taken up there?

**Mr Crane**—Not that I am aware of. The brief to the security staff would have been to enforce the usual protocols in relation to the galleries.

**Senator BROWN**—Do you know who took the guests up to the galleries?

**Mr Crane**—No, I do not.

**Senator BROWN**—Refresh my memory—who directed them up there?

**Mr Crane**—Once they had gone through the screening point, they would have been—

**Senator BROWN**—No, before the screening point, as we have established.

**Mr Crane**—My understanding was that it was staff from the Serjeant-at-Arms' office and ceremonial and hospitality officers of Prime Minister and Cabinet.

**Senator BROWN**—Because the President was not consulted and does not know about it, we are not in a position to be able to find out what instructions were given to those staff, whether they were in fact told that it might be injurious to trade if the Chinese delegation were upset and why the three people pointed out by the Chinese Embassy were taken upstairs. But I thank you for the information you have given us.

**The PRESIDENT**—Mr Chair, I think I indicated to you at lunchtime that I have an important doctor's appointment in the morning. I have delayed my flight once and, if I do not

make it, I do not get another appointment for two months. I have to leave here no later than a quarter to six.

**CHAIR**—The committee does understand that, and that will be fine.

**Senator BROWN**—Is the President able to indicate to the committee that the document asked for this morning—the draft security directive—is available?

**The PRESIDENT**—I do not think we have been able to find it yet, because it was only a draft note. I suspect it may have been trashed, because it was not the one we are interested in. But I will make some further inquiries, because I have not had the opportunity to contact the Speaker's office. If it is available, I will make it available. But I cannot see that there is much point in that because, as you would imagine, Senator, we are sending out letters all the time on different issues and, when we are deciding between ourselves what a letter is going to include, we might have different ways of putting it.

**Senator BROWN**—Thanks. It is up to the committee to determine the point of it, and it has been requested.

**The PRESIDENT**—No, it is not. It is up to the Presiding Officers; it is the letter we sent out. I cannot see what point any draft letters we had would have.

**Senator BROWN**—No, but I reassure you that it is the committee that has asked for that, and it is not a determination for you to make.

**The PRESIDENT**—I gave you an assurance this morning that if it is available I will make it available.

**Senator FAULKNER**—I would like to ask some questions on a couple of other matters while Joint House is at the table. One of them may or may not be associated with the visits of President Bush and President Hu. It goes to the problem of *Agrostis infusa*, which would be the bane of your existence, Mr Bolton, wouldn't it?

**Mr Bolton**—Probably, yes.

**Senator FAULKNER**—You know what *Agrostis infusa* is, don't you?

**Mr Bolton**—Yes, I do.

**Senator FAULKNER**—Why are you looking at me like that, Chair?

**CHAIR**—I do not know what it is.

**Senator FAULKNER**—I use the scientific name for the Bogong moth, only because Mr Bolton sent out a circular telling us all about it.

**CHAIR**—I hate to appear ignorant.

**Senator HOGG**—Don't you read these circulars?

**CHAIR**—Apparently not.

**Senator FAULKNER**—I assumed it was not a problem you actually had. Just briefly, this has been raised in the chamber, you would be aware. The President has made a statement to the Senate. Because Joint House is before us, I wonder if we could just get clear whether the

spraying of bogong moths, *Agrostis infusa*, in Parliament House is in fact an annual occurrence. I know that moths being here is an annual event—is spraying an annual event?

**Mr Bolton**—As I understand, yes, we spray once a year—not particularly for bogong moths, but the spray does have an effect on them.

**The PRESIDENT**—Could you excuse me, with the permission of the committee?

**CHAIR**—Yes.

**Senator FAULKNER**—I think the controversial issues have been dealt with.

**The PRESIDENT**—Thank you.

**Mr Bolton**—It is a regime that is used—and it is used in a lot of Canberra—in the early spring to control spiders and a lot of other things, but it also does allow us to do some control on the moths. It is very important that it is only one aspect of moth control. Over the years all the airconditioning vents that come into the building have had a lot of stainless steel fine mesh put in place. As the President has advised Senator Lees in writing, to control the moths we presently use cleaners for about a month. I think it is six cleaners who work eight hours a day for virtually three to four weeks, trying to vacuum up these moths over this period of time, depending on how big the incursion is in the air. We also have at different times changed the lighting on the building to try and restrict the number of moths that come here. It is more difficult when the house is sitting, obviously, to do that than it is when the house is not sitting. You can turn off a whole lot more lights when it is not. So there is a whole series of things, and spraying is just one element.

**Senator FAULKNER**—Mr Bolton, were there any special arrangements put in place to try and ensure that we were as moth free as possible in the lead-up to and on the occasion of the two presidential visits of late last month?

**Mr Bolton**—It was purely a coincidence. This is the time that the bogong moves, and we do it on an annual basis.

**Senator FAULKNER**—I was just checking whether there were any special efforts made. You may be aware that some have suggested that less diluted poisons and the like might have been used so that Parliament House was looking at its splendiferous best for President Bush and President Hu, who might have been a bit worried about a couple of moths flying around. Anyway, there is no truth to that, is there?

**Mr Bolton**—No.

**Senator FAULKNER**—Okay, that is good. Was the decision about spraying the moths the standard approach? Was the standard poison used and so forth?

**Mr Bolton**—Yes.

**Senator FAULKNER**—There was nothing special about that? Is Cislin 10 the name of the relevant poison?

**Mr Bolton**—Yes, as I understand it.

**Senator FAULKNER**—Have you got to the bottom of the analysis of the dead moths and dead birds to find out what the cause of all this is, or if in fact there is a particularly special

pattern or not? I do not know if that has been established. First of all, is there anything particularly remarkable in the circumstances surrounding the number of dead birds and dead moths this year?

**Mr Bolton**—In talking to the manager of the parliamentary landscape, it would appear that this year we have had a higher number of birds than we have had previously.

**Senator FAULKNER**—Live birds or dead birds?

**Mr Bolton**—Dead birds.

**Senator FAULKNER**—But there is no causal link to the moths from poisoning, is there?

**Mr Bolton**—We do not know with any certainty. We are as concerned as anybody, obviously, if we are doing something to the environment. We do not know. We said we would try and find some currawongs. At this stage, even though the gardening staff have been looking every day since the matter was raised, we have not found any more. There were some found previously.

**Senator FAULKNER**—That must be a relief to the currawong population.

**Mr Bolton**—Yes. We found one bird and that was mentioned earlier. That was raised last week. I believe this morning a couple of hornbills were found. They have been sent off to the veterinary authorities in the ACT.

**Senator FAULKNER**—Do you mean they were found dead?

**Mr Bolton**—They were found dead. As yet we have not had a response. I do not even know whether hornbills eat moths. They may.

**Senator BROWN**—So they may be thornbills.

**Mr Bolton**—We were told that they were hornbills.

**Senator BROWN**—Interesting!

**Mr Bolton**—There are two environmental issues here. If we do not deal with the moths in some way—and as I said, this spraying is just one element of a whole series of things we do—we get large numbers of these moths in the building and we then have further pest control problems. We would have outbreaks of carpet beetles, which use the moth carcasses to live in and breed from. And we would also have issues in relation to the rodents, of which there are a number in this building—as there are in any building.

**Senator FAULKNER**—Are you talking about rats?

**Mr Bolton**—I am talking about rats and mice. Their numbers would increase and we would then have to upgrade our pesticide program in relation to them. In terms of using pesticides in this building—I am not a scientist but we rely on scientific expertise—for well over 15 years we have used Associate Professor Peter Miller of the University of Technology Sydney to provide advice. He checks our program, looks at what we are doing and provides advice on it. Having heard the debate in the Senate the other day, I posed my own questions and he has provided me with a range of answers.

**Senator FAULKNER**—You would be happy to provide that to the committee?

**Mr Bolton**—I am happy to provide that.

**Senator FAULKNER**—Is he an ornithologist?

**CHAIR**—He is an expert in vermin.

**Mr Bolton**—He is Associate Professor Peter Miller from the bioscience unit of the Department of Health Services, University of Technology Sydney.

**Senator FAULKNER**—The trouble with all of this is that it is expensive getting this sort of advice. I appreciate that.

**Mr Bolton**—We think it is important because my staff do not have the scientific qualifications. We do a whole lot of scientific work in this building on water and on pesticides. All of those things are very strictly regulated and checked because we think it is important, being the Australian parliament, that we follow very good environmental practices.

**Senator FAULKNER**—If we start to kill the birds and it gets extreme we might start to kill a few of the politicians around the place.

**Mr Bolton**—We are concerned. We changed the process. Senator Brown raised this before: I understand that back in 1991 we used two ingredients to control the scarab beetles. Unfortunately, birds were very susceptible to one of those ingredients. Therefore we totally changed that program.

**Senator FAULKNER**—Seriously, is there an occupational health and safety issue for the people who are working in this building? I am not thinking here of the politicians who, as you know, do not spend anywhere near as much time in the building as many occupants such as those appearing before this committee at the moment. Is that the sort of concern you have?

**Mr Bolton**—Yes, of course. I will only read part of my question: ‘Is the use of the product used to spray for bogong moths at Parliament House safe to humans?’ He explained—and we all know about it—the dilution rate of 150 millilitres to 10 litres of water. He says:

I do not like to regard any insecticides as safe however, this material represents an extremely low mammalian toxicity at the sprayed rate. As a pyrethroid—

and that is another issue that we have taken up—

it is also rapidly detoxified by mammals. I do not think this material poses any hazard to humans when sprayed at the very dilute rate used to control insects.

It is basically an insect control spray.

**Senator FAULKNER**—I think the committee would appreciate your tabling that, Mr Bolton. One of the issues that was raised by the President in his statement was a suggestion that the moths might have had a higher arsenic concentration—I am putting that in layman’s language but I think you have heard this argument—because of other events occurring in the life cycle of these insects. Has that been checked out? Do we know about that?

**Mr Bolton**—We have sent numbers of the bogong moths off to the New South Wales National Parks and Wildlife Service. We do not have the results as yet. They are the people who raised this issue. It is only speculation. I think they are trying to find out what they believe is the higher level of arsenic in it. Arsenic, as I understand it, is a naturally occurring substance. There is some speculation that, because we have had very much a drought period, there could have been a build-up of arsenic in the rocks and so on and that the bogongs that

roost there could have become more susceptible to it because there has not been a natural washing out of rock crevices or washing out of it in the soil.

**Senator HOGG**—In respect of this, could I ask whether this residual poison that is left breaks down over time or whether it has a residual life whereby, over time, it might concentrate and become more toxic?

**Mr Bolton**—That is the point of using pyrethrums and naturally occurring substances. They do not tend to accumulate and grow. As I understand it, they do break down. He says in his last sentence, in the first dot point:

... as a pyrethroid it is also rapidly detoxified by mammals.

He does explain later on—because Senator Lees asked a question about whether the rain had washed it away—that, if you do spray it onto a window sill, once it had dried, it would be very slow and would take a long time to go away. Another report I have just been given says that the half-life of the cislin on a porous surface such as that on the exterior of Parliament House, under the variable environmental conditions that the exterior surface would experience, would be around 20 days or less.

**Senator FAULKNER**—What do you think are the costs of the annual migration of these moths and all the sorts of activities that you have to undertake? I accept that it is a serious responsibility because the knock-on consequences that you talk about are not to be taken lightly? What do you think the costs are on an annual basis? I know that it would be hard to disaggregate, but I assume there is cleaning, advice and a whole range of things.

**Mr Bolton**—It is very substantial. As you can imagine, if you put six cleaners in for eight hours a day for about a month, it is a lot of money.

**Senator FAULKNER**—There is that, but there are also these professional advices you are getting.

**Mr Bolton**—Yes.

**Senator FAULKNER**—You are having to get scientific analyses of bird carcasses and dead moths.

**CHAIR**—Fine mesh in the ceiling.

**Senator FAULKNER**—Obviously we are talking tens of thousands of dollars a year.

**Mr Bolton**—I would think so. I have not analysed the figure yet. Hopefully it was a one-off, but with that first invasion of bogong moths in this building back in 1988, which was very dramatic, there was a court case fought over it, because we had so much damage in the House of Representatives chamber that we had to replace all the fabric. That ended up in court. The insurers for the architects of the building ended up having to pay money to the Commonwealth.

**Senator FAULKNER**—Did the moths eat the material?

**Mr Bolton**—What happened was that the moths got in behind the fabric panels in the chamber. There are walkways in behind there so that you can service cabling et cetera. Then the common clothes moth bred in the carcasses; they used the carcasses as a food source and then proceeded to burrow out through all the fabric in front of them.

**Senator FAULKNER**—Is it significant that that only happened in the House of Representatives chamber, and not the Senate?

**Mr Bolton**—Yes. We did not have nearly the same damage in the Senate. We actually did not do any work in the Senate at that stage. But we had to go back and change nearly all the fabric in the House of Representatives.

**Senator FAULKNER**—Would you mind taking on notice for the committee the annual cost of dealing with this issue? I appreciate that there is a range of functions involved. We would appreciate getting some sort of understanding of that and also of the sort of staff resources that are involved. From time to time we tend to be a bit light-hearted about it. I am myself. I would have to plead guilty about making the odd light-hearted contribution on the matter, but it would be useful for us to understand the resources that are involved in this.

**Senator BROWN**—I have a couple of points on this matter. The moths are migrating and so if we poison them they will drop and stop here and then have to be cleaned up. If we do not, a goodly many of them will move on. It is a difficult one to wrestle with and I wonder if, this being Canberra, there ought not to be some controlled experiments done because this is going to happen each year, hopefully for as long as this parliament is here. It may be worth seeking some local advice about whether there is a bigger clean-up problem because insecticide is used than there would be if it were not, for example; whether the biggest single contribution may be turning lights down and off to encourage the moths to move on instead of land here; and whether the biggest predators on the moths when they are here are the birds.

All these factors can be taken into play besides the health factor, which I presume is Professor Miller's strength. I think because it is a long-term problem it may be worth speaking not only to the ornithologists that Senator Faulkner referred to but also to other agencies to determine whether a different approach can be made which may not intervene with the moths but help them to keep going on their way or get eaten while they are here. In other words, the natural control mechanisms might not end up being better than the costly alternative mechanisms and the clean-up that is required. I do not have an answer to that. I am putting in those points because it is a long-term problem and it is one that needs more lateral thinking and perhaps experimentation.

**Mr Bolton**—I am happy to do that, Senator.

**Senator HOGG**—Whilst you are on the issue of pesticides, what other pesticides are used around Parliament House and what dangers do they pose?

**Mr Bolton**—I have some information here somewhere. The external spraying of the building is the main one. We sent some information to Senator Brown on this through the President. I do not know whether he has sent a letter on or had the opportunity to look at the letter yet, but we did list them because Senator Brown asked:

What poisons have been used in 2003 including herbicides and insecticides for any application outside the building and which of these have any toxicity for birds?

We outlined a list of all the chemicals that we have used outside the building. There is a whole stack of them here.

**Senator HOGG**—Do you just want to table the letter?

**Mr Bolton**—Can we make that information available to you? I will get it to you tomorrow—

**Senator HOGG**—Would you table the section of the letter which applies?

**Mr Bolton**—I am not sure whether the President has signed off on it. I am quite happy to give you that information but the President might come back to me and say, ‘You have to change this in your letter to Senator Brown.’

**Senator HOGG**—I am not asking for the letter. Could you give us a copy of that part of the letter which is pertinent to the matter?

**Mr Bolton**—We will combine both internal and external methods, as I have said, because we obviously have rodent baits and other things that we put up in ceiling spaces and so on in the building. We will get that information together and give you a full response.

**Senator MOORE**—Mr Bolton, I have a question relating to security. It involves the issue of pets in the house. Recently, we had some scientists come to visit us for ‘Science Meets Parliament’. One of the scientists who came along was an expert on the issue of venom, and particularly requested that he be able to show any interested member or senator his research ‘person’, which was a snake. We specifically requested that, with due care and all those processes, that be able to happen. We were told that it was not able to be done because the snake was a pet. I have written to the President to find out what the issue on pets is—in particular, on such an occasion when it was particularly to do with research. There were all kinds of provisions for safety, never leaving the person’s person—all those kinds of things. We were still given a flat ‘no’.

**Mr Crane**—My understanding was that the person concerned took the snake to the National Press Club. He did initially ask to bring the snake into Parliament House, which created some concerns for my staff. I understand that subsequently the person contacted us to say that there was no longer a requirement to bring the snake. But that is only in relation to that particular issue. For us, the issue is: where do you draw the line? Quite clearly, if it is an animal such as a seeing-eye dog, for example, that is fine. But once we start going further, it is a matter of: where do you stop? That is the issue that I have.

**Mr Bolton**—My view, Senator, would be that with these sorts of things, if it involved a proper scientific process which was going to provide education to senators and members, some arrangements could have been put in place to control it. I do not think anyone would sneak explosives into the building via a snake, but there are ways, provided the handler held the snake, that the snake could have been checked, anyhow. I am a bit disappointed about this. If a proper process is followed, you can make the odd exception, but it will be the odd exception.

**Senator MOORE**—There is no blanket policy in that way?

**Mr Bolton**—No.

**Senator MOORE**—That was the impression we were given, because I raised it in this particular matter.

**Mr Bolton**—I think somebody has said that, but if they have said that, there is no policy that I am aware of.



**Senator FAULKNER**—On a couple of other issues, there are new camera installations in the press gallery specifically, but throughout Parliament House. It is true, isn't it, Mr Bolton, that the cameras in the press gallery have caused a lot of concern amongst the gallery committee? Is that correct?

**Mr Bolton**—Initially, Senator, yes.

**Senator FAULKNER**—Were there formal complaints from the press gallery about those cameras?

**Mr Bolton**—There were, Senator. I apologised to the press gallery in the sense that we discussed matters about the installation of these cameras with the Joint House Committee. We developed some protocols over a period of time which the Joint House Committee accepted. Then we started working on installing these cameras and it was raised with me by the press gallery that they should have been consulted. I accepted that at the time and I said that, while we would proceed with installing the cameras, we would not implement them until such time as we had had proper consultations with them. I discussed the matter again with the Presiding Officers. That was done and there is now an agreement between the press gallery, ourselves and the Presiding Officers about the rules and regulations relating to the operation of those cameras.

**Senator FAULKNER**—Are you able to say what that agreement is?

**Mr Bolton**—I can ask the President. It has been agreed to by the Joint House Committee and by the Presiding Officers.

**Senator FAULKNER**—Perhaps take it on notice.

**Mr Bolton**—Yes, Senator.

**Senator FAULKNER**—What you are saying is that the Joint House Department did not originally consult with the press gallery committee and that was an oversight?

**Mr Bolton**—It was an oversight on my part. I should have thought of it.

**Senator FAULKNER**—How many surveillance cameras are there in the press gallery now?

**Mr Bolton**—Specifically I do not know but they are basically at the intersection of corridors up there. There might be half a dozen or so.

**Senator FAULKNER**—Are the cameras up in the press gallery now operational?

**Mr Bolton**—They become operational this month.

**Senator FAULKNER**—So they have not been activated yet?

**Mr Bolton**—No. That was another undertaking I gave the press gallery—that is, we would not activate them until such time as we had settled our protocols.

**Senator FAULKNER**—I see. Is the rationale for placing cameras in the press gallery the same as the rationale for the cameras in the other parts of the building?

**Mr Bolton**—Yes. They have been introduced in the rest of the building—particularly in the private areas—so that, if there is a breach of security or someone who has not been properly authorised or gone through screening or whatever enters into the private areas of the building,

we have an opportunity to follow them and, with that information, be able to organise the appropriate response to that. They are not there to spy on people about who goes in and out of what room et cetera.

**Senator FAULKNER**—Do you think there is a unique set of circumstances that applies to the press gallery in relation to people who might be quietly talking to journalists and the like? You may not—I do not know.

**Mr Bolton**—That is the same in the private areas. I am sort of going back over time, but to a large extent the cameras do not operate all the time. They operate ‘on sitting days, on the receipt of an alarm from a senator’s or member’s office, or entry point to the building or after hours’—that is, after sitting hours—or ‘by detection of movement in the corridor’. That is when the cameras come on and are actively utilised. To allow access, these cameras continuously record but they do not go back and leave a record. As I understand it, they continuously record all that time within their framework in grabs of 30 seconds. They do not go back to a central thing until such time as they are activated. If a senator or member hits an alarm and says, ‘I’ve got a problem,’ obviously we will turn on the cameras in the proximity and they will be monitored by the security control room. After hours, we have movement detectors on those cameras. We just do not want to record whole corridors where nobody is moving around. So, if someone wanders down a corridor after the House or the Senate gets up, that camera will come on and the security control room will know that there is someone in that corridor.

**Senator FAULKNER**—It was reported in the press that there were five of these security cameras in the press gallery. Has that number been increased?

**Mr Bolton**—No. These were the first and only installations of those cameras in that area. As I said, I guessed five or six.

**Senator FAULKNER**—And there will be an agreement or an understanding reached with the gallery committee or whomever when they become fully operational? Is that the way it will work?

**Mr Bolton**—Yes. We have agreed with the gallery that we will give them an outline of the process and access to those protocols so that they can make them available to all their members.

**Senator FAULKNER**—I also want to raise the issue of the personnel involved in external security at Parliament House. We heard the terminology ‘white shirts’ that Mr Crane used, which I think we understand. I think I heard you correctly.

**Mr Crane**—Yes, you did.

**Senator FAULKNER**—That is effectively security personnel on the inside of the building. Is that a fair explanation?

**Mr Crane**—That is correct.

**Senator FAULKNER**—Of course, there are APS personnel who are outside the building on the perimeter of Parliament House? That is a general description but I think that is how it works.

**Mr Crane**—That is right.

**Senator FAULKNER**—In the annual report, I could not locate the contract for the APS to externally guard Parliament House. In fact, there may not be one and, if there is one, it may not necessarily be a contract with the Joint House Department. Mr Crane, can you please explain the background for me there?

**Mr Crane**—You are correct. That cost would not have appeared in the Joint House Department annual report because it would have appeared in the chamber departments' annual reports.

**Mr Bolton**—They fund security. It is a purchaser-provider arrangement: we are the provider and they are the purchasers.

**Senator FAULKNER**—I see. The Department of the Senate and the Department of the House of Representatives are forking out the money; you are dealing with the operational issues. Is that the distinction we are talking about?

**Mr Crane**—Yes.

**Senator FAULKNER**—Having heard that, I think the questions I want to ask go to Joint House because they are effectively about the operational elements. I appreciate the point that you have made about the detail of those contracts being in the chamber departments' annual reports. Can you say to us how many APS personnel we now have in Parliament House? I think it has about doubled since Bali, hasn't it?

**Mr Crane**—I am not aware of the previous figures, but the figure I have is that there would be a maximum of 27 on site at any one time, on any shift.

**Senator FAULKNER**—From a total pool of how many?

**Mr Crane**—I do not know. That is up to the APS.

**Mr Bolton**—I think it is about 90.

**Senator FAULKNER**—Is it true that what these personnel have is some sort of small muster room in the basement of Parliament House?

**Mr Crane**—That is correct.

**Senator FAULKNER**—Is it also true that it is pretty cramped quarters down there? That is what I have been told, and I am interested to know whether that is right.

**Mr Crane**—Since I have come to the position I have been made aware that there are issues in relation to the accommodation for the APS and their locker spaces et cetera.

**Senator FAULKNER**—Yes, locker spaces and all that sort of thing. I have heard that it is very inadequate. Is that fair?

**Mr Crane**—I have seen the site myself. It is not five star. The issue of course, as in a lot of the building, is the availability of space.

**Senator FAULKNER**—I have not seen it and I would appreciate perhaps if you could take me down there at some point over the next week or two and show me, because I would like to see it first hand. If I have not seen something directly I always like to qualify my questions accordingly—and I flag with you that I would like to see it—but I am a little concerned about

what I have heard about the cramped conditions there. I think you are flagging some concerns about it, and we can address that at a later stage. But is it true that there is quite a serious problem with the lack of shelter for these personnel outside the building?

**Mr Crane**—It depends exactly what you are referring to, I guess. Yes, their function is to provide protective security to the building exterior.

**Senator FAULKNER**—Yes, but when this building was designed I think it was with the idea of the need for an external guard being necessary because we do have, on the four corners of Parliament Drive, substantial guard boxes. That is true, isn't it?

**Mr Crane**—Yes.

**Senator FAULKNER**—But things have evolved and you cannot expect, 15 or 16 years later, the situation not to have changed since the building has been occupied. What we now have—and I am not critical of this at all—is a need for the APS personnel who are involved in their very important security activity to concentrate their activities on the doors, on the places where you can enter or exit Parliament House.

**Mr Crane**—I would not see it that way. In my view, the doors are the last line. Providing protective security services is about providing defence in depth, so what you really need is people patrolling the perimeters. You need an active force that is moving around the site constantly, identifying issues and being alert.

**Senator FAULKNER**—They are that, aren't they?

**Mr Crane**—Yes, absolutely.

**Senator FAULKNER**—I do see these personnel being, as you say, active and engaged, and they are certainly quite visible—all of which, as I think we have said before and I would say again, is quite important. It is fair to say, isn't it, that, in terms of external security, parliament is guarded 24 hours a day, seven days a week with a substantial security detail?

**Mr Crane**—Yes.

**Senator FAULKNER**—But it is also true to say, isn't it, that the APS officers involved are rostered on lengthy shifts and are outside in some pretty ordinary Canberra weather, particularly through the winter. You have these personnel outside in the elements. I heard this morning that it was minus one degree Celsius in Canberra overnight. That is not a particularly cold Canberra night, but let us take that as an example. You have had some very cold Canberra nights with pelting rain and so forth. Has Joint House been apprised of the sorts of conditions personnel are working in? Is there a capacity—there may not be; I am not sure—to address some of these issues?

**Mr Crane**—I am quite happy to do that. That would involve my discussing it with the senior AFP officer on site, given that the APS is a division of the Australian Federal Police. Without being aware of the specific details, I understand that throughout their shift there is a rotating arrangement whereby they are not outside for the whole shift.

**Senator FAULKNER**—But there are problems just because of the design problems in the building. For example, there are no outside toilet facilities at Parliament House, are there?

And, because of the equipment these personnel might be carrying, it is perhaps less easy for them than for others to duck inside the building.

**Mr Bolton**—There are actually substantial external toilet facilities. They are in both the gardens on that side of the building and the gardens on this side of building and in all the car parks. I am not arguing with you; I know what you are saying. But it is incumbent on the Australian Protective Services—who have said to us, ‘We can provide this service’—to provide their officers with all the appropriate wet weather gear and everything else they need to keep warm. If they have OH&S issues because they believe it is too cold, as long as they bring it to us we will sit down with them and address what we can do.

**Senator FAULKNER**—Have you been approached about these issues?

**Mr Bolton**—I have not been approached directly. That might come to Mr Crane, as the operational manager.

**Mr Crane**—I have not been approached directly. I will make some inquiries.

**Senator FAULKNER**—I would appreciate it if you could do that and report back to the committee if that has occurred.

**Mr Bolton**—The important thing for us was not to have them locked away in guard boxes and the rest of it where they become invisible. One, we do not know whether they are out and about; and, two, they are not that much of a deterrent. As we have discussed in the past at the Appropriations and Staffing Committee, we believe the best approach is to make them highly visible so that people know they are there and they are wandering around.

**Senator FAULKNER**—I accept that completely and, as you know, I have said that in a range of meetings over a long period of time. I think it is important that we have a strong external guard component here at Parliament House. I completely accept your view about visibility, but I think some of the occupational health issues being raised—some issues in relation to the comfort of these particular personnel—are not going to affect their utility in any way. Yesterday it hailed in Canberra, for example. These are significant issues. Is it possible for these staff to duck into the guard boxes if they are in the middle of a thunderstorm or the like?

**Mr Bolton**—Of course it is.

**Senator FAULKNER**—I had understood that—for some period of time I had been informed—that they were, if fact, locked and were inaccessible.

**Mr Bolton**—Yes, they were locked for a long period of time. What I am saying is that I have no problems with supplying keys to people who are on external patrols so that, if in an emergency or whatever they needed to get there quickly, they could.

**Senator FAULKNER**—My interest in this is to ask whether these issues have been raised by those who this particular service has been contracted with. I assume it would be raised with Joint House as opposed to the chamber departments?

**Mr Crane**—That is correct.

**Senator FAULKNER**—There is a memorandum of understanding or a protocol that is governing this, is there?

**Mr Bolton**—Yes.

**Mr Crane**—Yes.

**Senator FAULKNER**—I have just flagged those issues with you and I would be interested if you would be able to provide any feedback on them—and understanding the important points I think you are making about visibility and so forth, which I think provides maximum utility of the service. Tell me this: in your view, is this now working well for the parliament?

**Mr Crane**—Very well. We get extremely good feedback on the visibility of the APS in the building exterior, particularly initiatives such as the bike patrols, where they can respond very quickly to any issues. We are receiving some excellent feedback.

**Senator FAULKNER**—That is good to hear, and I think perhaps if some of these sorts of issues are being raised it might be beneficial to or even improve what is obviously something that is working very well. I am pleased to hear it is working well.

**Mr Bolton**—We hope to learn from them. I have made it a requirement of the person in charge of security for the parliament to, at least on a quarterly basis, attend meetings with those operational staff, particularly the bike people, and get feedback from them—what issues are concerning them, what is happening to them, what ideas they have—so we can better improve not only their operational circumstances but particularly the security of the parliament. In the one session that I have met with them when they graduated from their training I was very impressed with the quality of all those people recruited by APS. They were very smart operators. I have had feedback from various citizens in this town who have parked on Parliament Drive. One person remarked to me—he was not complaining—saying that he had parked on Parliament Drive at 2.30 one morning to take a phone call in his car and within 30 seconds there was an APS office at his window wanting to know what he was up to. I think that is very good, because that is a time when you might expect that they would not be on their guard and they were definitely on their guard.

**Senator FAULKNER**—You have not had raised with you either by the Federal Police Association or by any of the other industrial organisations that might have an interest in this any of these issues relating to these conditions?

**Mr Crane**—I have not personally, no.

**Senator FAULKNER**—If that had occurred, I assume you would be aware of it.

**Mr Crane**—I am sure I would have heard of it.

**Senator FAULKNER**—Anyway, you sound as if you are open minded on these issues, which is good to hear.

**Senator HOGG**—On the issue of security, I have a question about the white barriers. What is happening and when is that eyesore going to be replaced by something more utilitarian and visually pleasant?

**Mr Bolton**—I cannot give you an exact date. What I would hope to do is present something to the Presiding Officers before the end of the year. We have had discussions with the National Capital Authority about what architecturally we can do. We have our ideas on it but, before we enter into that to finalise those ideas, we have also engaged the Australian

Security Intelligence Organisation, who during this month of November are conducting a total risk review and analysis of what is required for the external precincts of Parliament House not only with a view to those immediate returns but, if we had to go to higher level, what may be required in terms of some other measures.

We believe we need that. It should come to us by the end of the month. An analysis of that will allow us to go forward, I would think, with a two-stage proposal. The first stage would be what we can do about getting rid of those white barriers and the second stage would be some other works that we would hope we can convince the government to fund over subsequent years. They would allow us, if we ended up suddenly going to a higher level—because we do not get any forewarning of that—to have some arrangements in place, in the landscape or whatever, to go to that higher level. So we are looking at the short term and the long term. We just do not want to treat the short term without thinking of the long term and having a full picture in place. I have undertaken to both Presiding Officers that we will have something to them before the end of December—but I would hope early December.

**Senator HOGG**—I think they have been in place for the best part of 12 months now.

**Mr Bolton**—Next March it will be 12 months. And that is what I said. I fully understand that we cannot go back to the parliament and say that we want an extension of time, unless we have a plan in place to remove them. I can just see me losing my head if I go back and say, ‘I haven’t got any ideas. Just continue on with them,’ because I know the reaction to them. I knew the reaction we would have the day we put them there, but we had to work in a quick time frame to put something in place.

**Senator FAULKNER**—It is suggested that we might not see you at the next estimates round. Would that be possible?

**Mr Bolton**—Highly likely.

**Senator FAULKNER**—Highly likely that we will not see you?

**Mr Bolton**—Yes.

**Senator FAULKNER**—In those circumstances—and I am sure I can speak for all of the committee members—I thank you very much for putting up with the agony of attending the Senate Finance and Public Administration Legislation Committee for many more years than you would care to remember, I would suspect. We do appreciate, I can assure you, the fact that you have put in the hard yards here. You have been very cooperative with the committee over many years, you have dealt with many difficult issues and you have always worked very diligently to assist this committee. I just wanted to say to you that I certainly appreciate that. I know that other senators appreciate that. We thank you very much for it. Although we will not see you at the next estimates round, we did not want you to leave this evening without our very best wishes for the future.

**Mr Bolton**—Thank you, Senator. It has been remarked to me that 17 years attendance at Senate committees is more than I would get for murder. But I have appreciated the opportunity because in a lot of the roles that Joint House does we do not have an opportunity to deal face to face with senators very often. I think there are lots of good stories that can be told. I have been very impressed with all the officers that have worked in Joint House over the

years. They really do set out to look after the senators and members to the best of their abilities.

**CHAIR**—There being no further questions, I thank Mr Bolton and officers very much for their attendance. After its dinner adjournment, when we resume at 7.30, the committee will commence its examination of the Prime Minister and Cabinet portfolio. First of all, the committee will examine the Office of the Official Secretary to the Governor-General, and then we will commence our examination of the Inspector-General of Intelligence and Security, and then the committee will examine the Office of National Assessments.

**Proceedings suspended from 6.24 p.m. to 7.33 p.m.**



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**PRIME MINISTER AND CABINET PORTFOLIO**

**In Attendance**

Senator Hill, Minister for Defence

**Department of the Prime Minister and Cabinet**

**Executive**

Mr Andrew Metcalfe, Deputy Secretary

Ms Patricia Scott, Deputy Secretary

**Office of the Official Secretary to the Governor-General**

**Outcome 1. The Governor-General is enabled to perform the constitutional, statutory, ceremonial and public duties associated with the appointment**

Mr Malcolm Hazell, Official Secretary to the Governor-General

Mr Kevin Davidson, Senior Adviser to the Governor-General

Ms Amanda O'Rourke, Director, Honours Secretariat

Mr Gary Bullivant, Corporate Manager

**Office of National Assessments**

**Outcome 1. Enhanced government awareness of international political and leadership developments, international strategic developments, including military capabilities, and international economic developments.**

**Outcome 2. Enhanced intelligence support for Defence planning and deployments, in peacetime and conflict, to maximize prospects for military success and to minimize loss of Australian lives.**

Mr Kim Jones, Director-General

Mr Derryl Triffett, Assistant Director-General, Corporate Services

Dr Doug Kean, Assistant Director-General, Strategic Branch

Dr Bill O'Malley, Assistant Director-General, Southeast Asia Branch

Mrs Margaret Bourke, Senior Executive Officer

**Office of the Inspector-General of Intelligence and Security**

**Outcome 1: Assurance that Australia's intelligence agencies act legally, ethically and with propriety**

Mr Bill Blick, Inspector-General

**Office of the Prime Minister and Cabinet**

**Executive:**

Mr Andrew Metcalfe, Deputy Secretary

Ms Patricia Scott, Deputy Secretary

Mr David Borthwick, Deputy Secretary

**Economic policy advice and coordination**

Mr James Horne, First Assistant Secretary, Industry, Infrastructure and Environment Division

Mr Stephen Clively, Assistant Secretary, Infrastructure and Regional Policy Branch

Ms Jenny Goddard, First Assistant Secretary, Economic Division

**Social policy advice and coordination**

Ms Kerry Flanagan, First Assistant Secretary, Office of the Status of Women  
Ms Jill Farrelly, Assistant Secretary, National Policy and Programs Coordination  
Ms Jenny Bourne, Assistant Secretary, Strategic Policy and Development  
Ms Joanne Cantle, Adviser, Corporate Strategies  
Ms Joanna Davidson, First Assistant Secretary, Social Policy Division  
Ms Helen Hambling, Assistant Secretary, Health Branch  
Ms Fifine Cahill, Acting Senior Adviser, Health Branch

**International policy advice and coordination**

Ms Gillian Bird, First Assistant Secretary, International Division  
Mr Miles Jordana, First Assistant Secretary, National Security Division  
Ms Julie Yeend, Assistant Secretary, Ceremonial and Hospitality

**Support services for government operations**

Ms Barbara Belcher, First Assistant Secretary, Government Division  
Mr David Macgill, Assistant Secretary, Parliamentary and Government Branch  
Mr Paul O'Neill, Assistant Secretary, Awards and National Symbols Branch  
Mr Peter Hamburger, First Assistant Secretary, Cabinet Division  
Mr Chris Taylor, Assistant Secretary, Government Communications Unit  
Dr Susan Ball, Assistant Secretary, Information Services  
Ms Judy Costello, Assistant Secretary, People and Resource Management  
Ms Trish Corbell, Acting Senior Adviser, Services and Security  
Ms Marina Belmonte, Senior Adviser, Financial Management

**Australian National Audit Office**

Mr Oliver Winder, Deputy Auditor-General  
Mr Michael Watson, Group Executive Director, Audit Assurance  
Mr Trevor Burgess, Group Executive Director, Audit Assurance  
Mr John Meert, Group Executive Director, Performance Audit  
Mr Warren Cochrane, Group Executive Director, Performance Audit  
Mr Russell Coleman, Executive Director, Corporate Management Branch

**Australian Public Service Commission**

Ms Lynne Tacy, Deputy Public Service Commissioner  
Mr Jeff Lamond, Merit Protection Commissioner  
Ms Carol Lindquist, Acting Group Manager, Corporate Strategy and Support

**Office of the Commonwealth Ombudsman**

Prof John McMillan, Commonwealth Ombudsman  
Mr Ron Brent, Deputy Ombudsman  
Ms Natalie Humphrey, Contract Manager

[7.30 p.m.]

**Office of the Official Secretary to the Governor-General**

**CHAIR**—I call the committee to order and welcome Mr Hazell and officers from the Office of the Official Secretary to the Governor-General. The committee will now examine outcome 1. Mr Hazell, do you have an opening statement you would like to make?

**Mr Hazell**—No thanks.

**Senator FAULKNER**—Mr Hazell, can you tell us about how the baton change is going in terms of the administration of the office which you have primary responsibility for?

**Mr Hazell**—The best way to describe it is: very smoothly. As you would know, the last time we spoke to you as a committee, Sir Guy Green was the administrator. Then the baton changed, as you say, to Major General Jeffrey in August. That change proceeded quite smoothly. The activities of the Governor-General continue. The office ticks away. As I said, I describe it in one word as smooth.

**Senator FAULKNER**—I noticed in the annual report that the costs for Mr Andy Reynolds were \$10,500.

**Mr Hazell**—That is right.

**Senator FAULKNER**—Is it fair to say that that was for media advice?

**Mr Hazell**—That is true. You will recall that at the last estimates hearing I mentioned that shortly before that Andrew Reynolds had taken his leave from the office and was employed privately by Dr Hollingworth. There is really nothing further. The only thing I can tell the committee is that the final estimate was slightly cheaper than what the committee was told last time. As opposed to \$11,000 and something, it came down to the figure that you just mentioned.

**Senator FAULKNER**—That is right; it was \$10,500 as reported in the annual report.

**Mr Hazell**—That is right.

**Senator FAULKNER**—Has handling of public relations issues pretty well returned to what goes for normal out there at Government House?

**Mr Hazell**—That is a difficult question to answer totally, Senator, because from time to time things come up. I think it is true to say that the number of queries and questions we get have receded quite dramatically. We still get the odd question from the press and from the media but nothing like that—

**Senator FAULKNER**—You will be handling those in-house now?

**Mr Hazell**—We are. I have yet to appoint somebody to take on that role in a more permanent way but that is being handled in-house.

**Senator FAULKNER**—What relocation and other expenses have there been as a result of Dr Hollingworth's resignation?

**Mr Hazell**—Do you mean in terms of Dr Hollingworth himself?

**Senator FAULKNER**—Yes.

**Mr Hazell**—That is a matter that is more properly addressed to Prime Minister and Cabinet, Senator. They have the responsibility of looking after former Governors-General but, as you would know, Dr Hollingworth and his wife relocated to Melbourne and they are now living there. Expenses associated with that are not the province of—

**Senator FAULKNER**—I appreciate that but I wondered if there were any expenses that had been borne by the Office of the Governor-General. Or it has all been borne by Prime Minister and Cabinet, as far as you are aware?

**Mr Hazell**—Yes, that is right.

**Senator FAULKNER**—That would also be true in relation to Sir Guy Green, I assume?

**Mr Hazell**—In terms of relocation there was really nothing. When he finished his term he just moved back as Governor of Tasmania.

**Senator FAULKNER**—Sure, but he had physically moved into Yarralumla.

**Mr Hazell**—Yes. You said he had physically moved; he had moved some of his belongings there but that was a relatively temporary affair and they moved back to Hobart, quite simply.

**Senator FAULKNER**—We have also spoken previously about the office at, I think, 101 Collins Street in Melbourne—it might have been 90 Collins Street, Melbourne—that Dr Hollingworth had. Are you aware of this? I think I have the right address.

**Mr Hazell**—That is not our responsibility. Again, that is the responsibility of Prime Minister and Cabinet.

**Senator FAULKNER**—I appreciate that. Are you aware of whether that is still being used? I thought you might be able to answer that because I assume from time to time staff would be present if it was.

**Mr Hazell**—I am only aware that Dr Hollingworth has an office there because sometimes we need to forward mail to that address. That is all.

**Senator FAULKNER**—So there is no involvement at all by the office of the official secretary in relation to that, apart from the forwarding of mail? It is limited to that?

**Mr Hazell**—That is quite right. As I said before, matters to do with former Governors-General are handled entirely by Prime Minister and Cabinet. That is where it stands.

**Senator FAULKNER**—Have there been any administrative changes as a result of Major General Jeffery becoming Governor-General—any changes to the way your office works at all that have been instigated by the new Governor-General that you are able to report to the committee?

**Mr Hazell**—I think the answer to that is no. Certainly, if there were any changes that have been made, they would not have been made as a result of anything that I would have done. As you would know, I have only been there a short while. To answer your question succinctly, no.

**Senator FAULKNER**—Are there any plans for physical changes at either Yarralumla or Admiralty House that you are aware of?

**Mr Hazell**—There have been no capital works other than the routine maintenance things done on either of the residences.

**Senator FAULKNER**—So there are no plans in the pipeline there?

**Mr Hazell**—We have a strategic plan whereby we do the ongoing things and those things have been canvassed previously, but nothing exceptional, no.

**Senator FAULKNER**—What do you mean by ‘exceptional’—it is all unexceptional?

**Mr Hazell**—Absolutely. There is a requirement on us, clearly, to look after the building fabric and that sort of thing, but I think I am right in saying that there is nothing, I have reported in the annual report that we are proposing to do some works vis-a-vis the Honours Secretariat but, again, that is part of the strategic plan.

**Senator FAULKNER**—The President of the United States, Mr Bush, paid a flying visit to Government House, I understand?

**Mr Hazell**—That is right.

**Senator FAULKNER**—It was only a flying visit, wasn't it?

**Mr Hazell**—It was relatively short, but it was nevertheless important.

**Senator FAULKNER**—When you say ‘relatively short’, I read in a newspaper article that it was 19 minutes in duration—would that be right? That certainly fits the definition of ‘relatively short’.

**Mr Hazell**—It was of that ilk.

**Senator FAULKNER**—It was of that ilk, I see. For the 19 minutes the President was through the front gates there, what actually did he do and what did the Governor-General do?

**Mr Hazell**—As is consistent with calls by all heads of state, they are greeted and they have a private discussion.

**Senator FAULKNER**—A very brief one.

**Mr Hazell**—Yes, there were some photographs taken and there was a discussion that took place between the Governor-General and the President.

**Senator FAULKNER**—Was there a significant security crackdown at Yarralumla for this 19-minute visit?

**Mr Hazell**—Certainly from the Government House perspective we liaised closely with the government security agencies. I would not say that there was a crackdown. Government House is a reasonably secure site. Normal measures were in train. The visitors had their own security team, of course, but we liaised closely with the Australian government authorities. There was nothing additional from our point of view that we did.

**Senator FAULKNER**—Not from your point of view, but there was obviously a pretty significant security detail there, wasn't there? There were barricades at the gates and all that sort of thing, weren't there?

**Mr Hazell**—No, as you know, the gates are the gates and they open and they shut and that is it. No, there were no barricades or anything like that.

**Senator FAULKNER**—There were plenty of choppers flying overhead and all that sort of thing?

**Mr Hazell**—I think they were part of the Canberra-wide visit.

**Senator FAULKNER**—Sure. I am not suggesting there were any expenses borne for this by your office, and I assume that there were not. That is correct, isn't it?

**Mr Hazell**—That is quite right.

**Senator FAULKNER**—Is it true that you had lots of police and security officers combing the grounds there and making sure that the President was in a kangaroo-free zone? You would have read the article in the newspaper that suggested that?

**Mr Hazell**—I did, with some amusement, Senator.

**Senator FAULKNER**—Do you think it was intended as a humorous piece?

**Mr Hazell**—I think the kangaroos would be more surprised than anybody. They were certainly nowhere to be seen. I think they decided to hightail out of it.

**Senator FAULKNER**—Was there any attempt to remove the wildlife, or do anything with the wildlife at all?

**Mr Hazell**—No.

**Senator FAULKNER**—So is it fair to describe this as a security measure? I accept that there would obviously be security measures wherever the President went. That stands to reason and I am not critical of it. I wondered to what extent there was a significant security crackdown for this very brief visit.

**Mr Hazell**—The best way to describe it is that the security measures that were in place were adequate. There has been some hyperbole engaged in. I would like to leave it by making the point that the measures that were taken were adequate.

**Senator FAULKNER**—Where did this story about the kangaroo free zone emanate, just out of interest? You do not know?

**Mr Hazell**—Someone's fertile imagination, I expect.

**Senator FAULKNER**—Your office was not approached as to the background of that?

**Mr Hazell**—If they were, I am not aware of it.

**Senator MURRAY**—Mr Hazell, I had some discourse with your group of officers—I cannot remember whether you were in the group—previously and with the archives agency on the question of how Governor-Generals' correspondence is dealt with. It seemed to me from the answer I got that perhaps it was necessarily grey and fairly loose. Has the new Governor-General been given a more precise briefing as to how his correspondence and papers are to be dealt with for the purpose of posterity—namely, those that are personal and those which are official?

**Mr Hazell**—We have discussed in very broad terms the handling of correspondence, Senator. It is along the lines that I mentioned to you previously. It is often very hard from the point of view of a Governor-General to split off the issues when people write in, as they do. The issues are intertwined. As I tried to explain last time, it is often quite difficult to see a clear demarcation between the two. There clearly are some matters that Major General Jeffery has brought with him in a very private capacity and those are handled privately. I have very little if anything to do with those and neither does the office. The vast majority of the correspondence that comes into the office is of an official nature and that is the way it is handled. I have not set down any rigid office procedures because I have found that they do not

always fit every particular situation. This is not usually a big problem for us. I prefer to deal with these things on a case by case basis.

**Senator MURRAY**—My own experience in the broader field and from the answers I have had is that ministers and public figures generally are not well briefed on the issue of archives: what is personal and what is public, and what is necessary to be kept from a historical and political perspective. The past Governor-General obviously had some particular issues which made his correspondence of great interest to future historians. What was archived would be important from that particular perspective but I think the point applies for any Governor-General. I wondered whether in your opinion, given you must give a necessarily discreet answer, the archiving environment and understanding had been lifted subsequent to Dr Hollingworth's tenure?

**Mr Hazell**—I would not have put it in a direct causal relationship like that. Clearly we are always conscious of the need to preserve as official records those records which are official and which will need to be accessed by later generations et cetera. Clearly, when matters become very personal and include personal correspondence, they remain as such. We are conscious of the need to do that. We have ongoing discussions with the various agencies concerned to make sure that we are across what needs to be done but, other than that, I do not think I would want to place it any higher than that.

**Senator MURRAY**—My final question relates to Dr Hollingworth's tenure. Have your office experienced any inquiries or calls for papers from a discovery perspective? You know what I mean by that: from a legal point of view.

**Mr Hazell**—I am not aware of any, no.

**CHAIR**—There being no other questions, thank you for your assistance, Mr Hazell and other officers. I now call the Inspector-General of Intelligence and Security.

[7.52 p.m.]

#### **Office of the Inspector-General of Intelligence and Security**

**CHAIR**—Mr Blick, welcome. Do you wish to make an opening statement?

**Mr Blick**—No I do not, thank you.

**Senator FAULKNER**—I thought I would ask you what matters you are able to report to us that are currently before the inspector-general and what is the status of those investigations you are undertaking?

**Mr Blick**—I am just going to refresh my memory from my annual report, which I hope will have been tabled today.

**Senator FAULKNER**—I would have to plead guilty and say that I have not seen it. It was tabled today?

**Mr Blick**—It was scheduled to be tabled today but whether it was or not, I am not sure. At the end of the last financial year we had eight or nine complaints still unresolved. Nearly all of those were about ASIO, and I think it is fair to say that all of those bar one would now be regarded as closed. We have received some complaints since then which are in the early

stages of investigation. There is not a large number but they are quite significant complaints. I do not have any current what are known as 'own motion inquiries' that I can recall.

There is quite a bit of work going on between ourselves and ASIS in relation to the legislation that you would be conscious of that will, if passed, permit ASIS officers to obtain firearms. I recently appeared before the Joint Standing Committee on ASIO, ASIS and DSD to talk to them about the accountability issues that ought to relate to that regime. I suppose the most significant thing that I can report in relation to that is that ASIS will be required under the legislation to develop guidelines which will be, I think, a fairly large and significant document about the handling of firearms. They will be consulting my office in the course of developing those guidelines. I would think that over the next few months that will be quite a considerable task for the organisation and, consequently, for us.

**Senator FAULKNER**—In relation to ASIO's new powers, have you as Inspector-General of Intelligence and Security been informed that those powers are now operational?

**Mr Blick**—They became operational, so far as I can recall, because the director-general, some weeks ago, published, as was required under the legislation, a set of procedures to govern the conduct of the sorts of inquiries that ASIO is able to do under that legislation. I was, as was required by the legislation, both consulted in those procedures and given a copy of them. To that extent they are now operational and those powers are now available to ASIO.

**Senator FAULKNER**—Are you aware of whether they have been used?

**Mr Blick**—As I understand it, the government has taken the view in the last few days when those sorts of questions are being asked of the government that it will not reveal whether or not they have been used. I think in those circumstances I ought to maintain the same degree of silence. I apologise for that, but I do not think I really have any alternative.

**Senator FAULKNER**—I was not aware the government had been as definitive as you say.

**Mr Blick**—As I understand it, the Attorney-General has been asked whether those powers have been exercised and he has declined to reveal whether they have or not.

**Senator FAULKNER**—The Attorney-General appears to be displaying a great deal of ignorance about these matters in general. Let me ask you this then: is it your intention—you can correct me if I am wrong here, but I think you have indicated this—to keep a very close eye on the questioning by ASIO when or, let us say for the purposes of the argument, if the powers are used? Is that still the approach you intend to take? I think you can address that question at least.

**Mr Blick**—Indeed. As I said before, it is clearly the intention that I or a member of my office, as provided for under the legislation, would attend such questioning to ensure that it was conducted in accordance with the various protocols that surround it.

**Senator FAULKNER**—Do you see this as a high priority for you as inspector-general, given that these are obviously new powers that have been conferred on ASIO by the parliament?

**Mr Blick**—Very much so, yes.



**Senator FAULKNER**—There was a story in the *Herald Sun* on 16 October under the headline ‘ASIO cleared over 20 raids’. I do not know whether you saw that article.

**Mr Blick**—Yes, I did.

**Senator FAULKNER**—I thought you might have. It says:

Inspector-General Bill Blick, who is responsible for auditing ASIO’s activities, is believed to have found no evidence the spy agency acted outside its powers.

It goes on to say, to be entirely fair to you:

Mr Blick would not comment on his findings, which are expected to be included in his annual report to be tabled in Federal Parliament in coming weeks.

You have indicated that you are not sure but you think the report has been tabled today. Can you confirm the status of IGIS investigations into those quite high-profile ASIO raids of 2002?

**Mr Blick**—As I said to the person who sent me something by way of complaint based on that article, it is not always wise to believe everything one reads in the newspapers, as I am sure you know. I cannot confirm what has been said in that article. Assuming that my annual report is tabled today—and even if it is not, I do not think it really matters much—you will find that it reports two cases where ASIO did make mistakes in conducting searches. In both cases compensation either has been paid or will be paid to the people affected. There were other searches conducted which I had not completed investigating at the time of writing the annual report. Part of the reason for my hesitation when you asked me the first question was that I was trying to remember whether all of those complaints had been finally resolved. There may still be one outstanding.

In relation to those, I think it is fair to say that the thrust of the complaints, which was that ASIO had behaved inappropriately towards individuals in the course of those searches, was not upheld. But it is also fair to say that because these searches are carried out with the cooperation of police forces, both the AFP and the state police, it is not always entirely clear which members of the team, if you like, are supposed to have done the things that people complain about. What I try to do in those instances is encourage people with those sorts of complaints to also lodge complaints about what one can identify as possibly police behaviour with the relevant authorities to have them investigated, because I cannot investigate what the AFP does.

**Senator FAULKNER**—I think you have mentioned two cases in which complaints have been upheld at least to some extent or the agency, in this case ASIO, has been found to act outside its powers—if we can use that broad terminology. You have mentioned that in relation to two occasions compensation has been paid. In your findings as inspector-general do you go to the issue of any sanction that might be applied to the agency, in this case compensation? Do your recommendations or findings—I am speaking specifically in this case, but you might care to deal with it first in the broad—go to those issues?

**Mr Blick**—Yes, the Inspector-General of Intelligence and Security Act specifically provides that the Inspector-General can recommend compensation, including financial compensation, and there are a number of instances in which that has happened. I will have to

try and remember exactly what happened in the two cases that I was referring to. Certainly in one of those cases I did not produce a formal written report that had a recommendation that compensation be paid, because it was absolutely clear to ASIO, when the facts were established, that that was the appropriate way to go and that was what happened. I need to check exactly how I went about the other case, which involved ASIO commencing a search at an address which was not on the warrant. Basically, I made a recommendation that ASIO negotiate with the people concerned with a view to arriving at a satisfactory settlement. I do not know what the settlement was or the particular stage that it has reached. I think it is still ongoing. But there is, in effect, a claim in on behalf of the people concerned and I expect that eventually there will be a financial settlement of some sort.

**Senator FAULKNER**—Have you ever, in your findings, recommended a quantum, or do you merely set out the principle of whether compensation should be paid?

**Mr Blick**—Taking the first of the two cases that I mentioned, I think it was pretty clear what the quantum ought to be because this was compensation for a computer that ASIO took away and then did not return in the same condition that it was taken away in. Basically, the compensation was the price of the computer so there could not possibly be any argument about that.

As I said, in the second case I mentioned I think it is a matter for negotiation. But I have also been involved, in the last few years, in a case involving an asylum seeker who was wrongly assessed as being a danger to national security. In that case I solicited a claim from the injured party and then sought advice from the Australian Government Solicitor about the appropriateness of that claim. I then made a recommendation to ASIO for compensation based on that advice. That ended up being a recommendation for a particular sum of money, but it would still be open to the people affected to try and obtain a larger amount by some other means. Similarly, I made a recommendation to ASIS a year or so ago for a particular quantum based on money that I thought ASIS should have previously paid to the person concerned but had not paid. So it is a mixture, basically.

**Senator FAULKNER**—Can you make some comment to the committee about workload, Mr Blick? Does the enhanced threat environment since 11 September 2001 and the events of Bali a year or so ago have resource implications for the IGIS as well?

**Mr Blick**—Yes, a number of factors are contributing to a pretty significant increase in workload. The factors you have mentioned are certainly there and they have fed into the tendency of the parliament to increase the responsibilities of the Inspector-General because there has also been an increase in the responsibilities of the agencies. For example, if you take the ASIO terrorism legislation, you would be aware that a number of checks and balances were built into that legislation which involve the Office of the Inspector-General. So, yes, there has been an increase in workload. Obviously that has resource implications in the sense that one needs to reallocate resources. For my own part, I have not sought resource increases from the government. As I think I have explained on previous occasions, when specific and major matters come up that may require a large allocation of resources to a particular inquiry, it has been possible in the past to in effect obtain government subvention for that. If I were going to be in this job much longer, I would expect that to continue. But I am not going to be in the job much longer so we will have to see.

**Senator MURRAY**—Some of us might be facing the same thing!

**Senator FAULKNER**—I do not know that that comparison is entirely valid, Senator.

**Senator MURRAY**—No, but it amused me.

**Senator FAULKNER**—Can I ask you about another issue that has received some public comment—that is, the efforts of agencies to try and contain or crack down on leaks. Again, there was a comparatively recent newspaper article about two high profile security breaches having been investigated by you and a suggestion that you made 50 recommendations on how agencies could tighten security.

**Mr Blick**—The reference must be to the work I did in the wake of the Wispelaere espionage case several years ago, because I have never done leak investigations in this office.

**Senator FAULKNER**—It could be. It is impossible to identify it from the article that was printed in the *Canberra Times* on Tuesday, 14 October under the headline ‘Aust spy agencies told to crack down on leaks’, which maybe seems unremarkable in itself. I am interested in this suggestion of recommendations coming from the Inspector-General.

**Mr Blick**—The only recommendations I have made that I can think of that might have some relevance to that are the ones that I made for improving security in the wake of the Wispelaere espionage case, which you probably know.

**Senator FAULKNER**—I am aware of those recommendations having been made. Has there been any follow-through or auditing of their implementation?

**Mr Blick**—The recommendations included recommendations to ensure that it was not just a one-off exercise. For example, there are recommendations about annual reporting—not involving my office, I should say. As far as I am aware, those processes have been put in place. There was a process for ensuring that the recommendations were implemented and a process for ensuring that the security status of the affected agencies was maintained at the higher level that was expected to flow from the implementation of the recommendations. As I understand it, that has been put in place and is still going on.

**Senator FAULKNER**—Mr Blick, what are you able to say to the committee in relation to the time it is taking the IGIS to report on complaints that you are receiving, and the sort of pattern that we have with this enhanced workload, which the committee certainly accepts is a reality of the current environment?

**Mr Blick**—As I say in the annual report, it is very difficult to attribute causes of the length of time of investigation to particular factors across the board because there are particular factors in each case that have quite a significant effect on that. For example—and this is an extreme example—on the asylum seeker case that I mentioned, I made recommendations nearly four years ago for an outcome in that case, and the lawyer for the complainant basically failed to file a claim until July this year. So on paper it looks as though the investigation has taken four years when in fact it was completed three years ago. In the case of complaints about ASIO searches, which is one where I think we probably have taken longer than we would have liked, there have been factors related to the analysis of ASIO records that have contributed to that state of affairs. But there have also been factors, obviously, about competing priorities that have contributed to it as well.

It is pretty difficult to generalise and say that just because the workload happens to be getting higher that means you do not do inquiry investigation more quickly. I received a complaint last week about a matter which is similar to a matter that last year took several months to investigate; but this time around I expect to do it in a very short time—maybe a matter of two or three weeks, largely because of the experience in the previous similar matter. I really cannot give you a much better answer than that.

**Senator FAULKNER**—So you are really saying that there is not a pattern?

**Mr Blick**—There is no direct causal link between the fact that we are getting more work to do and the particular time that investigations might take. That is really what I am saying. The vast majority of the inquiries that we get are resolved within a few days. It is just that there are occasionally more complex matters that take longer.

**Senator FAULKNER**—There are two issues here, if you like: there is the number of complaints you are receiving and the time it is taking to deal with them.

**Mr Blick**—Yes.

**Senator FAULKNER**—Are you able to say there is a pattern with the number of complaints?

**Mr Blick**—Certainly, yes.

**Senator FAULKNER**—Could you briefly describe that?

**Mr Blick**—I will find the reference in the annual report. We got 29 new complaints leading to preliminary or full inquiries in the last financial year, which was three more than we had had in the year before. There were 32 complaints nominating an agency that were dealt with without the need for inquiry action. There were only 27 in the previous year so there has been a 10 or 15 per cent increase in one year. That has been going on for several years now. But the number of complaints really is not a good guide to workload because, as I said, some of them can be very simple and are able to be dealt with very easily and others can be quite complex. In addition to that, inquiries arise not from complaints but come about because of matters that arise publicly, such as the inquiry we did into the allegations about monitoring Mr Brereton's telephone, where one has no way of forecasting how long they might take.

**Senator FAULKNER**—Have you identified any issues in the annual report that you believe require to be addressed by government in relation to resources, powers or any other matters?

**Mr Blick**—Not in relation to my resources and powers. I have said in relation to the Intelligence Services Act that now that it has been in operation for a couple of years and now that there has been that amount of experience in working with the ministerial authorisation regime and the privacy rules made by the two ministers responsible under the act, it is probably a good time to sit back and review whether it needs to have some amendments—and that is leaving aside the ASIS weapons issue, which is a separate one. I do not believe these are huge issues, but certainly there have been some unintended consequences flowing from that legislation and I think it would be sensible to look before much longer at whether some improvements can be made in the way it operates.

**Senator FAULKNER**—Would you see the joint committee as appropriate to review that—or not, given the circumstances?

**Mr Blick**—I guess it is a matter for the government to decide how it would approach that issue. I think if it were me, to be perfectly truthful, I would just go out and hire somebody to do it.

**Senator FAULKNER**—A more independent review?

**Mr Blick**—Yes, and on a consultancy sort of basis; and then, if you like, prepare a report that ultimately the joint committee could consider when any such amendments were being introduced.

**Senator FAULKNER**—All right. When your annual report is tabled, does that appear on the Web as well?

**Mr Blick**—Yes.

**Senator FAULKNER**—It is not on the Web yet, so it may not have been tabled today.

**Mr Blick**—Getting it on the Web simultaneously with tabling is not an easy act.

**Senator FAULKNER**—I know, but knowing your skills, Mr Blick, anything would be possible.

**Mr Blick**—Thank you! We would certainly hope to have it up within 24 hours of tabling.

**Senator FAULKNER**—That is the normal pattern, isn't it?

**Mr Blick**—Yes.

**Senator FAULKNER**—You have given the number of currently unresolved complaints. Are you able to provide any more detail to the committee about those, about what you are investigating currently?

**Mr Blick**—I do not think there is anything I can say that can add much to what I said already, to be perfectly truthful.

**Senator FAULKNER**—What you have told us, I think—correct me if I am wrong—is that there are eight or nine unresolved complaints and that nearly all of those are about ASIO. That is what I understood.

**Mr Blick**—That was the position at the end of the last reporting year, which was July, and we have been working to resolve those in the interim. Other issues have obviously come along since then, but I do not think there is anything of great significance that I can really tell you about.

**Senator FAULKNER**—But didn't you indicate that, since the end of your reporting year, most of those matters have been finalised, but of course inevitably you have got a range of other complaints that have come forward.

**Mr Blick**—Yes, that is right.

**Senator FAULKNER**—You seemed to indicate that most of those are in a reasonably early stage of investigation.

**Mr Blick**—That is absolutely right, yes. You would have seen in the media, as I have, that a lawyer for some of the people whose premises were searched in the last week or two has indicated the intention to complain. As I have said before in this committee, it is my habit not to confirm or deny the existence of particular complaints, and I think I ought to stick with that at this stage.

**Senator FAULKNER**—But you would always counsel me anyway not to believe everything I read in the media, wouldn't you?

**Mr Blick**—As I am sure you would counsel me.

**Senator FAULKNER**—You have already pointed out this evening on at least one occasion how risky that can be.

**Mr Blick**—Indeed.

**CHAIR**—As there are no further questions, thank you very much, Mr Blick, for attending this evening. The committee welcomes the Leader of the Government in the Senate, Senator Hill. Minister, welcome. The committee calls the Office of National Assessments.

[8.25 p.m.]

#### **Office of National Assessments**

**CHAIR**—Welcome. Would you like to make an opening statement, Mr Jones?

**Mr Jones**—No, thank you.

**CHAIR**—Then I call upon general questions.

**Senator FAULKNER**—For the record, Mr Jones, can you advise the committee on whether ONA shares intelligence assessments that ONA makes with similar international agencies which might be broadly described as our intelligence partners or allies?

**Mr Jones**—Yes, it shares some of its assessments with intelligence partners.

**Senator FAULKNER**—And the reverse applies?

**Mr Jones**—Yes—some of theirs.

**Senator FAULKNER**—Are you able to say which particular agencies this shared analysis arrangement applies to?

**Mr Jones**—I can talk about the countries but perhaps not the specific agencies.

**Senator FAULKNER**—That would be helpful.

**Mr Jones**—It applies particularly to the United States, the United Kingdom, Canada and New Zealand. Beyond that there are less frequent exchanges with some other countries, but I would prefer not to list them all.

**Senator FAULKNER**—So, as I think has been said before, you would identify those four as having the strongest relationship with you?

**Mr Jones**—That is correct.

**Senator FAULKNER**—Australia has intelligence liaison officers located in both London and Washington DC, doesn't it?

**Mr Jones**—Do you mean ONA rather than Australia?

**Senator FAULKNER**—ONA, yes.

**Mr Jones**—ONA has liaison officers in Washington and London—that is correct.

**Senator FAULKNER**—And would some of that sharing process be filtered or organised through those liaison officers? I am talking here about our links with the US and the UK specifically.

**Mr Jones**—In terms of exchange of material it tends to be more automatic than that, but in terms of exchange of information the liaison officers have an important role.

**Senator FAULKNER**—Again, the reciprocal arrangement occurs with intelligence liaison officers from some other foreign missions in Australia, but if for the sake of the argument we identify the UK and the US it is fair to make that point, isn't it?

**Mr Jones**—In terms of their representation?

**Senator FAULKNER**—There is a reciprocal arrangement, as we have talked about in relation to your liaison officers in London and Washington DC. There is a similar arrangement—

**Senator Hill**—We can talk about our staff as much as possible but I do not think it is appropriate to talk about the arrangements of other countries.

**Senator FAULKNER**—I do not think it is a significant difference. What is occurring, which we know, is that liaison officers in London and Washington DC are involved to some extent in that sharing of assessments. All I am asking is whether the intelligence liaison officers in the US and UK missions in Australia or officers fulfilling a similar role to ONA officers in London and Washington are, if you like, engaged in reciprocal work. I think that is unremarkable, isn't it, Senator Hill?

**Senator Hill**—I do not know that it is our job to classify the representatives of other nations in Canberra. If you want to know who the Americans have on their staff I think you speak to the Americans, not to us, about it.

**Senator FAULKNER**—The Americans are not before the committee. I do not want to get too bogged down on this; I do not think it matters that much. I think we all know it happens, but let us not get too concerned. It is true, isn't it, Mr Jones, that the ONA receives, on a regular basis, assessments from the US State Department?

**Mr Jones**—We have liaison with the US State Department. I would not want to go into detail on what that produces.

**Senator FAULKNER**—It is true, isn't it, that you receive assessments from the Bureau of Intelligence and Research?

**Mr Jones**—We have liaison with them.

**Senator FAULKNER**—Yes. As I understand it—and you may not be able to answer this, because Senator Hill would not want you to comment on this—that is an element of the State Department, isn't it?

**Mr Jones**—Yes.

**Senator FAULKNER**—Thank you. That wasn't too hard, was it, Senator Hill?

**Senator Hill**—No, because that is talking about a US structure in the United States.

**Senator FAULKNER**—I thought you would ask us to get someone from the US embassy along to answer it.

**Senator Hill**—No. I think it is very different to asking who other countries have got—

**Senator FAULKNER**—I know it would not be too hard.

**CHAIR**—I think we can go that far down the road.

**Senator FAULKNER**—Yes, I think we can too, Chair. Having established that there is this relationship with the Bureau of Intelligence and Research, Mr Jones, to the extent that you are able to provide the committee with an explanation of this, with all the usual constraints understood, could you explain to the committee what the ONA's broad approach is to these sorts of assessments, how they are integrated into your own work and the like? Just a broad picture for the committee.

**Mr Jones**—The material we receive from other countries is fed into our own analytical work. We take account of it as we do our own analysis.

**Senator FAULKNER**—Does the ONA on occasions pass Bureau of Intelligence and Research—I think the acronym used for this bureau is INR, isn't it?

**Mr Jones**—Yes.

**Senator FAULKNER**—I keep reading that in the newspapers. Does the ONA on occasions pass INR assessments to government ministers or ministers' staff?

**Mr Jones**—I said we had liaison with INR but I did not say we necessarily received written material from them.

**Senator FAULKNER**—I heard what you said and I am not asking a question that is dependent on the answer you gave to my previous question. I am asking: does the ONA on occasions pass INR assessments on to ministers or ministerial staff?

**Mr Jones**—We normally absorb the information we receive from partners into our own analysis, but there will be times when we, in our analysis, indicate views of other countries' analytical agencies.

**Senator FAULKNER**—Thank you for that; I appreciate that. Understanding the role of ONA I assume this would be very rare but—just for the purposes of the record—does this ever go to INR material that would not be processed by the ONA? I heard what you said to the committee and I appreciate that point that you make. I assume it would be very unusual for original INR reports or assessments to be passed to government; it would be much more likely that this would be analysed and worked over by ONA and presented in ONA original material, as opposed to INR original material. Would that be fair?

**Mr Jones**—In the normal course of events, we would take it into account as we did our own analysis. There may be some occasions where we would indicate that a view of a partner country's agency was X or Y in our own reporting. The normal way in which it is used is



integrating it into our own analysis, but occasionally it might be worth noting that this was a view of a particular country or agency.

**Senator FAULKNER**—Thanks for that. Is there a valid distinction to be drawn here or not between INR assessments, on the one hand, and the contents of INR reports? Or is it, for the purposes of the process that we are speaking about, one and the same?

**Mr Jones**—I am talking about views which we know to be held by INR.

**Senator FAULKNER**—But which could be contained in INR reports that come through to ONA—that is right, isn't it?

**Mr Jones**—If we were to see them, yes.

**Senator FAULKNER**—Yes, of course.

**Mr Jones**—What I have said is that we have access to INR and we have some awareness of their views on issues, but I have not gone into the means by which we acquire that information.

**Senator FAULKNER**—No, I know that. I appreciate getting that broad background on these processes onto the record. Are you able to provide some background to the committee on any information received by ONA from US sources before February 2003 that indicated the claims about Iraq seeking uranium from Africa were doubtful? Are you able to provide some information to the committee on that?

**Senator Hill**—Firstly, I do not know whether it is an appropriate question to ask generally in relation to the intelligence relationship between the two countries, but I certainly doubt that it is an appropriate question for an estimates committee. By any stretch of imagination I cannot see how getting into what intelligence might have been provided from one country to another is relevant to an estimates process.

**Senator FAULKNER**—I think it is perfectly relevant.

**Senator Hill**—Particularly as there is another committee looking at these questions, specifically charged to look at these issues.

**Senator FAULKNER**—I am sorry, is that having hearings on these particular matters? You are aware of that, are you?

**Senator Hill**—No, I am not aware of it, but I am aware of other committees that have been given references in relation to intelligence matters arising out of the conflict.

**Senator FAULKNER**—My question stands. It is a perfectly reasonable question in any circumstances, but especially in a matter that has been the subject of a great deal of public debate, as you would be aware. For my part, I intend to progress it.

**Senator Hill**—I do not think it is an appropriate question.

**Senator FAULKNER**—What is not appropriate about it?

**Senator Hill**—I think it is reasonable to ask questions about ONA process here, but to ask questions about what information they got from one country is particularly inappropriate.

**Senator FAULKNER**—Are you seriously suggesting to me in this committee that it is appropriate for Mr Howard to use this sort of information in public speeches in the lead-up to

the war in Iraq and not appropriate for me, after the event, to ask questions about it? Are you seriously saying that to this committee?

**Senator Hill**—I am certainly saying that the question you ask is, in my view, inappropriate in this committee.

**Senator FAULKNER**—Are you—

**CHAIR**—Senator Faulkner, you ask the question and I will decide on relevance.

**Senator FAULKNER**—I'm sorry?

**CHAIR**—You ask your question and I will decide upon relevance.

**Senator FAULKNER**—No, you will not decide on relevance.

**CHAIR**—Yes, I will.

**Senator FAULKNER**—You will not decide on relevance. All these questions are relevant and perfectly within—

**CHAIR**—I decide on relevance in the first instance.

**Senator FAULKNER**—No, you are not going to be ruling my questions out on the basis of relevance because it does not suit the government.

**CHAIR**—I have not said what I am going to do. Please ask your question. I will rule on relevance.

**Senator FAULKNER**—I have.

**CHAIR**—If it is not relevant, I will rule it out.

**Senator FAULKNER**—You are not going to rule any of my questions out on relevance. They are all relevant.

**CHAIR**—I will decide if it is relevant. Please ask your question.

**Senator FAULKNER**—No, you will not. I will decide if they are relevant.

**CHAIR**—No, I will decide. Please ask your question.

**Senator FAULKNER**—I am saying to you that I will decide if the question is relevant.

**CHAIR**—No, you will not. I will. Please ask your question.

**Senator FAULKNER**—I have asked the question. Now I am asking for an answer.

**CHAIR**—Ask your question again.

**Senator FAULKNER**—I do not think there is a need to ask it again.

**CHAIR**—Let us do that. Ask the question again and I will make a ruling. The committee can decide after that if you still have a problem with my decision.

**Senator FAULKNER**—It is not competent for you to make a decision on this. How can you rule out questions properly asked of witnesses about matters that, for the best part of 30 years, have been asked at committees like this?

**CHAIR**—I make the initial assessment. Just please ask your question. I have not said how I am going to rule. I have not even indicated. Please ask the question; let us move on.

**Senator FAULKNER**—I make the point to you that the Prime Minister has used this material in public speeches justifying the Australian involvement in Iraq—

**Senator Hill**—This is a debating point, Mr Chair; this is not a question.

**Senator FAULKNER**—It is not a debating point.

**Senator Hill**—This is a debating point. It is not a question at all.

**CHAIR**—I just want Senator Faulkner to ask a question.

**Senator FAULKNER**—I have asked it.

**CHAIR**—Could you please ask it again.

**Senator FAULKNER**—I am happy to ask it again.

**CHAIR**—Thank you.

**Senator FAULKNER**—If you did not hear it.

**CHAIR**—I have forgotten it, given all the debate.

**Senator FAULKNER**—It is not really a matter for you. I would have thought it was a matter for the witness at the table—about reports received by the ONA from any US sources before February 2003 that indicated that claims about Iraq seeking uranium from Africa were doubtful. I think that approximates the question that I asked the witness at the table.

**Senator Hill**—Mr Chairman, that is a question asking the witness what materials he received from another agency. I do not think it is appropriate for him to answer that unless there is some reason he wants to. It does not seem to be appropriate at all.

**Senator FAULKNER**—But hasn't the Prime Minister already made public comment on this?

**Senator Hill**—What the Prime Minister has said is the Prime Minister's business. The question is what is appropriate for the director of this agency to answer in this forum.

**Senator FAULKNER**—Why is this inappropriate for the director of this agency to answer?

**Senator Hill**—Because of the relationship between Australia and the United States. He obviously has a confidential relationship with other agencies in relation to intelligence. That is his relationship as director.

**CHAIR**—Senator Faulkner, perhaps you are not after confidential information.

**Senator FAULKNER**—I am not asking for confidential information. These matters have been canvassed in the Australian parliament by many people, including the Prime Minister.

**CHAIR**—I understand that. Mr Jones, would you please answer the question.

**Mr Jones**—I think—

**Senator Hill**—Mr Jones can remind the committee of the press release he put out, but he cannot be forced to go beyond that.

**Mr Jones**—I put out a press release in July saying that the first time we were aware that INR had questions about the story about uranium from Africa was in January 2003.

**Senator FAULKNER**—Sorry, say that again.

**Mr Jones**—The first time we became aware that there were questions on INR's part about the stories about attempted procurement of uranium from Africa was in January 2003.

**Senator FAULKNER**—Could you provide a copy of that press release to the committee, please? I appreciate that it is a press release so it has been in the public domain.

**Mr Jones**—Yes, it is in the public domain already.

**Senator FAULKNER**—It would be helpful if you could do that. Did you or the agency make your own assessments about these claims?

**Senator Hill**—Well—

**Mr Jones**—That is covered in the press release.

**Senator FAULKNER**—Oh dear, Senator Hill, it is covered in the press release. When you are going to try and cover up, maybe you should limit yourself to trying to cover up matters that are not contained in ONA press releases.

**Mr Jones**—I said that we did not report on this issue except once, in passing, in our reporting to the government.

**Senator FAULKNER**—It would be useful if you could provide that. I do not know if you have a copy available but it would be helpful if it could be provided. You had better check it with Senator Hill because it is a press release and he might be really offended if the Senate estimates committee had a copy of it.

**Senator Hill**—We will look at it very carefully.

**Senator FAULKNER**—No, just keep covering up.

**Senator Hill**—You can say it as many times as you like, but that does not make it reality.

**Senator FAULKNER**—The *Hansard* record is a pretty good transcript, if not the reality.

**Senator Hill**—Again, that is your commentary.

**Senator FAULKNER**—It is my view too.

**Senator Hill**—I think you have had a long day.

**Senator FAULKNER**—I have had a long day, that is true. That is one of the—

**Senator Hill**—Not a very productive day either, from what I have observed, I have to say.

**Senator FAULKNER**—That is about the only accurate statement you have made today.

**Senator Hill**—It is a day best described as a filler, I would have thought.

**Senator FAULKNER**—In your case, filibuster, I would have thought. Mr Jones, can you please indicate to the committee whether the ONA received a copy of the much publicised 28 February 2002 INR memo to the Secretary of State, Colin Powell, which specifically disputed the claim that Iraq had attempted to procure uranium from Niger or—I appreciate that you might not necessarily have had this information in that form—that information in another form?

**Mr Jones**—As I said before, the first advice we had that there were doubts in INR about the reports that Iraq had attempted to procure uranium from Africa was in January 2003.

**Senator FAULKNER**—Is that a way of saying no?

**Mr Jones**—It is a way of saying that that is the first time we heard that they had that view.

**Senator FAULKNER**—And that is in your press release, you have indicated.

**Mr Jones**—Yes. So we did not have information of any kind prior to that.

**Senator FAULKNER**—Do you also indicate in your press release how that information came to your attention.

**Mr Jones**—The press release has been taken away now.

**Senator Hill**—It will be returned shortly.

**Mr Jones**—But it is public knowledge in any case that it came to our attention when we received a copy of the US National Intelligence Estimate on Iraq's WMD, which we received in January 2003.

**Senator FAULKNER**—You would be aware of the comments made by Mr Thielmann? You would be aware of the former INR senior officer Mr Thielmann, who gave an interview to a *Four Corners* program recently. I have no doubt you would have seen that, or seen a transcript of it.

**Mr Jones**—Yes.

**Senator FAULKNER**—I do not have a transcript in front of me, but I think I can sum it up by saying—and you tell me if you think this is an unfair summation of what was said—that he told *Four Corners* that ONA was well aware of US intelligence doubts, in particular INR doubts, regarding the uranium from Niger claims in the early part of 2002. Without going to the substance of Mr Thielmann's comments, first of all—correct me if I am wrong—can you tell me if you think that is a fair reflection of what Mr Thielmann said? I am just trying to see if you accept that I have reasonably faithfully summed up the views he expressed on that program. We will get to the accuracy of them in a moment.

**Mr Jones**—I am not quite sure about the time he suggested, but somewhere in 2002 was what he suggested.

**Senator FAULKNER**—Yes. Which, you would appreciate, is different from the statement that you have made to this estimates committee and the statement that is contained in your press release. You would accept that there are quite significant and divergent views.

**Mr Jones**—Yes.

**Senator FAULKNER**—Do you have any idea at all about the basis or background of Mr Thielmann's claims on the ABC television program?

**Mr Jones**—No, I do not.

**Senator FAULKNER**—Are you able to assist the committee with that at all?

**Mr Jones**—No. I cannot tell what was leading him to draw that conclusion. But we have no evidence of ONA having been advised of that view of INR, and since the *Four Corners*

program INR has indicated to us that it has no record of having conveyed that view to ONA and Mr Thielmann has said that he has no personal knowledge that that view was conveyed to ONA.

**Senator FAULKNER**—Did ONA contact INR about these claims?

**Mr Jones**—The initial contact was made by INR with our liaison officer. Then there was—

**Senator FAULKNER**—Just run that past me again.

**Mr Jones**—The initial contact on that point, about the *Four Corners* program?

**Senator FAULKNER**—Yes.

**Mr Jones**—Was made by INR with our liaison officer in Washington.

**Senator FAULKNER**—So they keep a close eye on it, do they? That will please *Four Corners*—that they keep a close eye on their program.

**Senator Hill**—Well—

**Senator FAULKNER**—I am not doubting it. I am just a little surprised.

**Senator Hill**—You can be surprised, but that is not a question you can ask the witness.

**Senator FAULKNER**—When Mr Jones gave that evidence, I would have assumed that it would be more likely that ONA would have contacted INR than INR contacting—

**Senator Hill**—So you are surprised?

**Senator FAULKNER**—I am surprised. You are not?

**Senator Hill**—Not if they are doing their job properly. What are embassies for?

**Senator FAULKNER**—Can you indicate when INR contacted ONA?

**Mr Jones**—It was our liaison officer, and it was last week.

**Senator FAULKNER**—But INR conducted some internal checks about their processes?

**Mr Jones**—I do not know what led them to convey that view to our liaison officer.

**Senator FAULKNER**—Was it done formally?

**Mr Jones**—No.

**Senator FAULKNER**—This was just a conversation?

**Mr Jones**—It was a conversation, yes.

**Senator FAULKNER**—A conversation with someone in INR. We will get to the bottom of it eventually, Senator Hill. At what level of INR was this conversation with the liaison officer held?

**Mr Jones**—Middle level.

**Senator Hill**—You have got to the bottom of it now, haven't you? A middle-level official.

**Senator FAULKNER**—What does that mean to you, Senator Hill?

**Senator Hill**—It is meaningful.

**Senator FAULKNER**—Just be quiet.

**Senator Hill**—It means that it is reasonably important but not so important.

**Senator FAULKNER**—It means it is not top level and not bottom level.

**Senator Hill**—You are getting there, yes.

**Senator FAULKNER**—Exactly. So this was just an informal contact—telephonic contact, was it?

**Mr Jones**—There was face to face—

**Senator FAULKNER**—Face to face.

**Mr Jones**—and telephonic contact.

**Senator FAULKNER**—But informal? You have a senior responsibility in ONA. It is not the first time these sorts of issues have come across your desk, is it? You have to deal with these issues from time to time when they arise. What account do you take of that sort of contact as opposed to something a little more formal—for example, some sort of tangible written record?

**Mr Jones**—I take it as reflecting the views of INR. I do not have any reason to doubt that. But it is not a formal communication in a written sense.

**Senator FAULKNER**—Did your ONA liaison officer also have contact with Mr Thielmann?

**Mr Jones**—Yes.

**Senator FAULKNER**—Was that frequent contact with Mr Thielmann?

**Mr Jones**—Sorry, in what context did you ask that question?

**Senator FAULKNER**—In the context of this estimates committee hearing.

**Mr Jones**—But do you mean regularly in the past or do you mean last week?

**Senator FAULKNER**—I meant historically. I did not actually put a time frame on my question. I merely asked you whether the ONA liaison officer had contact with Mr Thielmann. I did not say between X date and Y date.

**Mr Jones**—I understand.

**Senator FAULKNER**—You said, ‘Yes, quite often,’ or words to that effect, I thought.

**Senator Hill**—No, I do not think he said ‘quite often’.

**Mr Jones**—No, I did not say ‘quite often,’ but yes, he did have contact with Mr Thielmann when Mr Thielmann was working for INR. I am sorry, I do not want you to misunderstand; I thought you were asking a question in relation to the discussion last week.

**Senator FAULKNER**—I was not at all, but I think what we are both saying is that the ONA liaison officer and Mr Thielmann did have some contact previously.

**Mr Jones**—Yes.

**Senator FAULKNER**—Perhaps even through this period 2002 and early 2003 that we are talking about.

**Mr Jones**—I think Mr Thielmann left INR in mid-2002 as I remember, but I would not be certain about that.

**Senator FAULKNER**—Was it the ONA officer's habit to report those informal conversations too?

**Mr Jones**—Sometimes.

**Senator FAULKNER**—How would they be reported?

**Mr Jones**—By cable normally.

**Senator FAULKNER**—So there is a cable record. It may not be complete, but there is at least a cable record of contact between an ONA liaison officer and Mr Thielmann through this relevant time of 2002 into early 2003?

**Mr Jones**—There would be some reports.

**Senator FAULKNER**—You, of course, have checked that cable record?

**Mr Jones**—Yes.

**Senator FAULKNER**—Are you able to say whether the substantive issue we are speaking of here, which goes to uranium and Niger, is addressed in that cable traffic?

**Mr Jones**—It is not. That is why I said that the first time we heard was in January 2003.

**Senator FAULKNER**—It is quite possible, then, that Mr Thielmann did raise this issue. Is it possible?

**Senator Hill**—How does he know that?

**Senator FAULKNER**—How does he know it did not happen?

**Senator Hill**—You cannot ask him if it is possible. Anything is possible. You are supposed to get what the witness does know.

**Senator FAULKNER**—Senator Hill, the committee now knows and you now know—though you may well have known before because you are so well connected—that an ONA liaison officer did have contact with Mr Thielmann through 2000 and 2003. It is fair to say that a lot of that was informal contact, isn't it, Mr Jones? I think that is how you characterised it, which is fair enough.

**Mr Jones**—Sometimes, yes.

**Senator FAULKNER**—Some of it would have been informal contact and some of it would have been formal contact with Mr Thielmann?

**Senator Hill**—We know that there was some contact and there was some reporting back.

**Senator FAULKNER**—Yes, there was some contact and some reporting back. I agree with you, Senator Hill. Some of that would have been formal contact and some of it would have been informal contact between Mr Thielmann and your ONA liaison officer. Is that a fair summary of where we find ourselves?

**Senator Hill**—Yes.

**Mr Jones**—Yes.



**Senator FAULKNER**—Have you checked with that ONA liaison officer about whether this issue was raised with that officer by Mr Thielmann?

**Mr Jones**—Yes, I have.

**Senator FAULKNER**—You have checked?

**Mr Jones**—And it was not raised.

**Senator FAULKNER**—So you have a formal record of that?

**Mr Jones**—I have asked him.

**Senator FAULKNER**—Yes, you have asked him.

**Mr Jones**—And he has given that answer. Mr Thielmann told our liaison officer last week that he had no personal knowledge of the reservations INR had about the uranium from Africa reports having been conveyed to ONA.

**Senator FAULKNER**—I cannot say whether that is consistent or inconsistent with what Mr Thielmann said publicly or not.

**Senator Hill**—It is irrelevant what you can say about it. Only what Mr Jones says is relevant.

**Senator FAULKNER**—That may be true. This might be highly amusing to you, Senator Hill, but he claimed—and I think this is a fair summation of what was said—on the *Four Corners* program last week that he had conversations with Australian officers in mid-2002 about the divisions in the US intelligence community about the Iraqi nuclear program, which included the issue of aluminium pipes. I think that is what he said publicly, isn't it, Mr Jones?

**Mr Jones**—You are now talking about aluminium tubes; we were talking about uranium.

**Senator Hill**—What he said—

**Senator FAULKNER**—You can tell us what he said, can you?

**Senator Hill**—It seems a bit rough to be asking this witness to confirm what this fellow said on a *Four Corners* program. The *Four Corners* program stands for itself. Put it into the record if that is what is wanted.

**Senator FAULKNER**—I do not need to put it into the record. I am sure there is a transcript of the *Four Corners* program.

**Senator Hill**—You are asking Mr Jones what he said on the *Four Corners* program.

**Senator FAULKNER**—Mr Jones is telling me what Mr Thielmann has said to one of his officers in an informal conversation last week. I accept what Mr Jones has said. I am saying what Mr Thielmann said on national television early last week, and trying to assure myself that there is not an inconsistency between the two things. That is perfectly reasonable, isn't it?

**Senator Hill**—Your effort in assuring yourself is not an inconsistency, but that is your business.

**Senator FAULKNER**—Thank you.

**Senator Hill**—Well, you cannot ask Mr Jones to confirm your business.

**Senator FAULKNER**—In fact he said the spring of 2002, on *Four Corners*. That is exactly what he said. He said:

... they would have known in the ... spring of 2002 that information that ... that we were dubious about the information. I mean, we had ... we had pretty good contacts and sharing with ... with representatives of ONA ...

That is what he said. All I am asking is for Mr Jones to comment—which he has been doing—on whether he can confirm the veracity and accuracy of those statements. What Mr Jones has been able to say, Senator Hill, is—

**Senator Hill**—That there was some contact—

**Senator FAULKNER**—Hang on. What Mr Jones has been able to say is what Mr Thielmann has said in a recent conversation to the ONA liaison officer—I assume this is the ONA liaison officer in Washington, Mr Jones?

**Mr Jones**—Yes.

**Senator FAULKNER**—Thank you—to the ONA liaison officer in Washington about these matters as a result. He has also been able to indicate that the INR have also made some comments and taken the initiative about it.

**Senator Hill**—So is there a question arising out of that?

**Senator FAULKNER**—Well, you asked for an explanation. I am just telling you what the background is. There it is.

**Senator Hill**—I have heard your rationale for your surmising, but is there a question?

**Senator FAULKNER**—I am not surmising. I am presenting to you—

**Senator Hill**—You are presenting your account of the *Four Corners* program, but is there a question for this witness?

**Senator FAULKNER**—I was actually quoting quite accurately from the transcript of the *Four Corners* program about what was said, for your information. I am quoting what Mr Thielmann has said to a television camera, and Mr Jones—and I am not necessarily doubting it—is saying what Mr Thielmann has apparently said to an ONA liaison officer, and it has been reported to Mr Jones and Mr Jones has talked directly to the liaison officer. I have summed that up fairly, haven't I, Mr Jones?

**Mr Jones**—That is accurate, yes.

**Senator FAULKNER**—Thank you very much. Mr Jones, when did you or ONA become aware of CIA doubts expressed, as we now know, to British intelligence in September 2002 about, again, the accuracy of claims about Iraqi attempts to import uranium from Africa? Is this the same date as you have indicated in the press release or at some other time? Or are we effectively talking about these doubts from—well, you can explain to us whether the US and UK doubts came to your attention at the same time.

**Senator Hill**—CIA doubts to British intelligence?

**Senator FAULKNER**—I am sorry, US doubts.

**Senator Hill**—I do not know whether, if Mr Jones was aware of those doubts, he would want to say so here or provide detail of that.

**Senator FAULKNER**—Are you aware, Mr Jones, that US agencies expressed doubts to British intelligence in September 2002 about this Niger uranium issue? Are you aware of that now? You may not have been then, but are you aware of that now?

**Mr Jones**—I have seen the media references to it.

**Senator FAULKNER**—You have seen the media references to it—that is all?

**Senator Hill**—Whether that is all or not, I do not think that it is an appropriate issue for this committee.

**Senator FAULKNER**—I would have thought, given the seriousness of this, that there might have been more of an attempt than just to see what the media reports were about it.

**Senator Hill**—This is just a trawl by you. There is a committee of this parliament that has been charged to look at these intelligence issues. It is doing it, I assume, in a proper and thorough way. It really has little to do with the estimates process in the Senate. That is whether or not the question is a proper question to ask in terms of our intelligence relationship with these other states.

**CHAIR**—Senator Faulkner, I was wondering how long you might be? We are due for a break and at 10 o'clock we will hear from the Office of the Status of Women. If you are going to finish in the next few minutes, we will wait until the end of the questions for ONA—

**Senator FAULKNER**—I am not going to finish in the next few minutes. If you want to have a break now, that is fine.

**Proceedings suspended from 9.10 p.m. to 9.27 p.m.**

**Senator FAULKNER**—Mr Jones, you say in your press release:

ONA became aware in January 2003 that the State Department was doubtful of the claims that Saddam Hussein had sought uranium from Africa.

And you go on to say:

ONA's reporting to the Government did not refer to this State Department view and ONA did not inform the Government of its awareness of this State Department view.

Was that the October 2002 US National Intelligence Estimate?

**Mr Jones**—Yes, I think I mentioned that earlier.

**Senator FAULKNER**—When did the ONA inform anyone in the Prime Minister's office or any other ministerial officers or staff about any doubts about this? Are you able to say that to the committee?

**Senator Hill**—I have always, in this committee, resisted questions that have related to the relationship between agencies and ministers. It seems to me that that is the internal business of government.

**Senator FAULKNER**—This is a statement made by ONA on this very issue.

**Senator Hill**—If and when the agency confers with the Prime Minister is a matter between the agency and the Prime Minister.

**Senator FAULKNER**—Can you confirm, Minister, that, on 4 February 2003, the Prime Minister, in a major speech to the parliament, stated that Iraq had sought uranium from Niger and that it was reconstituting its nuclear program. You can confirm that for us, can't you?

**Senator Hill**—I would like to look at his speech.

**Senator FAULKNER**—You can confirm for us, in fact, that in that speech he cited a UK Joint Intelligence Committee report, can't you?

**Senator Hill**—I think that that was correct but I would prefer to look at and quote from his speech rather than paraphrase it.

**Senator FAULKNER**—Are you or Mr Jones able to say that obviously what the Prime Minister said was in conflict with the INR report that he had received in January? You are able to say that now, aren't you? This is admitted, isn't it?

**Senator Hill**—We can say what the Prime Minister has said—that is on the public record—and we can table the speech before the committee if we like. Mr Jones can, to the extent that he has—and some might think that he has gone further than is reasonable—say what knowledge he has from the Americans. I do not think it is our job to try and determine consistencies or inconsistencies between the two.

**Senator FAULKNER**—Mr Jones, did ONA at any stage tell government about these doubts?

**Mr Jones**—I think I should say in reply to that, first of all, that relevant parts of the NIE have now been put in the public domain by the US.

**Senator FAULKNER**—Yes.

**Mr Jones**—The main judgment in the NIE was that Iraq had sought vigorously to procure uranium from Africa. The view of the State Department, in a separate part of the report, apparently differed from what appeared to us to be the mainstream view. That explains why we did not immediately see that as changing what information we had on that issue, which was not a great deal.

**Senator FAULKNER**—You would accept, obviously, that there was a conflict between what the Prime Minister had said and what was contained in the INR report. I think everyone accepts that.

**Mr Jones**—It is not an INR report.

**Senator Hill**—It is not for Mr Jones to draw those conclusions, anyway. It might be a conclusion that Senator Faulkner wishes to draw, and that is his business, but it is not appropriate to be asking Mr Jones to draw those conclusions.

**Senator FAULKNER**—Was the ONA involved in the writing—

**Senator Hill**—Mr Jones can speak to facts in his knowledge.

**Senator FAULKNER**—These are matters of fact, I think.

**Mr Jones**—Just on that point, we are not talking about an INR report. The National Intelligence Estimate to which I referred was a US intelligence community document and, as I said, the relevant parts of it have been put in the public domain by the US. The main view expressed in it related to procurement and there was a different view expressed by the State Department. That is what there was; it was not a separate INR report.

**Senator FAULKNER**—Can I ask you this, Mr Jones: was the ONA involved, in part, in drafting or writing that speech of 4 February, which, as I am sure you would appreciate, was a significant parliamentary speech?

**Mr Jones**—ONA was not involved in writing it but, as is already in the public domain, we were asked to look at it for any factual inaccuracies, and we did that.

**Senator FAULKNER**—I am aware of that information having been provided publicly before. Was ONA responsible for providing the information that government used to base those statements on?

**Senator Hill**—If Mr Jones did not write it—and he was not responsible for writing it—I cannot see that he can know what information was relied upon in its production.

**Senator FAULKNER**—It is one thing to write it or draft it; it is another thing to supply the information to government on which the speech is based. They are two very different things and I am sure you appreciate that.

**Senator Hill**—How do you know what information the speech is based upon? There could be a whole range of sources. How does Mr Jones know whether he is a source or not?

**Senator FAULKNER**—He may well know whether he, or ONA, provided information to the Prime Minister that may well have led to those—

**Senator Hill**—No.

**Senator FAULKNER**—Of course he might.

**Senator Hill**—No. He may know what information his agency provided to the Prime Minister over a period of time—he probably will not want to say that here, but he may know that. But he does not know what information the Prime Minister relied upon to write a speech when he was not involved in the writing of the speech.

**Senator FAULKNER**—Everyone knows that the CIA used a Joint Intelligence Committee report in the information. All I was going to ask Mr Jones was whether his agency provided that to the Prime Minister or the Prime Minister's office. Are you able to say that, Mr Jones?

**Mr Jones**—I do not know where the information that appeared in the speech was drawn from.

**Senator FAULKNER**—You don't know?

**Mr Jones**—No.

**Senator Hill**—He said that.

**Senator FAULKNER**—Can you now explain to the committee what the ONA's role was in relation to reviewing the Prime Minister's speech?

**Senator Hill**—I think he just did that.

**Senator FAULKNER**—I am just asking him to explain to the committee what the agency's role was in reviewing the speech.

**Senator Hill**—Mr Jones, it is repetitive but he would like you to go through it again a second time.

**Mr Jones**—We were asked to check the speech for factual accuracy.

**Senator FAULKNER**—Were you given the whole speech or sections of the speech? How did it work?

**Mr Jones**—The whole speech.

**Senator FAULKNER**—Do you know how far in advance of its delivery on 4 February that occurred?

**Mr Jones**—I do not remember exactly—it would have been some days before.

**Senator FAULKNER**—Do you know who in the agency was responsible for reviewing or, to use your words, checking the speech for accuracy? Do you know which particular officer or officers were given that responsibility? I accept the buck rests with you, Mr Jones.

**Senator Hill**—Yes, that is right.

**Senator FAULKNER**—Yes, we know that. But do you know which particular officers undertook that responsibility or did you do it yourself? I am not asking their names; I am asking: do you know? We know that you accept the responsibility and that the buck stops with you in ONA—there are a hell of a lot of bucks on your desk. Did other officers do it or did you do it?

**Mr Jones**—Numbers of people were involved.

**Senator FAULKNER**—Including you?

**Mr Jones**—Yes.

**Senator FAULKNER**—Are you able to say whether at that stage the veracity of the uranium-Niger claim was questioned in that process?

**Senator Hill**—I do not think he can talk about any internal debate in his agency. What he can say is that he cleared the speech.

**Senator FAULKNER**—Did you clear the speech, Mr Jones, or did someone else clear the speech?

**Senator Hill**—He takes responsibility.

**Senator FAULKNER**—You have just told us he cleared the speech and I am just checking that that is right.

**Senator Hill**—That is the same thing.

**Senator FAULKNER**—You seem to know everything that Mr Jones does.

**Mr Jones**—As I said before, numbers of people were involved but, yes, I was one and I take responsibility.

**Senator FAULKNER**—Did it go back under your signature or whatever your processes are?

**Mr Jones**—I took responsibility, yes.

**Senator FAULKNER**—But did it go under your signature? Did you clear the speech, as Senator Hill has told us you did, or did someone else clear the speech? Or has Senator Hill again misled the committee?

**Mr Jones**—No. I thought I had made it clear that numbers of people were involved in the process.

**Senator FAULKNER**—Who cleared it?

**Mr Jones**—In the end it is me.

**Senator FAULKNER**—So it went cleared by you, under your moniker.

**Mr Jones**—It was not actually written.

**Senator FAULKNER**—So it was not cleared by you.

**Mr Jones**—It was, yes. I take responsibility for it. I read it and cleared it, yes.

**Senator FAULKNER**—So you take responsibility for it?

**Mr Jones**—Yes.

**Senator FAULKNER**—You obviously admit a mistake was made?

**Mr Jones**—No.

**Senator FAULKNER**—Oh, you do not admit a mistake was made?

**Senator Hill**—I hope not.

**Senator FAULKNER**—Do you think the speech was accurate in what it said in relation to uranium and Niger?

**Mr Jones**—It quoted the British dossier on that subject.

**Senator FAULKNER**—Yes, I am well aware of that. Was it right?

**Senator Hill**—If Mr Jones had the knowledge then that he has now, he might have suggested some other references.

**Senator FAULKNER**—Was it right?

**Mr Jones**—Was the British dossier right?

**Senator FAULKNER**—Was the speech right?

**Mr Jones**—It accurately quoted the British dossier.

**Senator FAULKNER**—Was the British dossier accurate?

**Senator Hill**—Is it Mr Jones's job to answer for the British dossier?

**Senator FAULKNER**—He has put out a press release on these matters.

**Senator Hill**—He can answer for his press release.

**CHAIR**—He can answer for the press release perhaps but not for the dossier.

**Senator FAULKNER**—Didn't Mr Tenet, from a CIA perspective, in July, admit that the CIA should not have allowed President Bush to include similar claims in his State of the Union address?

**Senator Hill**—I do not think they were similar claims.

**Senator FAULKNER**—Are you aware of that, Mr Jones?

**Senator Hill**—We are all aware of what was in the newspapers, but let Mr Tenet and his President look after their affairs.

**Senator FAULKNER**—That is right.

**Senator Hill**—Certainly, we do not expect Mr Jones to comment on them.

**Senator FAULKNER**—I am now asking whether Mr Jones stands by what was in the Prime Minister's speech.

**Senator Hill**—He has already said that the quote in the Prime Minister's speech was accurate.

**Senator FAULKNER**—He is now mute, is he?

**Senator Hill**—No, he has answered the question. Do you want to ask the same question again?

**Senator FAULKNER**—No. I want to ask him the question.

**Senator Hill**—You have, and you got an answer.

**Senator FAULKNER**—Yes, from you.

**Senator Hill**—No, you got an answer from him.

**Senator FAULKNER**—No, from you.

**Senator Hill**—Then, when you asked it for the second time, you got it from me.

**Senator FAULKNER**—Because you are desperate, for some reason, to cover up on this particular matter.

**Senator Hill**—No. I think the whole line of inquiry is inappropriate for an estimates committee, and it is doubly inappropriate in this instance, because a specific parliamentary committee has been charged with looking at these issues and is in the process of considering them. This witness has already had 4½ hours before that committee on two separate occasions. Why he should be dragged before an estimates committee to do it all again, I really do not know. It does not seem to me to be appropriate at all.

**Senator FAULKNER**—Have you instigated any changes in internal procedures as a result of what occurred with this speech and the information it was based on?

**Mr Jones**—In what respect?

**Senator FAULKNER**—In any respect.

**Senator Hill**—Have you restructured your office?



**Senator FAULKNER**—No. Are you satisfied with the circumstances that allowed the Prime Minister to make these false claims in the parliament or have you done something about it?

**Senator Hill**—The witness has said that the quote was accurate.

**Mr Jones**—Yes.

**Senator Hill**—Is he allowed to talk about false claims and put that to the witness?

**CHAIR**—I think it is just rhetorical flourish. You can ask the question about office restructures.

**Senator Hill**—I think that is perfectly legitimate.

**Senator FAULKNER**—The ONA has stepped up to the plate in a press release and taken responsibility for the fact that these claims were wrong. That is right, isn't it, Mr Jones?

**Mr Jones**—I am afraid not, no. We did not say the claims were wrong. We simply said in the press release that we did not inform the government of the INR view.

**Senator FAULKNER**—Of the most contemporary information available?

**Mr Jones**—And I have said to you that the source of our knowledge of the INR view was the National Intelligence Estimate and that the National Intelligence Estimate elsewhere led us to believe that the mainstream US view was that the proposition was a valid one.

**Senator FAULKNER**—You would not want it to happen again, though, would you?

**Senator Hill**—Oh! Silly question.

**Senator FAULKNER**—What are you going to do about it?

**Senator Hill**—You have asked him if he has restructured his office.

**Senator FAULKNER**—I did not. You asked him if he had restructured his office.

**Senator Hill**—You have not even let him answer that one.

**Senator FAULKNER**—You asked him if he had restructured his office.

**Senator Hill**—‘Have there been changes in your office?’ you said.

**Senator FAULKNER**—I did not ask him if he had restructured his office. You asked that question. Have you taken any action to ensure that more contemporary advice is provided in future or are you satisfied that existing procedures are adequate?

**Mr Jones**—I do not quite understand what you mean by ‘more contemporary advice’.

**Senator FAULKNER**—You produced a public statement that said:

ONA became aware in January 2003 that the State Department was doubtful of the claims that Saddam Hussein had sought uranium from Africa.

You became aware of that in January 2003. In your reporting to government, you did not report that State Department view, according to you, and you did not inform the government of your awareness of that State Department view. Subsequent to that, the Prime Minister of Australia made a statement reiterating a view about which serious doubts had been expressed.

I asked you whether you are satisfied that internal procedures and mechanisms are appropriate, and you will not answer.

**Senator Hill**—Doubts have been expressed within one agency, but, as the witness has said, the mainline view was consistent with the British statement that got quoted. But the question as to whether there has been any change in the office structure post these events is a relevant question.

**Senator FAULKNER**—That is your question, and you can ask it if you like. I am asking a different one. Mr Jones is refusing to answer or, if he did want to answer it, you are interrupting him on every occasion because you feel the need to cover up.

**Senator Hill**—No. As I said, I think the whole of this line of questioning is out of order, yet we approach these things in a liberal and cooperative way. But there have to be some bounds of what is reasonable.

**Senator FAULKNER**—Can you now tell me, Mr Jones, on another matter—we will come back to these other issues at a later stage—what the classification on the ONA report *Iraq: humanitarian dimension* was, please?

**Mr Jones**—I do not know whether it is appropriate to go into detail on the classification here.

**Senator FAULKNER**—There was a classification?

**Mr Jones**—It was classified, yes.

**Senator FAULKNER**—You can tell me that it was classified, but you cannot tell me what the classification was? Can you tell me whether its classification restricts its dissemination?

**Mr Jones**—Yes, it does.

**Senator FAULKNER**—Its classification, I assume, also brings certain responsibilities on people who receive the document. Is that right?

**Mr Jones**—Yes.

**Senator FAULKNER**—Thank you. Are you able to say what they are? You have said it is classified, but, if it is of concern to you, can you answer without identifying the classification?

**Mr Jones**—Yes, there are restrictions on distribution, passing on information and so on. They are set out in the government protective security handbook.

**Senator FAULKNER**—I assume that, for example, with any classification, certain people would not be authorised to receive such a document. That would be correct, wouldn't it?

**Mr Jones**—Yes.

**Senator FAULKNER**—In other words, certain people would be and certain people would not. Is that accurate?

**Mr Jones**—Yes, correct.

**Senator FAULKNER**—Thank you very much.

**Senator Hill**—Is that right? It is those—

**Senator FAULKNER**—He has just told us it is right.

**Senator Hill**—It states those who are authorised, doesn't it, not those who are not authorised?

**Mr Jones**—That is right; it does not define those who are not. People who are authorised are identifiable and those outside that category are not authorised.

**Senator FAULKNER**—Are you able to say in relation to the classification that there was a code word attached to the classification or document?

**Mr Jones**—I would prefer not to go into the classification.

**Senator FAULKNER**—This has been widely canvassed, as you know, in relation to this particular report.

**Senator Hill**—That does not necessarily mean that it is the right thing for the director to do.

**Senator FAULKNER**—Questions have not only been asked but been answered in parliament about this matter. I am not quite sure what the reticence is.

**Senator Hill**—Well, I do not know that they have been asked about the classification.

**Senator FAULKNER**—I am not asking what the classification is, even though it has been widely canvassed. I am just asking whether there was a code word attached.

**Senator Hill**—And he said yes, I think—didn't you?

**Senator FAULKNER**—No.

**Senator Hill**—He said no?

**Senator FAULKNER**—You have now said yes. Anyway, let us move on, having established that. Are you able to say when that report was written?

**Mr Jones**—I am afraid I cannot remember.

**Senator FAULKNER**—I think that is something that, you would appreciate, is perfectly reasonable for us to ask.

**Mr Jones**—Yes.

**Senator FAULKNER**—You cannot help me? You do not have that information?

**Mr Jones**—No.

**Senator FAULKNER**—Would you take that on notice, please? I am only interested in the timing. Thanks for that extra information, Senator Hill. You are going well now; you have lifted your game at last.

**CHAIR**—It is a cooperative committee, Senator Faulkner.

**Senator FAULKNER**—Yes, for a bloke who has been trying to—

**Senator Hill**—Let me put it on the record specifically. I have no idea what it was.

**Senator FAULKNER**—That was fairly obvious. You have no idea about a lot of things though.

**Senator Hill**—I have little idea about that particular cable.

**Senator FAULKNER**—That is pretty obvious. I do not want to get too bogged down in it, Mr Jones. If you do not have it, perhaps—

**Mr Jones**—Yes, here we are. It was 17 December 2002.

**Senator FAULKNER**—Thank you very much. I appreciate that. Can you indicate this to the committee, in relation to this report? You would be aware that the Prime Minister has said publicly that this report was distributed widely—or you may not be aware of it. I can assure you he has, but would you acknowledge that that is the case?

**Mr Jones**—It depends how you define widely, but yes.

**Senator FAULKNER**—I think that what was suggested was around 300 people in the bureaucracy.

**Mr Jones**—Would have seen it?

**Senator FAULKNER**—Yes.

**Mr Jones**—Yes, something like that.

**Senator FAULKNER**—I am not going to nail it down to the last decimal point, but that is a reasonable description?

**Mr Jones**—Something like that, yes.

**Senator FAULKNER**—Are you able to advise specifically in this instance what the circulation was for this report?

**Mr Jones**—We know what the circulation was.

**Senator FAULKNER**—You know what it was, yes, and we know it is approximately 300 people. Are you able to say specifically what the circulation was?

**Mr Jones**—I do not think I should go into the detail of the recipients.

**Senator FAULKNER**—I am interested in understanding how ONA is able to guarantee that that circulation was limited to only the people who were entitled to receive it.

**Senator Hill**—I do not see how it can. How can ONA guarantee that?

**Senator FAULKNER**—These are very important procedures, aren't they, Mr Jones, in relation to all your documents?

**Senator Hill**—How can you guarantee it?

**Senator FAULKNER**—There are very important procedures for classified reports, which I would have thought you would accept.

**Senator Hill**—He can go through the procedures—he may be able to—that exist to best secure the information, but he cannot guarantee who may have seen it.

**Senator FAULKNER**—I am not asking for a personal guarantee. What I am asking is this: how does ONA try and ensure that circulation of such a report is limited to those people who have an entitlement to sight it? That is what I am asking. I am not asking for a personal guarantee written in triplicate about the 300 people—just the broad procedural process.

**Mr Jones**—We cannot be certain that people who receive it do not pass it on to somebody else, obviously, but we have a system of receipting and recovering reports.

**Senator FAULKNER**—Are you satisfied that that system works well?

**Mr Jones**—We cannot think of a better one, but no system is perfect, of course.

**Senator FAULKNER**—But it is a receipting and recovering process?

**Mr Jones**—Yes.

**Senator FAULKNER**—And you are making the point that someone who might receive such a report might pass it on to a person who is ‘unauthorised’ to sight the report. Is that what you are saying?

**Mr Jones**—I am saying that we cannot be certain that that does not happen.

**Senator FAULKNER**—You do not have a guarantee that that does not happen.

**Mr Jones**—No.

**Senator FAULKNER**—Do copies have individual identifiers on them?

**Mr Jones**—Yes.

**Senator FAULKNER**—Are you able to say, in the circumstances of such a report, whether that includes both bureaucracy and executive distribution points—if you like, ministerial officers as well as Public Service and agency officers? It is a standard operating procedure, I think.

**Mr Jones**—All the hard copies are individually identified, but there is some electronic distribution.

**Senator FAULKNER**—Are you able to say what the electronic distribution system is? A number of these have been discussed before.

**Mr Jones**—It is through a cable system to posts overseas and some people in Canberra would see that cable distribution.

**Senator FAULKNER**—Would people who receive such a document actually have a security vetting or clearance in each case?

**Mr Jones**—They would have to have the appropriate clearance, yes.

**Senator FAULKNER**—That is everyone who is on the—

**Mr Jones**—On the distribution list.

**Senator FAULKNER**—No exceptions.

**Mr Jones**—There should not be any exceptions, no.

**Senator FAULKNER**—Are you able to say, in relation to this particular report, whether all copies of the report were returned?

**Senator Hill**—Is this the one that is subject to the police investigation?

**Mr Jones**—That is right. It is under investigation by the AFP.

**Senator FAULKNER**—If it is under investigation by the AFP, can you explain to the committee—

**Senator Hill**—I do not think we should be meddling in the investigation.

**Senator FAULKNER**—I am not planning to meddle in their investigation.

**Senator Hill**—It seems pretty close to it to me.

**Senator FAULKNER**—Can you tell us what the status of those internal inquiries are, to the extent that you are aware of them? Are you saying there is a police investigation?

**Mr Jones**—It is in the hands of the AFP.

**Senator FAULKNER**—It has been in the hands of the AFP for some time, hasn't it?

**Mr Jones**—Yes.

**Senator FAULKNER**—Are you able to say how it was placed in the hands of the AFP?

**Mr Jones**—We referred it to the AFP.

**Senator FAULKNER**—Are you able to say when?

**Mr Jones**—Yes.

**Senator Hill**—I think I said that in the Senate.

**Mr Jones**—Yes, I think you did.

**Senator FAULKNER**—You did.

**Mr Jones**—We contacted them on 27 June.

**Senator FAULKNER**—These procedures are what has been colloquially called 'return and burn'. I have heard that on a number of occasions. Is that a fair description of the way these procedures work in terms of receipt and return?

**Mr Jones**—We seek to recover them, yes.

**Senator FAULKNER**—Is that the terminology you use in ONA?

**Mr Jones**—No.

**Senator FAULKNER**—Where did that come from? You probably would not know where that originated. You have told us that there is a police investigation. Is there any other formal investigation or inquiry at this stage into matters relating to this report?

**Mr Jones**—No, it is in the hands of the police.

**Senator FAULKNER**—It is limited to that inquiry as far as you know?

**Mr Jones**—Yes.

**Senator FAULKNER**—If these items are receipted—and you have told us that they are—it should be pretty easy to establish who might have had access to that sort of material around the time it found its way into the public arena, shouldn't it?

**Senator Hill**—I think that is meddling in the police examination. Presumably all this information has been provided to the police and they are carrying out their investigation.

**Senator FAULKNER**—Can you answer the question, Mr Jones?

**Mr Jones**—As I say, it is in the hands of the police. I think that is all I can say on that.

**Senator FAULKNER**—But, just in terms of procedures, is it accepted standard practice for all copies of such a report to be returned to ONA once the contents of the report are known to the intended recipients? Is that how it works?

**Mr Jones**—In some cases, recipients retain them for reference.

**Senator FAULKNER**—If someone were to do that, for example, would you keep a register of the movement of this sort of security classified documentation?

**Mr Jones**—If it had not been returned, we would know where it was.

**Senator FAULKNER**—So effectively there is that check on any security classified document. But you really know one of two things: whether it is out or whether it has been returned. Is that what you are really saying to us? I think that is the bottom line.

**Mr Jones**—That is what we aim to achieve, yes.

**Senator FAULKNER**—Are those records kept at some sort of central register in ONA—this sort of receive and return process? Is there some sort of central register for that?

**Mr Jones**—Yes.

**Senator FAULKNER**—It would be quite a substantial task, wouldn't it—to try to keep across all that?

**Mr Jones**—Yes.

**Senator FAULKNER**—How many officers are involved in that resource intensive task?

**Mr Jones**—It is not the only thing the officers concerned do, but it is handled by our information services section.

**Senator FAULKNER**—Is there a report repository effectively for returned reports and so forth?

**Mr Jones**—They will sometimes be destroyed when they are returned.

**Senator FAULKNER**—Is that the usual procedure?

**Mr Triffett**—Yes.

**Senator FAULKNER**—Is there a delay in it occurring or is it immediate?

**Mr Triffett**—It is pretty well immediate. The date of destruction is logged into our control systems.

**Senator FAULKNER**—Is there some sort of secure document destruction service?

**Mr Triffett**—Yes.

**Senator FAULKNER**—I think we might have to return to this. I say that because we promised to deal with the Office of the Status of Women at 10 o'clock and, unlike others, I always deliver.

**CHAIR**—Mr Jones and Mr Triffett, we will have to adjourn the committee's questioning until 9 a.m. tomorrow morning. The next hour will be spent on the Office of the Status of Women within the Department of the Prime Minister and Cabinet. On behalf of the

committee, I thank you very much. We will see you again tomorrow morning at 9 a.m. I call the Office of the Status of Women within the Department of the Prime Minister and Cabinet.

[10.01 p.m.]

#### **Office of the Status of Women**

**CHAIR**—Thank you for attending this evening. Do you wish to make an opening statement before I call for general questions?

**Ms Flanagan**—No.

**CHAIR**—In that case I call for general questions.

**Senator CROSSIN**—Ms Flanagan, welcome to estimates. I think this is your first appearance at estimates, isn't it?

**Ms Flanagan**—Yes, it is my first appearance since taking up this position.

**Senator CROSSIN**—When did you receive questions on notice from this committee?

**Ms Flanagan**—I think it was soon after the last Senate estimates hearings. I do not have that detail with me and I have told the staff of the corporate area that they could go home, but I could confirm the date for you.

**Senator CROSSIN**—I am wondering why, when questions were due on 10 July—and I understand there was a general extension to 7 August—we did not receive any answers until two weeks ago.

**Ms Flanagan**—I will have to take that on notice. As I say, the Department of the Prime Minister and Cabinet generally coordinates all the answers, including those from the Office of the Status of Women.

**Senator CROSSIN**—When did your answers go to the Department of the Prime Minister and Cabinet?

**Ms Flanagan**—We can confirm that for you too. I do not have that detail with me.

**Senator CROSSIN**—So you cannot tell me when they would have left your department and headed to the Prime Minister's office?

**Ms Flanagan**—No. As I say, that was coordinated by our corporate area.

**Senator CROSSIN**—Why have they gone home, seeing that you were always scheduled to be on at 10 o'clock?

**Ms Flanagan**—We thought that the questions that were going to be asked tonight were for the Office of the Status of Women. We also thought that the Department of the Prime Minister and Cabinet was going to be heard before us, and we did not realise that in this particular segment you were going to raise issues around the supply of questions on notice.

**Senator CROSSIN**—But you would have got the Senate estimates timetable faxed to you in the same way as all of us have had it faxed to us. It had OSW on at 10 o'clock; it is not a new phenomenon today. Surely you have known about it since late last week.

**Ms Flanagan**—That is correct but, in terms of the coordination process around answering questions on notice, that was going to be answered by our corporate area. They have the



information; they coordinate the process on behalf of the department, including those answers that are supplied by the Office of the Status of Women.

**Senator CROSSIN**—When will I be able to get an answer to my question as to why we received answers to questions on notice back from your office only two weeks ago, when they were due on 7 August at the latest?

**Ms Flanagan**—As I said, the Department of the Prime Minister and Cabinet will be appearing tomorrow morning, and those officers that are responsible for the processes will be able to answer that question. I am sorry; we were expecting that the Department of the Prime Minister and Cabinet would have been on earlier today, and your questions would have been able to be asked and answered then.

**Senator CROSSIN**—Are you suggesting to me they left your office well before two weeks ago? Is that right?

**Ms Flanagan**—Yes, they did.

**Senator CROSSIN**—It seems to me that the information that you supplied, particularly to my questions, was quite lacking in detail. The answers were actually in the annual report anyway. Can you explain to me why we had to get your annual report before we got your questions back? Were you consulted about that time frame?

**Ms Flanagan**—I have only been there a few months. I was not consulted about the time frame, no.

**Senator CROSSIN**—We are only talking about a few months. July was the deadline for answers, and 7 August was an extension. Your annual report came out and then, many weeks later, we got the answers back. Were you consulted about that time line in terms of releasing the annual report before the questions on notice were released?

**Ms Flanagan**—What do you mean by consulted, Senator?

**Senator CROSSIN**—I am wondering why the annual report was released but we got your answers to our questions on notice—most of which are in the annual report—some weeks later. Why is that the case? One of the reasons we ask questions is that we actually want the information before your annual report gets to us.

**Senator Hill**—We have a witness who is going to explain it all.

**Senator CROSSIN**—It would be nice to finally get some answers from this department. I can see that we are going to struggle this week as well.

**Senator Hill**—Mr Metcalfe is volunteering and throwing himself forward into the fire.

**Mr Metcalfe**—To assist on a couple of the issues that you have raised, there is a department-wide coordination process relating to answers to questions on notice that is coordinated within the corporate area of the department. As part of the department, OSW was involved in providing that material. Clearly, we did not meet the deadlines.

**Senator CROSSIN**—I would have thought 2½ months later, you clearly did not.

**Mr Metcalfe**—I was agreeing with you, Senator. Clearly, we did not do that. We do endeavour to do the best we possibly can, and we can always do better. The timing of the

annual report and the timing of these answers is, I think, quite unrelated. There are clearance processes involved. I can only apologise to you that they came up two weeks ago. As I have indicated, we will endeavour to do better next time.

**Senator CROSSIN**—What is the reason they took 2½ months?

**Mr Metcalfe**—There are clearance processes involved. We obviously take the responsibilities of answering questions from the committee very seriously, but, frankly, there are very many things that we have to do. The people who are involved in those clearance processes are occupied with many issues. To the extent that we possibly can meet those timetables, we do. I can only say that we will endeavour to do better in future.

**Senator CROSSIN**—What is the delay in the clearance process? Clearly, estimates were held on 26 and 27 May. You were given until 10 July—which is quite a number of weeks later—to respond. There was a general extension to 7 August. Is your system not aware of a clearing process that has to occur by 7 August at the latest? Why do you need another 2½ months when everybody else does not get that extension?

**Mr Metcalfe**—Regretfully, I do not think that we are alone in dealing with these issues. All I can say is that we do understand the importance of these issues. To the extent that we do not measure up, we will do our very best in future.

**Senator CROSSIN**—You understand that I had to make several phone calls to the Prime Minister's office and to Senator Hill's office, write a letter to Senator Hill and threaten the fact that I was going to raise this in the Senate before we finally got the answers. I just find that totally unacceptable. It means that we have had less than 10 days to prepare for this round of estimates. I do not know whether that is the game or the trick in all of this. Would you take on notice from me that I would like a very clear answer, other than: 'It is our clearing processes that delayed us 2½ months beyond the agreed time lines that the Senate sets,' as to why that is the case.

**Mr Metcalfe**—If I can assist any further, Senator, I will.

**Senator CROSSIN**—I am asking you to go back and have a look at that, to assist further and to give me a satisfactory answer as to why the answers were late.

**Mr Metcalfe**—If I can provide anything further on notice I will.

**Senator CROSSIN**—I put on the record here that I am not going to be so lenient next time. Perhaps the very next chance I get if questions are a day late I will be starting to ask questions of the Prime Minister's office. I was lenient in giving you at least six or eight weeks. I still did not get any answers. We had to pressure a number of officers, we had to threaten to raise it in the Senate and then we finally got the answers a week after your annual report. Quite frankly, that leniency will not be there the next time: I will raise it in the Senate instantly.

**Senator Hill**—Sometimes a large number of questions are asked and sometimes they are complex questions of many parts. Sometimes, with all reasonable effort, they actually take longer to answer and be checked than the time that is allowed.

**Senator CROSSIN**—I think if you saw the length and the complexity of these questions they could probably have been done within a week, Senator Hill, with all due respect.

**Senator Hill**—I am just trying to offer some possible explanation.

**Senator CROSSIN**—You are probably right—the Office of the Status of Women probably needs all the help and explanation it can get, given my record of their lack of compliance on this issue over the last five years. But in this instance I think it has been extremely tardy.

**Senator Hill**—Are we usually late? Let us do better. We will make a special effort.

**Mr Metcalfe**—Yes, Minister, we will. I notice that the department took 48 questions on notice during the previous hearings and that you and a number of other senators placed a further 20 written questions on notice, so there were 68 in total.

**Senator CROSSIN**—My 20 questions were to OSW, though. That is only 20 questions.

**Mr Metcalfe**—I am talking departmentally, Senator. Across the department there was a substantial amount of work. I do not want to make excuses or be seen to be making excuses. I understand the point you are making very clearly. To the extent that we are able to improve our performance we obviously will. I do not particularly enjoy this sort of conversation, so it is not as if I am coming here saying that we are proud of this. We are not proud of it. We will endeavour to do better.

**Senator MOORE**—I just make the point that 60 questions is not unusual for the Department of the Prime Minister and Cabinet. It is one of the large departments that is subject to a whole range of questions. If you look back over the last couple of years you will find that that is not an extraordinary number.

**Mr Metcalfe**—I agree. I must take issue: we are a very small department and comprise many hard-working people who are engaged in a whole range of issues. But I and my colleagues understand the importance of responding to these questions promptly, and we will endeavour to do so.

**Senator Hill**—Sometimes it is not the fault of the department. Sometimes it might even be the fault of the politicians. I check every answer myself; sometimes I send them back for further work. All this takes time, and sometimes they are late and I get a hiding in Defence estimates.

**Senator CROSSIN**—That is very commendable, but to wait an extra 3½ months for the answers to 20 questions is not acceptable at all. Can I take you now to one of the questions that you provided me with an answer to. I asked for a breakdown of figures on page 58 of the PBS and what the underspends are.

**Ms Flanagan**—It was question 58, was it?

**Senator CROSSIN**—It was actually question 59, where I asked for details of page 58 of the PBS. Can you tell me why this detail was not included in the PBS originally?

**Senator Hill**—That is probably a bit rough to ask a newcomer, isn't it?

**Senator CROSSIN**—I would have thought a newcomer, Senator Hill, would be as well briefed as anybody else who takes up a job of this calibre.

**Senator Hill**—There is always a debate about how much and what information should be included.

**Senator CROSSIN**—Perhaps one of the other officers could answer the question.

**Ms Flanagan**—I am happy to answer that question, having come from the Department of Family and Community Services and run budgets for a number of years. It is up to each department to determine how it sets out its PBS. There are templates that the department of finance gives us. The amount of detail and the way we prepare the portfolio budget statements is a template from the Department of Finance and Administration.

**Senator CROSSIN**—We raised the lack of detail in the PBS some years back now and we had had an undertaking from OSW that that detail would actually be there—and, from memory, in the budget before last it was. It seems to have disappeared again this year, and I am wondering if there is a reason for that. Why do we have to ask a further question on notice when the information that ought to be there in the budget round should be clear and obvious to us without having to seek further questions?

**Ms Flanagan**—Again, I can ask our finance area because, as you would appreciate, we are part of Prime Minister and Cabinet's PBS. I can ask them whether we are able to put more detail in it. But, as I understand it, there are guidelines from the Department of Finance and Administration about what is and is not in PBSs, and they are cleared by that department before they are published.

**Senator CROSSIN**—Who makes a decision about the level of detail that would go under each of these program headings?

**Ms Flanagan**—Again, my understanding is that it is up to the department of finance to actually clear the final text and the way it is set out and the way it looks.

**Senator CROSSIN**—Surely they would not have a problem if a lot of detail were there. That would be correct, wouldn't it? They must surely give you broad general guidelines.

**Ms Flanagan**—Yes, they do.

**Senator CROSSIN**—If you actually then give more detail than they ask, surely they would not have a problem with that.

**Ms Flanagan**—Again, I imagine it is a corporate decision taken in conjunction with the department of finance about how much detail is in the PBS. I do not know whether we have supplied this information in the past when you have actually asked it, but it is provided for you here, so it is not as though it is being hidden or anything. Obviously a decision has been taken about the level of detail to go into the PBS.

**Senator CROSSIN**—But we do actually get it 5½ months later; if it was in the PBS, we would have had it 5½ months earlier. Out of all these program areas, where are the underspends?

**Ms Flanagan**—The underspends in 2002-03?

**Senator CROSSIN**—Yes.

**Ms Flanagan**—There were no underspends—or very little underspend—in the end in 2002-03, and that is shown in the annual report. If you go to table 1 on page 26 of the annual report you can see under 'Women's programs' the budget estimate was \$8.8 million and in the end we spent \$8.751 million.

**Senator CROSSIN**—The question I am actually asking, though, is on the answer you gave me to question 59. Let us go through each of those areas. PADV2, Community awareness—was there an underspend in that area?

**Ms Flanagan**—What this table does not do is to give the breakdown that I think you are asking for in terms of the breakdown against each of the subprogram elements of these programs.

**Senator CROSSIN**—That is what my question asked though. My question asked where the underspends were. You have not answered my question then.

**Ms Flanagan**—It appears, certainly from reading this, that we have not done that properly.

**Senator CROSSIN**—Could you take that on notice please?

**Ms Flanagan**—Yes, we will.

**Senator CROSSIN**—I hope that I do not have to wait another 5½ months for it. In question 56 I asked you to list the legislation on which OSW provided advice during the year. You have not actually given me the year's list. OSW have given me only the legislation for the autumn session. Can you tell me why you have not provided me with the list for the year?

**Ms Flanagan**—For the whole year?

**Senator CROSSIN**—That is what I asked for. Estimates questions following the budget go from a budget cycle to a budget cycle and your answer simply lists the autumn session, which would have been the session that we were in. You have not even listed the spring session. I do not know what happened to the winter session but your answer actually goes to 2003. I was talking about the year, so from May 2002 to 2003. Again, there is a substantial lack of detail in that answer as well.

**Ms Flanagan**—I will check whether people assumed that you were only meaning 2003. If not, we will provide all legislation. The other scenario might be that we did not provide any comment on any other legislation except for this. Let me check that as well.

**Senator CROSSIN**—I asked a question on 26 or 27 May about legislation on which you provided advice during 'the year'. Your answer actually gives me a forward position. I did not ask for that.

**Ms Flanagan**—That is fine. Again, I am not sure whether it came out of the *Hansard* or whether it was a question asked in this particular way.

**Senator CROSSIN**—Did your office provide advice to this government on the higher education reforms and their impacts on women and women students?

**Ms Flanagan**—I would have to check. I think that we did actually see the legislation but I do not know whether we provided any comment on it.

**Senator CROSSIN**—What about the abolition of the student supplement loan?

**Ms Flanagan**—That we also saw. As you would appreciate, OSW sees a lot of the legislation and cabinet submissions going through. We comment on some and not on others.

**Senator CROSSIN**—What is the process? Do all cabinet submissions go through OSW or do you only look at selected legislation?

**Ms Flanagan**—We look at those that might have an impact on women.

**Senator CROSSIN**—Who decides which legislation has an impact on women? Do you, or does the person providing you with those briefs?

**Ms Flanagan**—It is a process of both. That is those that are decided and we might also become aware of legislation coming up that might have an impact on women that has not been referred to us. We would then ask the sponsoring area whether we could see it.

**Senator CROSSIN**—So there is no process whereby all legislation automatically has to be ticked off by you.

**Ms Flanagan**—No, certainly that is my understanding—we do not tick off all legislation.

**Senator CROSSIN**—How exactly does the process work? Is there somebody responsible in the Department of the Prime Minister and Cabinet to send you the briefs or to include you in the loop?

**Ms Flanagan**—As a division head, I get copies of business lists and legislation programs. That is one way in which we might determine that there might be a piece of legislation coming up that might have an impact on women. As I have said, other areas of Prime Minister and Cabinet seek our advice and we also keep a watching brief on the legislative program itself.

**Senator CROSSIN**—Can you also find out for me whether or not your office was asked to provide advice on the Medicare package and its impact on women?

**Ms Flanagan**—I can find that out for you.

**Senator CROSSIN**—In question 57 I asked about the review report of the Partnerships Against Domestic Violence. You actually advised me that the review had produced a draft report for the minister's information. The final report has been prepared and its availability is currently being considered. When will that be available?

**Ms Flanagan**—As you know, we have a new minister, Minister Patterson, and a decision was not taken before she became minister. We have resubmitted the reports for her to have a look at. She is currently considering its release.

**Senator CROSSIN**—When did you submit the report to Minister Vanstone?

**Ms Flanagan**—The report was not finalised until August, so it was submitted to her some time after that. Again, I can try and find a date for you.

**Senator CROSSIN**—If you could take that on notice that would be useful.

**Ms Flanagan**—My recollection is that it was quite late in the piece before the ministry changed.

**Senator CROSSIN**—You provided me with a list of the number of peak women's bodies which you consult outside of the national secretariats. I am wondering if you can tell me why the Women's Electoral Lobby is not part of that group.

**Ms Flanagan**—In terms of which group? There are four secretariats.

**Senator CROSSIN**—I understood there were three secretariats.

**Ms Flanagan**—There are four secretariats.

**Senator CROSSIN**—The fourth one being?

**Ms Flanagan**—I do not know which three you know of already.

**Senator CROSSIN**—YWCA.

**Ms Flanagan**—No, the secretariats are actually coalitions or consortiums of different women's groups. While we have a contract with some or one women's group to run it they are only providing the secretariat service for a much wider group.

**Senator CROSSIN**—That is right, but the contracts are with the YWCA, BPW and the National Council of Women, as I understand it. Who is the fourth?

**Ms Flanagan**—The Rural Women's Coalition.

**Senator CROSSIN**—Oh, that is right.

**Ms Bourne**—WEL is actually a member of the WomenSpeak Network.

**Ms Flanagan**—WomenSpeak is the contract administered by the YWCA.

**Senator CROSSIN**—Okay. In your answer to question 60 you advised me that the evaluation of the national secretariats under the women's development program is a three-part process. What is the time line for that evaluation?

**Ms Flanagan**—We have just signed two-year contracts with each of the secretariats. I do not know whether Ms Bourne has some information on when the evaluation is due to be completed under that contract.

**Ms Bourne**—Not specifically, but I could find out for you.

**Senator CROSSIN**—You have conducted an evaluation of those secretariats before you have re-signed a contract with them or not?

**Ms Bourne**—Yes.

**Senator CROSSIN**—Are those evaluations publicly available?

**Ms Bourne**—I am not certain but I could find out and let you know.

**Senator CROSSIN**—All right. In relation to the two-year period, could you give me some more detail on the external evaluation, the internal compliance audit and the self-evaluation: when are they expected, who does them, what time are they due to report to you and whether any of those are actually available publicly?

**Ms Flanagan**—Yes.

**Senator CROSSIN**—What is the proportion of women on Commonwealth boards and bodies?

**Ms Flanagan**—It is around 33 per cent. I think it is 33.6 per cent but we can confirm that figure fairly quickly for you.

**Senator CROSSIN**—What has been the improvement in that over the last seven years?

**Ms Bourne**—In 1996—that is pretty close to seven years—the figure was under 29 per cent and it is currently nearly 34 per cent.

**Senator CROSSIN**—How has that increase come about?

**Ms Flanagan**—There is a process for board appointments. It is one of the mandatory requirements that whenever board appointments are being made they are referred to OSW and we have the opportunity to put forward or to recommend that whoever is making the board appointments thinks about appointing women if their average is less than the average across all portfolios. We send them a letter suggesting that they might like to consider more women if, for example, the list that is put up does not include any women or only one or two women.

**Senator CROSSIN**—Do you have a performance target that you are aiming for: 50 per cent by the year 2050 or something?

**Ms Flanagan**—No, we do not set targets. I would like to point out, though, that in the private sector, board membership of women is only about eight per cent. So at least on Commonwealth boards we are doing one heck of a lot better than the private sector.

**Senator CROSSIN**—You are probably right there. Perhaps it will be 3050 before they get to 50 per cent.

**Ms Flanagan**—Yes.

**Senator CROSSIN**—My time is short, so I am sorry if I am hopping around a bit but I have a few areas that I specifically wanted to cover. You might need to take this on notice: in terms of your own department and agency, what proportion of your staff are making use of certified agreement provisions such as purchased leave or carers leave?

**Ms Flanagan**—We can take that on notice unless Ms Bourne has the details here.

**Senator CROSSIN**—You might also advise me what percentage of your staff are on AWAs as opposed to being under the certified agreement.

**Mr Metcalfe**—Senator, are you asking about the Department of the Prime Minister and Cabinet as a whole or simply the Office of the Status of Women?

**Senator CROSSIN**—Both.

**Mr Metcalfe**—We will take that on notice.

**Senator CROSSIN**—Could you also advise me what options are available that are not entitlements under the certified agreement—for example, any negotiated part-time work or provisions for fractional appointments, say, on return from maternity leave?

**Ms Flanagan**—As Mr Metcalfe has pointed out, we are part of the Department of the Prime Minister and Cabinet and covered by that certified agreement so we will answer the general question on behalf of Department of the Prime Minister and Cabinet as to what is available.

**Mr Metcalfe**—Perhaps I am being unnecessarily cautious here but if we were to disaggregate the figures into the department as well as the division of the Office of the Status of Women we would not want anything that may identify an individual's own circumstances to become apparent through that answer. Having made that comment in relation to privacy we can do the work and see if there are any concerns. If there are concerns, we will advise you of that in the answer.



**Senator CROSSIN**—What is the number of staff numbers in the OSW?

**Ms Bourne**—It is 47 for 2002-03.

**Senator CROSSIN**—How many of those are full time?

**Ms Bourne**—There are 45 who are full time.

**Senator CROSSIN**—And there are two part time or casuals, is that right?

**Ms Bourne**—There are three part-timers: two ongoing and one non ongoing.

**Senator CROSSIN**—Can you advise me what the department's internal policy is on the use of such arrangements—options that are available that might not be entitlements under the certified agreement—and whether or not employees are seeking to make use of such arrangements and are not having those requests granted? For example, are they in high workload areas? Are they from men or women? Are they young or older employees? This is Senator Moore's area but I think the idea is to look at the flexibility of the workplace vis-a-vis certified agreements or AWAs.

**Ms Flanagan**—Okay.

**Senator CROSSIN**—I would like to take you to the issue of the centenary of women's suffrage. I am wondering whether you can answer some questions about what has now become a saga about the fan. In answer to one of my questions you said that \$226,000 was allocated to the centenary of women's suffrage. Was that specifically to go towards the construction of that monument?

**Ms Flanagan**—There was actually \$600,000 allocated for the centenary of suffrage fan—we can we just call it the fan for the time being rather than the centenary of suffrage artwork?

**Senator MOORE**—You could say COSA.

**Senator CROSSIN**—In the breakdown that you have given me, under the heading 'Centenary of suffrage', is \$226,000.

**Ms Flanagan**—Is that a question on notice?

**Senator CROSSIN**—No, that is an answer you gave me back when I asked for a breakdown of the PBS programs.

**Ms Flanagan**—Senator, I have never been before you at a Senate estimates committee, so it must have been somebody else. Was it a question on notice?

**Senator CROSSIN**—Yes. We talked about it a bit earlier when I talked about the underspends. It was my question No. 59. Under 'Centenary of suffrage', under the 'Women's Development Program', you have \$226,000. Under 'Other women's programs' and 'Centenary of suffrage' you have \$100,000.

**Ms Flanagan**—This might have been just for a particular year. Certainly what was allocated was \$600,000 over, I think, a three-year period.

**Senator CROSSIN**—Where in this PBS breakdown do I find the money that has been allocated against the artwork?

**Ms Flanagan**—I think you have just identified a couple of places where our answer has come from. We have the \$226,000 in the budget year 2003-04.

**Senator CROSSIN**—Is all of that allocated against the artwork?

**Ms Flanagan**—That is correct.

**Senator CROSSIN**—And the \$100,000 under ‘Other women’s programs’?

**Ms Flanagan**—Yes.

**Senator CROSSIN**—So that \$100,000 is also allocated against the artwork?

**Ms Flanagan**—As I said, in total it is \$600,000. I am having trouble finding it across the three years in this table.

**Senator CROSSIN**—If you are having trouble finding it, come and sit on this side of the table.

**Ms Flanagan**—You are having trouble finding it, I know.

**Senator CROSSIN**—That is why we ask these questions—it is not exactly transparent to us either.

**Ms Flanagan**—All right. But I can assure you that it is \$600,000.

**Senator CROSSIN**—That totals \$326,000, but there is no figure anywhere in your ‘Forward estimates’ column.

**Ms Flanagan**—It is money that was also expended the year before. I have to say I do agree with you—

**Senator CROSSIN**—There is no figure in previous columns either.

**Ms Flanagan**—It is surprising that it is not showing up here.

**Senator CROSSIN**—Why is that?

**Ms Flanagan**—I am looking for Ms Cattle, who might be able to give us a breakdown. They are toting it up now.

**Senator CROSSIN**—I understand that, but I am wondering why it is not in this breakdown that you have provided me with. We know that \$600,000 was allocated against it, because we read all the press releases. This answer from you only adds up to \$226,000, and there is nothing in a previous year’s column or in a forward year’s column, so we say to ourselves: ‘About \$300,000 has slipped off the table here somewhere.’ But it has not slipped off the table—

**Ms Flanagan**—It has not slipped off the table; it is just not in this table. We are trying to find out where it would be.

**Senator CROSSIN**—Perhaps while we are doing that, you might want to seriously give consideration as to why these sorts of tables are incomplete. I am baffled as to why they are not in the PBS and I am baffled as to why when we ask questions 5½ months later they are not complete either.

**Ms Bourne**—It is probably the clearance process.

**Senator CROSSIN**—I understand that, in order to get this artwork going, Senator Vanstone appointed a steering committee. Can you explain to us on what basis that was done?

**Ms Flanagan**—As I understand it, it was on the recommendation of the National Capital Authority. They needed a group of eminent experts, and the three were chosen for their expertise.

**Senator CROSSIN**—So the National Capital Authority asked for a steering committee to be established, or suggested that that would be a way to handle the process?

**Ms Flanagan**—I think that OSW suggested that a steering committee be formed, but it was not in the business of knowing the appropriate experts and we relied on the National Capital Authority to provide us with who they should be.

**Senator CROSSIN**—So it was actually a recommendation from OSW, but the National Capital Authority provided you with those names?

**Ms Flanagan**—That is my understanding, yes.

**Senator CROSSIN**—Was the OSW or Minister Vanstone involved in the selection of the site at the northern end of Federation Mall?

**Ms Flanagan**—No. Again, I understand that the committee was given a number of different sites around the parliamentary triangle.

**Senator CROSSIN**—This is the steering committee?

**Ms Flanagan**—This is the steering committee that was set up. In the end they chose the one at the northern end, or just behind Parliament House, as being the appropriate site. I understand that there was then a clearance, or a notification, process that that was the site chosen. When we went out to ask for expressions of interest, it was the one that was indicated as the chosen site.

**Senator CROSSIN**—Do you have any idea where the other sites were?

**Ms Flanagan**—I do not, but that is more appropriately a question to ask the National Capital Authority.

**Senator CROSSIN**—I am sure they will be asked that. What consultation occurred in relation to the selection of that site? Was it simply that the steering committee chose that site, or did they consult you or a number of people as well?

**Ms Flanagan**—They did not consult us. We had a contract with the National Capital Authority to manage this process for us. We are not experts at choosing sites or designing artworks, and we looked to rely on their expertise. As you know, they manage the parliamentary triangle and its precincts.

**Senator CROSSIN**—Was a dollar amount attached to the contract with the NCA?

**Ms Flanagan**—They were aware that we had \$600,000 to spend on the design and construction of an artwork.

**Senator CROSSIN**—Did you pay the NCA for their involvement in this contract?

**Ms Flanagan**—We have paid for things like some travel costs. They organised the actual expressions of interest from the artists. So we have paid those sorts of costs but, if you are talking about their having been given a fee to do this, no they were not given a fee.

**Senator CROSSIN**—Can you provide us with details of the amount of money that you have now provided to the NCA as a result of this?

**Ms Flanagan**—Yes, we can.

**Senator CROSSIN**—While we are talking about figures, you might also provide us with the amount of money that is now not spent from that \$600,000—perhaps a breakdown of what has been spent out of that \$600,000 to date. Where was the design competition advertised?

**Ms Flanagan**—It was advertised in a number of places. The competition was advertised in the press, arts newsletters, national institutions and universities in Canberra. Again, the National Capital Authority organised it for us but, if you want a list of newspapers and the various things, we can get that for you.

**Senator CROSSIN**—That would be useful. Do you know how many entries were received?

**Ms Flanagan**—We do not seem to have the figure here, but Ms Bourne's recollection is that—

**Ms Bourne**—I recollect it was around 19, but I can confirm that for you.

**Senator CROSSIN**—Was OSW or Senator Vanstone involved in the selection of the finalists?

**Ms Flanagan**—No, Senator.

**Senator CROSSIN**—It was purely left to the steering committee. Is that right?

**Ms Flanagan**—It was left to the committee to make the recommendation.

**Senator CROSSIN**—Who were the five finalists?

**Ms Flanagan**—We can get you the pamphlet which shows the winning designs. Anne Graham had designed a garden. There was a steaming house—I am sorry, I do not know the name of the artist who designed that. There was the artist who won the winning design of the fan.

**Senator CROSSIN**—There were five—is that right?

**Ms Flanagan**—Yes.

**Senator CROSSIN**—Do you know what amount each of the five finalists were paid?

**Ms Flanagan**—Yes, they were given prize money of, I think, \$5,000.

**Senator CROSSIN**—Each?

**Ms Flanagan**—Yes.

**Senator CROSSIN**—Were they also flown to Canberra to inspect the proposed site for the artwork?

**Ms Flanagan**—Yes, they were.

**Senator CROSSIN**—What was the total cost of that exercise?

**Ms Flanagan**—Again, we can get the breakdown from the National Capital Authority.

**Senator CROSSIN**—So you did not pay for that? Did the National Capital Authority bill you for that?

**Ms Flanagan**—What happened was that we had a contract with a number of progress payments that we were going to pay the National Capital Authority when they gave us a report on progress. We have paid the National Capital Authority four of the five payments, amounting to \$480,000. We were, as I say, expecting them to manage this contract on our behalf and we did not require details of expenditures as they occurred.

**Senator CROSSIN**—I thought I had asked you some questions about that. Did you actually have a signed contract with the National Capital Authority?

**Ms Flanagan**—Yes, we did.

**Senator CROSSIN**—And was part of that contract that they would get a number of regular payments?

**Ms Flanagan**—Yes, it was.

**Senator CROSSIN**—How much were these regular payments?

**Ms Flanagan**—They were \$120,000 each.

**Senator CROSSIN**—Times five payments—is that right?

**Ms Flanagan**—That is right.

**Senator CROSSIN**—So you have now paid the National Capital Authority \$480,000?

**Ms Flanagan**—That is right. You will understand that we will be recovering some of that.

**Senator CROSSIN**—We might get to that. So I take it that the last payment will not be made now?

**Ms Flanagan**—The last payment was due in July, and it has not been made.

**Senator CROSSIN**—Can you tell me when the five finalists came to Canberra? You might want to take these on notice.

**Ms Flanagan**—They came to Canberra in August 2002.

**Senator CROSSIN**—Can you take on notice for me where they were flown from, how long they stayed here and the total cost of flying the finalists to Canberra? You had not actually budgeted \$480,000 for the artwork, had you? You had budgeted \$600,000. Is that correct?

**Ms Flanagan**—Yes.

**Senator CROSSIN**—So when you say to me that you will be seeking some reimbursement from the NCA, what is that for and why would you be seeking reimbursement from them?

**Ms Flanagan**—What we have now asked them to do is to give us a final list of all the costs that have been incurred under the contract we had with them. We have been given the costs

incurred to date. What we are still asking them to verify is, in effect, when they have actually paid the last bills and how much they will be. We estimate that nearly \$200,000 has been paid out under the contract—that, in effect, will be for costs that have already been incurred.

**Senator CROSSIN**—Are you saying to me that you will be trying to recoup from the NCA \$280,000?

**Ms Flanagan**—That is correct. I do not think it will be difficult to recoup from them.

**Senator CROSSIN**—You do not think it will be?

**Ms Flanagan**—No.

**Senator CROSSIN**—They have not got much to show for it, have they? Was the \$600,000 to cover the completed work—assembled and there before our very eyes?

**Ms Flanagan**—It was to cover the whole process from actually getting expressions of interest, running the process of choosing the winning design et cetera through to actual construction and completion.

**Senator CROSSIN**—I see. Can you tell me if there were to be any other contributions or budgeted allocations from any other department or government agency towards this artwork?

**Ms Flanagan**—I am not aware of any, no. We were funding this just from OSW.

**Senator CROSSIN**—I see. What was the expected completion date for this artwork?

**Ms Flanagan**—Under the contract, the expected completion date was the end of November this year.

**Senator CROSSIN**—In time to actually—

**Ms Flanagan**—In time to actually celebrate the centenary of women's suffrage.

**Senator CROSSIN**—So now we have a situation where we are going to roll past 2003 and we will have no artwork and nothing in place to celebrate it. Is that correct?

**Ms Flanagan**—We have no artwork, but on 22 October it was announced that we are going to have a \$1 circulation coin with the suffrage banner on it. That will be launched around that time. We are exploring some other options to celebrate women's suffrage and, as well, we are still looking at the possibility of having some sort of artwork in the parliamentary triangle, noting that will not be ready in time for the launch. We wanted to find something else to do to celebrate the centenary.

**Senator CROSSIN**—Can you give me an idea of what the cost had blown out to? That was one of the major reasons the whole thing was shelved.

**Ms Flanagan**—We got the initial estimate on 3 September. When the NCA contracted John Hindmarsh to do this, the cost had blown out to \$2 million. The original public notification of how much this would cost was \$500,000.

**Senator CROSSIN**—Is this the \$2 million with the redesigned fan—mark 2, you might call it?

**Ms Flanagan**—It was an evolving process. I do not know whether you have ever worked with architects or artists but the original design never looks like—

**Senator CROSSIN**—No, but I do sit on the National Capital and External Territories Committee, so I am very familiar with this project. Is that the reason for the blow-out, the fact that it had to be redesigned—that the blades were redesigned and the height was scaled back?

**Ms Flanagan**—No, the NCA is better able to answer this than me but, as I understand it, it was the motors to drive the blades that were much more expensive than anybody had ever thought they would be.

**Senator CROSSIN**—We certainly have not heard that as the reason to date. Is that as opposed to the blades themselves having to be redesigned?

**Ms Flanagan**—Again, the NCA is better able to answer this but redesign was not the cost; it was that, when we looked at the final design and had it costed, the cost was \$2 million all up.

**Senator CROSSIN**—So in between the original artwork being approved and winning the prize, in the intervening months that transpired, a new design was presented to the National Capital and External Territories Committee where the shape of the blades and the shape of the fan was quite different from the one that had won the competition. Were you never consulted about that?

**Ms Flanagan**—About the change in the design?

**Senator CROSSIN**—Yes.

**Ms Flanagan**—It depends what you mean by the change in the design. You could call it refinements. As I understand it, it still had the same number of blades, it was still of the same dimensions and the actual design of the blades had been—

**Senator CROSSIN**—It looked quite significantly different, do you not agree, to the one that won?

**Ms Flanagan**—Yes, I do.

**Senator CROSSIN**—Were you not consulted during all of that process?

**Ms Flanagan**—In terms of what?

**Senator CROSSIN**—In terms of the different look and the different design, the height and the way it would operate.

**Ms Flanagan**—As I understand it, the height always remained the same right throughout the design process until we were given this \$2 million figure. What then occurred was that the artists were asked to try to scale back, drop blades off et cetera to try and bring it back within the scope of the project costing. But my understanding is that it was the way the fan was going to work. The blades were designed in that way so that they would move as the artist had intended.

**Senator CROSSIN**—So during all of that process you were not consulted? Were you just suddenly confronted with a blow-out cost of \$2 million? Were you not consulted in the preceding months leading to that? Did the NCA not contact you about this and signal to you that there were problems?

**Ms Flanagan**—We received regular updates and reports from the NCA. It was not until probably July or August that we began to be concerned about the timing and whether it would be constructed in time. It was only on 3 September, when it was finally costed, that we found the cost blow-out. But we were consulted all along. We received regular updates.

**Senator CROSSIN**—When you say ‘finally costed’, what do you mean by that—that the redesigned model was finally costed on 3 September?

**Ms Flanagan**—Yes. The final design had been designed by the artists and my understanding is that they then handed over to the construction engineers et cetera who then worked out how much it was going to cost to build.

**Senator CROSSIN**—You are suggesting to me that the artists were involved in the redesign, the rescaling, the restructure of the blades and the look of the artwork?

**Ms Flanagan**—The artists were?

**Senator CROSSIN**—Yes.

**Ms Flanagan**—Yes, they were running the process. It was their work.

**Senator CROSSIN**—What amount has been spent on payments to consultants or engineers and to the artists to date? Do you have a breakdown of those figures?

**Ms Flanagan**—Yes, we do. These, as I say, are not final costs. They are costs that have been incurred but not yet paid, and there is a query about whether we will pay all of them.

**Senator CROSSIN**—Just before you give me the breakdown, what do you mean that there is a query about whether you will pay them or not? You have already given the NCA \$480,000. Is it not up to them to pay?

**Ms Flanagan**—It is. The query we have is around the last payment to the artists now that we have terminated the commission with them.

**Senator CROSSIN**—I see. What payment was that due to be?

**Ms Flanagan**—It is around \$10,000.

**Senator CROSSIN**—So what is the breakdown to date?

**Ms Flanagan**—Currently, for artists’ fees—and, as I say, there is a query on this one—it is \$66,000; it is \$29,920 for research and development; \$27,500 for short-listed artists’ fees; \$11,967 for meetings of the steering committee; \$14,930 for competition costs; \$21,847 for structural engineers’ fees; \$22,010 for mechanical engineers’ fees; and \$1,102 for NCA travel.

**Senator CROSSIN**—They have been paid or they are to be paid?

**Ms Flanagan**—Most of those will have been paid. That is what we are just finalising with the NCA.

**Senator CROSSIN**—Were the artists still in negotiations with the NCA when the minister scrapped the project?

**Ms Flanagan**—Yes, they were.



**Senator CROSSIN**—Were they also in negotiations with the steering committee and, I assume, OSW on how further cost-saving measures could be achieved in order to deliver the proposed artwork?

**Ms Flanagan**—When we received the cost blow-out on 3 September the NCA, as I understand it, contacted the artists and started to negotiate with them to see whether they would be prepared to bring it back within cost. At that stage they were not prepared to compromise the artwork by dropping from 10 blades back to six blades, for example—and the NCA is much better to give this to you than I—and we were still looking at significant costs of about \$1.2 million even with a scaled-back artwork, fewer blades et cetera.

**Senator CROSSIN**—Was the minister approached to approve an increase in the budget or the money allocated to this artwork?

**Ms Flanagan**—We discussed that with the minister. It was agreed that because the large majority of OSW programs, as you know, are for things like domestic violence and sexual assault, we thought it inappropriate to allocate any more money to the artwork.

**Senator CROSSIN**—Where did the original \$600,000 come from? Was this taken from your original programs or was it a specific budget allocation over and above those programs for this year?

**Ms Flanagan**—It was taken from a couple of programs. It was thought important by OSW to celebrate the centenary of women's suffrage, so we put aside some money to do that, and it was agreed that an appropriate way to do that would be to construct a commemorative artwork.

**Senator CROSSIN**—What programs were moneys taken from?

**Ms Flanagan**—I think the two that we gave you were other women's programs and Women's Development Program.

**Senator CROSSIN**—How much was taken from the Women's Development Program?

**Ms Flanagan**—I have been given a piece of paper which shows the two figures that I think we mentioned in answer to the question on notice. The \$226,000 for 2002-03 came from the Women's Development Program; \$100,000 came from other women's programs. These are allocated at the moment because you know very clearly that the artwork has stopped. In 2003-04 there was \$120,000 from other women's programs. There is an amount of \$154,000-odd which was spent in 2001-02, I imagine in the lead-up.

**Senator CROSSIN**—Where did that come from?

**Ms Flanagan**—That is what we need to take on notice.

**Senator CROSSIN**—Can you tell me specifically what is affected? By taking money out of the Women's Development Program and the other women's programs, what is covered by other women's programs? What has missed out here?

**Ms Flanagan**—These are very small programs in our overall budgets.

**Senator CROSSIN**—I know that but, when you say, 'Other women's programs', I am keen to know what they are.

**Ms Bourne**—It is the program from which we pay the Commonwealth-State Ministerial Councils conference contribution from. It also covers one of our publications entitled *Women 2003*. A list of the programs covered are: CEDAL; gender mainstreaming; the MINCO contribution; *Women 2003*; the violence against women and reproductive health project; the women, housing and transitions out of homelessness project; time use studies, *Women in Australia 2003*; and the work and family taskforce consultations.

**Senator CROSSIN**—Are you saying that all of those other programs have had money taken out of them to go towards this artwork?

**Ms Bourne**—No, they are the types of things that are funded out of other women's programs.

**Senator CROSSIN**—Can you take on notice specifically what is covered under the Women's Development Program and the other women's programs, and which specific project or activities would have had money taken off them to go towards this artwork, or never had money allocated to them?

**Ms Flanagan**—That is an open-ended question. As you might imagine, we can use this money. It is not specified every year. For example, we know that we have to pay the secretariats every year and we know that there are Women's Development Program grants of \$500,000 that we need to pay every year. But, over and above that, each year we discuss with the minister what her priorities are and what she wishes to spend this money on. It is not as though there are streams that are allocated from year to year. There are some, but not all of them are.

**Senator CROSSIN**—So a decision was made this year to set aside \$600,000 for an artwork for the centenary of women's suffrage?

**Ms Flanagan**—It was made a couple of years ago in 2001-02.

**Senator CROSSIN**—As opposed to perhaps putting additional money to, say, Aboriginal domestic violence.

**Ms Flanagan**—It is a different program. What we are saying is—

**Senator CROSSIN**—The money still comes out of your budget. Is that correct?

**Ms Flanagan**—The money still comes out of our budget.

**Senator CROSSIN**—What I am getting at is this is not an additional \$600,000 over and above your budgeted item for this specific project; it was taken within your budget's allocation. Is that correct?

**Ms Flanagan**—That is right. That decision was taken a number of years ago. It was seen as very important by the minister and the government to celebrate this very important event and \$600,000 was set aside. Once the costs blow-out occurred on the artwork, the decision subsequently taken was that we could not take any more out of the programs to do that. That was the allocated budget and that is what we were required to spend.

**Senator CROSSIN**—You have mentioned that a \$1 coin is now going to be struck.

**Ms Flanagan**—Yes.

**Senator CROSSIN**—Is there anything in that project—for example, the artwork, the competition for the artwork, the payment of the artist or any contract with the Mint—that will come out of your budget now? Is there any further moneys from OSW having to go in any way whatsoever to having this \$1 coin struck?

**Ms Flanagan**—Once we have worked out what the costs incurred are, we still have a notional budget of \$600,000 to celebrate women's suffrage. The coin is going to be free to us, but we are still looking at having an artwork in the parliamentary triangle. We are looking at other options.

**Senator CROSSIN**—Which will come out of the money that is left over from that \$600,000?

**Ms Flanagan**—That is right. We will not be putting any more money into it.

**Senator CROSSIN**—It might be a couple of bunches of daffodils with the money you have left at this stage. What is the time line for questions on notice to come back to this committee?

**CHAIR**—Friday, 16 January 2004.

**Ms Flanagan**—Thank you. We hear that date.

**Senator CROSSIN**—I look forward to them. I will be reading them first thing on 17 January.

**CHAIR**—Many thanks for your help this evening, Ms Flanagan and officers. The committee stands adjourned until 9.00 a.m. tomorrow morning when it will continue its examination of the Office of National Assessments.

**Committee adjourned at 11.06 p.m.**