

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

# SOCCER

A report from the Senate Environment, Recreation, Communications  
and the Arts References Committee

First Report  
June 1995

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Cover Photos of young soccer players provided by the Australian Soccer Federation.

Left Inset: Two young soccer players, photographer unknown

Centre Inset: Group of young soccer players, photographer unknown

Right Inset: One young soccer player, photograph by Mr Ron Hughes

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## MEMBERSHIP OF THE COMMITTEE

### Core Members

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Senator Kim Carr (ALP), Victoria (Deputy Chair)  
Senator Eric Abetz (LP), Tasmania  
Senator Michael Baume (LP), New South Wales  
Senator Paul Calvert (LP), Tasmania  
Senator Alan Ferguson (LP), South Australia  
Senator the Hon Margaret Reynolds (ALP), Queensland  
Senator Thomas Wheelwright (ALP), New South Wales

### Substitute Members

Senator Grant Chapman (LP), South Australia  
Substitute member for Senator Calvert for part of the duration of the Soccer inquiry

### Participating Members

Senator Julian McGauran (NPA), Victoria  
Participating member for the duration of the Soccer inquiry

### Former Members

Senator John Devereux (ALP), Tasmania (Former Deputy Chair)  
Period of Appointment – 10.10.94 to 10.2.95  
Senator Stephen Loosley (ALP), New South Wales  
Period of Appointment – 10.10.94 to 19.5.95

<b>Committee Secretary</b>	Mr Robert J King
<b>Research Staff</b>	Dr Frances Michaelis
<b>Executive Assistant</b>	Ms Diane Strong

Senate Environment, Recreation, Communications and the Arts References Committee  
Parliament House Canberra, Ph: (06) 277 3525, Fax: (06) 277 5818



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## **SOCCKER INQUIRY**

### **Terms of Reference**

On the 8 December 1994 and 2 February 1995 the Senate resolved that the Senate Environment, Recreation, Communications and the Arts References Committee-

inquire into the role of coaches, players, agents, clubs, officials and others in the transfer of Australian sportspeople and into any other matters relating to corruption, conflicts of interest, tax evasion, and improper financial transactions with particular reference to the sport of soccer; and review the report by the Hon. D. G. Stewart to the Australian Soccer Federation; and that the Committee report to the Senate on this matter by 31 August 1995.

The Committee's reporting date was extended to 29 June 1995 by resolution of the Senate on 11 May 1995 and to 31 August 1995 by resolution of the Senate on 22 June 1995.





## SUMMARY

The Committee's inquiry:-

- confirmed the media reports of mid-1994 that had generated public concerns leading to the inquiry, that there were substantial differences (totalling more than \$1 million in the relatively few transfers the Committee examined) between prices paid by overseas clubs and the money received by Australian clubs for the transfer of Australian players to Europe;
- confirmed that large amounts of cash, or cash equivalents, involved in some of these transactions made it impossible to trace the ultimate beneficiaries of these vast differences;
- confirmed that some Australian club officials not only were aware of these differences but had provided receipts in their club's name for monies their club had not received;
- confirmed that there was no evidence that any of the missing money ended up with the National or Assistant National Coach or any Australian Soccer Federation (ASF) official or National Soccer League (NSL) club official;
- found no additional credible evidence that would sustain the majority of the Hon D G Stewart's recommended action against various Australian soccer coaches and officials;
- concluded that the Committee's inquiry has served the best interests both of soccer football, by providing an opportunity to clear the air of all the allegations, rumours and speculation affecting the sport over a considerable period, as well as by allowing those alleged to have been guilty of misbehaviour the opportunity to respond ;
- was hampered, but not damaged, by the failure of Government members of the Committee to participate fully in its hearings and by their public criticism of the Committee's activities ; and
- has already led to significant improvements in the administration of soccer football in Australia, and the Committee believes that the implementation of its recommendations would further assist this process.



## FINDINGS AND RECOMMENDATIONS

### PREAMBLE

1.1 The Senate Environment, Recreation, Communications and the Arts References Committee has conducted its inquiry under severe time constraints. We are very conscious of the need to provide our principal findings and recommendations as quickly as possible so that the reorganisation of soccer, which has already begun, can be conducted with greater certainty and clarity of direction.

1.2 Under the rules of the Senate, the Committee must give those named adversely in evidence an opportunity to provide contrary evidence. This process has not been comprehensively possible within the time limits imposed by the reporting date. The Committee may therefore conduct further hearings to fully discharge this responsibility, and this will result in a further report which will also serve to explain the basis for this report's conclusions and recommendations.

1.3 The genesis of this Senate inquiry lies in a number of allegations made about the administration of soccer, especially in relation to the transfer of Australian players to overseas clubs. Many of these allegations appeared in the media. This caused the Australian Soccer Federation (ASF) to seek the assistance of former Justice the Hon D G Stewart, to inquire into these allegations and report. Mr Stewart reported to the ASF in December 1994 and made a number of findings, also naming a number of people involved in soccer. Mr Stewart reported that his investigations had been hampered by the fact that his was not a judicial inquiry, that he had not had the power to *subpoena* witnesses nor had he been able to offer witness protection. He suggested that further inquiries be conducted by a body which possessed these powers.

1.4 After legal advice, the ASF took the view that it could not release the Stewart Report because of the fear of legal action. However, some members of the ASF Board were given copies of the Report and parts of the contents appeared to have been leaked. It was apparent that members of the media had knowledge of the contents of the report. This Committee was given the inquiry to review the work of Stewart and examine some other matters. For the reasons just given, the Committee decided to release the Report, under Parliamentary privilege and invite all those affected by any of its contents to come forward and provide their own evidence.

1.5 Most of the matters of concern to the Committee have either been resolved or are in the process of being resolved by events, particularly the major recommendation by Mr Stewart of the need for a “sea change” in the administration of Soccer football, including the ending of financial and other arrangements involving a potential for conflict of interest.

1.6 A member of the Committee, Senator Michael Baume, made inquiries on matters of concern to the Committee with the Fédération Internationale de Football Association (FIFA) in Zurich and the Premier League and The Football Association (FA) in London. As a result, certain material relating to a substantial sum of money transferred to a Melbourne club's bank account but not received by that club has been referred to appropriate investigation authorities in Australia.

1.7 The Committee thanks all witnesses, particularly those few players who, by their frankness and sincerity, placed themselves at the risk of offending officials and coaches, but who nonetheless came forward to do their duty by the game they obviously hold dear.

### **DIFFICULTIES ENCOUNTERED BY THE COMMITTEE**

1.8 It is a matter of regret to the Committee that:

- (a) many players who are alleged to have privately made serious allegations, particularly to the media, chose not to appear before this Committee, despite assurances from the ASF and national coaches that they faced no retribution for doing so;
- (b) at least one player who did appear has since suffered from not having his player contract renewed, ostensibly because of a decline in his performance. Nevertheless, the same high transfer fee has been applied to him now that he is no longer wanted, as when his services were enthusiastically required upon joining the club;
- (c) despite the assurance on behalf of the Government from Senator Faulkner, the Minister for the Environment, Sport and Territories, when the terms of reference were given to the Committee by the Senate on 8 December 1994, that the Government did not intend to stand in the way of the inquiry taking place, and that the Government would work cooperatively with the inquiry as appropriate, Government members of the Committee did not accept the democratic decision of the Senate to hold the inquiry and cooperate

as full members of the Committee. The Government members of the Committee were particularly concerned that the rights of individuals named by the Hon D G Stewart or who may be named in evidence before this Committee would not be sufficiently protected;

- (d) changes in the composition of Government members of the Committee, along with the failure of Government members to attend several hearings, meant that no current Government Committee members were present at a majority of the Committee's public hearings; and
- (e) the Committee's activities were subject to repeated criticism by Government members on the occasions they did attend, which did not assist the Committee's objective of establishing a sound base on which soccer could progress.

1.9 While the Committee was at all times sensitive to the rights of individuals named in evidence, it was also conscious of the fact that it was the ASF itself and not the Senate that had instigated the inquiry by the Hon D G Stewart, that the report of Mr Stewart was available to certain people and that parts of this report had leaked to the media. When it made its decision on 10 January 1995, the Committee was firmly of the view that, for this reason, it was highly desirable that the whole report become public and be protected by Parliamentary privilege, and that those named in the report have an opportunity to come forward, under Parliamentary privilege, to provide more comprehensive evidence than was available to Mr Stewart.

1.10 The Committee was required by a motion of the Senate to conduct this inquiry. We feel that any dispassionate reading of our report vindicates the investigation we have carried out and the findings and recommendations we have made.



## **CONCLUSIONS AND RECOMMENDATIONS ARISING FROM THE COMMITTEE'S INQUIRY**

2.1 While drawing on the information contained in the submissions, the Committee takes a prospective view and attempts to make recommendations for the better administration of soccer in the future.

2.2 As the standard of Australian soccer players improved, and the demand for Australian players by overseas clubs rapidly expanded, the transfer fees being transacted increased in size.

2.3 Soccer administration in Australia failed to deal adequately or effectively with this situation.

2.4 Negotiations in relation to player transfers overseas were conducted in a non-professional manner, often by people who should not have been involved or by people who were not the best or most qualified people to look after the interests of either the player, the Australian club, or Australian soccer in general.

2.5 In this situation, some coaches and officials became involved in player transfers in ways which were inappropriate.

2.6 Details of The Football Association's findings against three British clubs in relation to transfers of Australian players did not involve any suggestion of impropriety by the Australian clubs from which the players were released. However, the ridiculously small "transfer fee" received by the clubs (resulting from the players themselves "buying out" their contracts and putting themselves in the hands of overseas agents) compared with the very substantial payments to the agents concerned, is further evidence of the need for a more effective transfer system.

2.7 In several cases, there were large differences between the amount shown as paid by a foreign club and the amount paid to an Australian club. Some of the difference was sometimes paid to individuals as cash, but often left a large amount for which there had been no satisfactory accounting.

2.8 One witness who had looked at one overseas transfer in considerable detail suggested that the explanation might lie in an attempt to avoid tax and while there is no proof of this, the Committee has been unable to establish where the extra money finally lodged. There was some corroboration that the agent handling this, and at least one other transfer, may have been the instrument by

which the large, but unaccounted for, sums of money found their way to their final resting place. Whatever the outcome, it is evident that the Australian club and at least one official conspired with an official of a foreign club and an agent to present a grossly misleading view of the real transfer cost.

### **Committee Recommendation 1**

The Committee **recommends** that the whole process of player transfers must be handled in future in a much more rigorous and transparent manner. Australia's soccer interests must be paramount and the financial aspects of the transfer must be conducted in such a way that no hint of impropriety is possible. There should be no cash payments. All payments must be made in such a manner as to leave a clear audit trail.

### **Committee Recommendation 2**

The Committee **recommends** that the Australian Soccer Federation (ASF) should accredit an agent or agents who would act for the ASF in relation to overseas player transfers so as to ensure that Australia's soccer and financial interests are fully protected. These agent(s) must be experienced in the area of player transfers in the international scene, and must be people of integrity.

### **Committee Recommendation 3**

The Committee **recommends** that the Australian Soccer Federation should establish a panel of experienced people who can provide advice to players and clubs with respect to a player who had been approached by an overseas club or who wished to seek a transfer to an overseas club. This panel should contain the National Coach, but the National Coach should not provide independent advice to players, and his advice through the panel should relate to football matters and not to other aspects of the potential transfer.

2.9 The Committee received evidence from one National Soccer League (NSL) coach that he had been offered a bribe in relation to facilitating an overseas transfer. The offer was refused. The Committee finds it hard to believe that other coaches and officials have not been similarly approached, given the large sums involved and the lack of vigilance and openness in the conduct of the



transactions. Nevertheless, despite close questioning on this point, every other coach denied being offered financial inducements, and the Committee, like Mr Stewart, found no persuasive evidence that any coach had received any money in relation to overseas transfers.

2.10 The Committee notes the extremely powerful position held by coaches in relation to player selection, and the influence this may have over a player's future in the game; and therefore draws particular attention to the responsibility which this confers on the coach and those superiors who are responsible for the coach's behaviour.

2.11 The Committee finds that the failure of the ASF to conclude a signed contract with the National Coach and his Assistant is both remarkable and indicative of a low level of administrative care and efficiency.

#### **Committee Recommendation 4**

The Committee **recommends** that formal contracts must be concluded between the Australian Soccer Federation and the National Coach and Assistant National Coach and that these contracts must include the matters mentioned in Recommendation 3 and paragraphs 2.5, 2.9 and 2.10. The contracts must include a clause to the effect that it is inappropriate for them to become involved with overseas transfers in any other way, and must include a clause insisting that coaches use the power conferred by their position in strict accordance with an accepted code of conduct, such as that adopted by the Australian Soccer Federation on 31 October 1992.

2.12 The Committee is of the view that the domestic player transfer fee should be abolished immediately as the period between now and the end of 1996, when the Australian Industrial Relations Commission has recommended that fees be dropped, will be one of difficulty for both players and clubs. We note that the dropping of this fee will not disadvantage clubs overall within Australia.

2.13 While this would result in free transfers at the conclusion of player contracts, it would nevertheless allow such contracts to contain financial penalties for early release, including under agreed transfer arrangements.

2.14 Because of the continuing overseas transfer payments system, the removal of internal transfer payments would require the introduction of equitable compensation arrangements for clubs and other organisations [such as the Australian Institute of Sport (AIS)] which have contributed to the player's

football development. The Committee is concerned that the present system fails to take account of the significant contribution the taxpayer-funded AIS has made to player development, the benefits of which are claimed entirely by the transferring club.

#### **Committee Recommendation 5**

The Committee **recommends** that the domestic player transfer fee be abolished immediately.

#### **Committee Recommendation 6**

The Committee **recommends** that player contracts, including contracts with juniors and players with language or other such difficulties, must be reviewed to ensure they are fair and equitable. Players are not chattels to be bought and sold without proper consideration of their interests.

2.15 There was conflicting evidence in relation to the involvement of Mr Anthony Labbozzetta in relation to negotiating player transfers. Mr Labbozzetta was present during the sale of the player, Paul Okon, yet he denies that he knew the gross amount of the transfer fee. Other evidence from Mr Mariani, the Marconi Club Coach and Manager at the time, conflicts with this and says that Mr Labbozzetta did know the gross amount of the transfer fee. The Committee finds Mr Mariani's evidence much more credible. Mr Labbozzetta must therefore have known that a vast difference existed between the amount paid by Club Brugge and that received by Club Marconi, on whose behalf he was acting. It was misleading of Mr Labbozzetta not to advise the Committee of this difference. The Committee is unable to explain how or why it is that Mr Labbozzetta did not provide a believable account of this transaction.

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## RECOMMENDATIONS OF THE HON D G STEWART

### THE COMMITTEE'S RESPONSE

#### Stewart Recommendation 1

*The Board of Commissioners of the Australian Soccer Federation (the Board) should terminate the services of Mr Eddie Thomson as national coach as soon as possible.*

The Committee received no credible evidence, including the evidence in the Stewart Report, to justify this severe penalty. Those actions of Mr Thomson which were criticised in the Stewart Report, and essentially confirmed by the Senate inquiry, were inappropriate.

#### Committee Recommendation 7

The Committee **recommends** that the Australian Soccer Federation Board takes every step, through implementation of the measures outlined above, to ensure that a National Coach is not allowed to be placed in such a position of conflict of interest again.

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#### Stewart Recommendation 2

*The Board should give serious consideration to the termination of the services of Mr Les Scheinflug as assistant national coach and youth team coach. At the very least, Mr Scheinflug should be severely censured. The question for the Board is whether it is prepared to have a person who has behaved in the manner that I have described in this report continue to lead and coach the youthful players under his charge.*

The Committee received no credible evidence, including the evidence in the Stewart Report, to justify this severe penalty. The Committee could not establish any convincing basis on which action should be taken against Mr Scheinflug.

**Committee Recommendation 8**

The Committee **recommends** that the Australian Soccer Federation Board takes every step, through implementation of the measures outlined above, to ensure that an Assistant National Coach and National Youth Coach is not allowed to be placed in such a position of conflict of interest again.

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**Stewart Recommendation 3**

*The Board should reprimand Mr Basil Scarsella for his actions in relation to the Ned Zelic transfer incident and also for his involvement in the further incidents involving Mr Zelic and Mr Refenes and the barbecue at Papendaal.*

The Committee received no credible evidence, including the evidence in the Stewart Report, to justify this severe penalty. The Committee could not establish any basis on which action should be taken against Mr Scarsella.

**Committee Recommendation 9**

The Committee **recommends** that the Australian Soccer Federation take every step, through providing an adequate contract and the other measures indicated above, to ensure that a national team manager is not placed in such a position of conflict of interest again.

**Committee Recommendation 10**

The Committee **recommends** that a dedicated and professional team manager should accompany international teams.

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#### Stewart Recommendation 4

*The Board should take such steps as are necessary to ensure that Mr Antonino Labbozzetta as soon as possible ceases to be a Commissioner of the Australian Soccer Federation and does not in future hold office in the organisation, and so far as it is within the power of the Board, in any other organisation involved with soccer.*

As Mr Labbozzetta is appealing against a finding against him by the NSW Liquor Administration Board, the Committee does not wish to comment at this stage beyond what is contained in paragraph 2.15 above.

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#### Stewart Recommendation 5

*The Board should ensure, so far as it is within its power, that Mr Berti Mariani does not in the future hold office in any organisation involved with soccer.*

The Committee received no credible evidence, including the evidence in the Stewart Report, to justify this severe penalty. The Committee could not establish any convincing basis on which action should be taken against Mr Mariani.

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#### Stewart Recommendation 6

*The Board should ensure, so far as it is within its power, that Mr Alfio Bulic does not in the future hold office in any organisation involved with soccer.*

The Committee received no credible evidence, including the evidence in the Stewart Report, to justify this severe penalty. The Committee could not establish any convincing basis on which action should be taken against Mr Bulic. We note that Mr Stewart took no evidence from Mr Bulic.

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### Stewart Recommendation 7

*The Board should review Australian Soccer Federation procedures in relation to its involvement in overseas transfers of players in the light of the cases examined in this report and the provisions of the FIFA statutes and regulations. In particular it should take steps to ensure that all players and clubs are aware of the new FIFA regulations regulating the activities of players' agents and the penalties for non-observance of the FIFA regulations.*

The Committee supports this recommendation.

### Committee Recommendation 11

The Committee **recommends** that the Australian Soccer Federation make all players and clubs aware of the new FIFA Regulations.

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### Stewart Recommendation 8

*Insofar as the new FIFA regulations concerning the registration of players' agents are concerned the Board should take steps to object to the registration of persons whose activities have been the subject of adverse comment in this report.*

See Committee's recommendation 2.

### Committee Recommendation 2

The Committee **recommends** that the Australian Soccer Federation (ASF) should accredit an agent or agents who would act for the ASF in relation to overseas player transfers so as to ensure that Australia's soccer and financial interests are fully protected. These agent(s) must be experienced in the area of player transfers in the international scene, and must be people of integrity.

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### Stewart Recommendation 9

*The Board should take steps to ensure that the domestic transfer fee system applying to the transfer of players within Australia is abolished before the end of 1996.*

Supported. See Committee recommendation 5.

### Committee Recommendation 5

The Committee **recommends** that the domestic player transfer fee be abolished immediately.

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### Stewart Recommendation 10

*Chapter 7 of this report relating to the activities of Rale Rasic, and all relevant documentation, including exhibits and transcripts, should be forwarded by the Board to the Commissioner of the New South Wales Police Service for such action as he deems appropriate.*

This matter has been referred by the ASF to the Commissioner of the New South Wales Police Service, where inquiries have resulted in the matter not proceeding

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### Stewart Recommendation 11

*Chapter 8 of this report relating to the activities of Frank Arok, together with all relevant documentation, should be referred by the Board to the Commissioner of the New South Wales Police Service for investigation as to whether breaches of the New South Wales Secret Commissions Act or other New South Wales criminal law have occurred.*

This matter has also been referred by the ASF to the Commissioner of the New South Wales Police Service. The Committee is unable to provide further comment at this stage.

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**Stewart Recommendation 12**

*The Board should review existing arrangements and written guidelines for the conduct of overseas tours and the responsibilities and roles of tour leaders, coaches, players and officials.*

Supported. ASF has taken the matter in hand with the appointment of a high performance manager. See comment on Stewart recommendation 3 above.

**Committee Recommendation 3**

The Committee **recommends** that the Australian Soccer Federation should establish a panel of experienced people who can provide advice to players and clubs with respect to a player who had been approached by an overseas club or who wished to seek a transfer to an overseas club. This panel should contain the National Coach, but the National Coach should not provide independent advice to players, and his advice through the panel should relate to football matters and not to other aspects of the potential transfer.

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**Stewart Recommendation 13**

*The Board should seek and act upon competent legal advice regarding the question of contracts with minors or other disadvantaged persons and the consequential redrafting of the form of contract.*

Supported. See Committee recommendation 6.

**Committee Recommendation 6**

The Committee **recommends** that player contracts, including contracts with juniors and players with language or other such difficulties, must be reviewed and made fair and equitable. Players are not chattels to be bought and sold without proper consideration of their interests.

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**Stewart Recommendation 14**

*In view of the apparent need for players to be able to seek competent and informed advice in relation to overseas transfer prospects and proposals, the Board should consider the adequacy of existing advisory mechanisms. In conjunction with the Players' Association, the Board should consider the establishment of a panel of advisers who would be available to assist players. This panel should not under any circumstances include the national coaches, whoever they may be.*

Supported. See Committee recommendation 3.

**Committee Recommendation 3**

The Committee **recommends** that the Australian Soccer Federation should establish a panel of experienced people who can provide advice to players and clubs with respect to a player who had been approached by an overseas club or who wished to seek a transfer to an overseas club. This panel should contain the National Coach, but the National Coach should not provide independent advice to players, and his advice through the panel should relate to football matters and not to other aspects of the potential transfer.

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## APPENDIX 1

### LIST OF SUBMISSIONS

- 1 Mr David Faber, SA
- 2 Mr David N Brady, Renaissance Marketing, NSW
- 3 Mr J Hurley, General Manager, Banks Hotel, VIC
- 4 Mr John L Hegarty, NSW
- 5 Mr Edward Thomson, National Coach, Australian Soccer Federation, NSW
- 6 Mr Peter Bracher, NSW
- 7 Mr Ned Zelic, c/o Mr Peter Dwyer, ACT
- 8 The Hon Neville Wran, AC, QC, President, Australian Soccer Federation, NSW
- 9 Mr John Gilson, VIC
- 10 Mr Stephen Owen-Conway, QC, Patron, Perth Soccer Club, WA
- 11 Mr Miron Bleiberg, QLD
- 12 Australian Soccer Federation, NSW
- 13 Mr Frank Arok, VIC
- 14 Mr Alan Rydge, Commissioner, Australian Soccer Federation, NSW
- 15 Mr Alfio Bulic, VIC
- 16 Mr John Constantine, AM, OAM, NSW
- 17 Mr Ian Holmes, Chief Executive, Australian Soccer Federation, NSW
- 18 Amateur Soccer Federation of Northern New South Wales Inc, NSW
- 19 Mr Alberto Mariani, NSW
- 20 Australian Unity Soccer Players' Association (now Australian Soccer Players' Association), NSW
- 21 Mr Geoff Boyd, NSW
- 22 Mr Les Scheinflug, Assistant National Coach and National Youth Coach, Australian Soccer Federation, NSW
- 23 Professor Braham Dabscheck, NSW
- 24 Mr J de Nolf, Secretary and Mr A Vanhove, Director-Administrator, C.Q., Club Brugge, Belgium
- 25 Mr David Wright, ACT
- 26 Mr Mike Wells, National Director of Coaching, Australian Soccer Federation, NSW
- 27 Mr Joseph Zarb, NSW

- 28 Mr Osvaldo el Ali, NSW
- 29 Mr Adrian Kenyon, Publisher, Troubadour Publications, WA
- 30 Mr Basil Scarsella, Commissioner, Australian Soccer Federation, SA
- 31 Mr Fred Villiers, VIC
- 32 Mr Eugene Marie, WA
- 33 Ms Mary O'Connor, WA
- 34 Mr Sebastian Raco, NSW
- 35 Mr Frank Baroni, NSW
- 36 Mr Rale Rasic, NSW
- 37 Mr D G Sewain, NSW
- 38 Mr Ron Smith, Head Coach (Soccer), Australian Institute of Sport, ACT
- 39 Anonymous
- 40 Australian Transaction Reports and Analysis Centre (AUSTRAC), ACT
- 41 Mr Phillip Harris, ACT
- 42 Mr John Higgins, ACT
- 43 ACT Women's Soccer Association, ACT
- 44 Australian Sports Commission, ACT
- 45 Mr Anthony (Tony) Labbozzetta, President, Club Marconi, NSW
- 46 Mr Grame Plath, ACT
- 47 Mr John Johnson, TAS
- 48 Dr Graham Bradley, NSW
- 49 Australian Women's Soccer Association, ACT
- 50 Senator the Honourable Nick Bolkus, Minister for Immigration and Ethnic Affairs and Minister Assisting the Prime Minister for Multicultural Affairs.
- 51 The Hon Gary Punch, MP, Minister for Defence Science and Personnel
- 52 New South Wales Soccer Federation Limited, NSW
- 53 Mr David Lee, NSW Director of Coaching, NSW Soccer Federation, NSW

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## APPENDIX 2

### LIST OF PUBLIC HEARINGS AND WITNESSES

**Friday, 27 January 1995:**                    **Legislative Assembly Conference Room 814/815**  
**Parliament House**  
**Sydney**

The Hon Donald G Stewart

Mr John Hegarty

Mr John Constantine, AM, OAM

Mr Ian Holmes

Chairman, Australian Soccer Federation

Chief Executive, Australian Soccer Federation

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**Tuesday, 7 February 1995:**

**Senate Committee Room 2S3**  
**Parliament House**  
**Canberra**

Mr Kimon Taliadoros

Chief Executive, Australian Unity Soccer Players' Association

Mr Brendan Schwab

Legal Adviser, Australian Unity Soccer Players' Association

Mr Mark Ryan

Assistant Federal Secretary, Media, Entertainment, and Arts Alliance

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**Tuesday, 7 March 1995:**

**Senate Committee Room 2S1**  
**Parliament House**  
**Canberra**

Mr James Killaly

First Assistant Commissioner, International Tax Division, Australian Taxation Office

Ms Catherine McPherson

Acting Assistant Commissioner, Parliamentary Business Unit, Australian Taxation Office

Mr Graham Pinner

Deputy Director, Australian Transaction Reports and Analysis Centre

Mr Ron Smith

Head Coach (Soccer), Australian Institute of Sport

**Friday, 24 March 1995:** **Legislative Assembly Conference Room 814/815  
Parliament House  
Sydney**

The Hon Neville Wran, AC, QC	President, Australian Soccer Federation
Mr Peter Kogoy	Senior Sports Journalist, <i>Sun Herald</i>
Mr Ross Coulthart	
Mr Roger Seal	
Ms Tracey Holmes	Sports Commentator and National Program Host, Australian Broadcasting Corporation

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**Wednesday, 29 March 1995:** **Senate Committee Room 2S1  
Parliament House  
Canberra**

Mr Graham Pinner	Deputy Director, Australian Transaction Reports and Analysis Centre
Ms Tracey McKnight	President, ACT Women's Soccer Association
Mr Jim Ferguson	Executive Director, Australian Sports Commission
Mr Peter Hugg	Sports Consultant, Sports Management Division, Australian Sports Commission
Mr Geoffrey Strang	Director, Sports Management Division, Australian Sports Commission

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**Friday, 31 March 1995:** **Legislative Assembly Conference Room 814/815  
Parliament House  
Sydney**

Mr John Warren	
Mr Sam Vella, OAM	President, Parramatta Eagles Soccer Club Director, NSW Soccer Federation

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**Monday, 3 April 1995:** **Legislative Assembly Conference Room 814/815  
Parliament House  
Sydney**

Mr John Johnson	
Mr Les Murray	
Mr Peter Gray	President, NSW Amateur Soccer Federation Ltd
Mr Tony Popovic	

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**Tuesday, 4 April 1995:** **Legislative Assembly Conference Room K  
Parliament House  
Melbourne**

Mr Henry Siwka  
Mr Frank Arok, AO

Chairman, Victorian Soccer Federation

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**Friday, 7 April 1995:** **2nd Floor Conference room  
Parliament House  
Adelaide**

Mr Basil Scarsella  
Mr Zoran Matic  
Mr David Hill  
Mr Tony Vidmar  
Mr Tony Farrugia  
Mr John Gibson  
Mr Ned Zelic  
Mr Peter Dwyer

Commissioner, Australian Soccer Federation  
Senior Coach, Adelaide City Soccer Club  
Chairman, Australian Soccer Federation  
  
General Manager, SA Soccer Federation  
  
(by telephone from Germany)  
(legal counsel for Mr Ned Zelic)

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**Tuesday, 11 April 1995:** **Ground Floor Conference Room 3  
Legislative Council Committee Office  
Parliament of Western Australia  
Perth**

Ms Mary O'Connor  
Mr Stephen Owen-Conway, QC  
Mr Ennio Tavani  
Mr Adrian Kenyon  
Mr Roger Lefort

Patron, Perth Soccer Club  
President, Perth Soccer Club  
Managing Director, Troubadour Publications  
Chief Executive, Soccer Federation of WA

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**Wednesday, 17 May 1995:** **Jubilee Room  
Parliament House  
Sydney**

Mr Kimon Taliadoros  
Mr Osvaldo el Ali  
Mr Charles Zarb  
Mr Peter Bracher  
Sir Arthur George, AO

Chief Executive, Australian Soccer Players' Association

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**Thursday, 18 May 1995:**                    **Legislative Council Committee Room  
Parliament House  
Melbourne**

Mr Alfio Bulic  
Mr John Dimtsis  
Mr Michael Petersen  
Mr Gary Hasler  
Mr Paul Wade

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**Tuesday, 23 May 1995:**                    **Senate Committee Room 2S3  
Parliament House  
Canberra**

Mr Jerry Lissing  
Mr Phillip Harris  
Mr Denis O'Brien                            President, Australian Women's Soccer Association

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**Thursday, 25 May 1995**                    **Legislative Assembly Conference Room 814/815  
Parliament House  
Sydney**

Mr Anthony Labbozzetta                    President, Club Marconi  
Mr John Constantine  
Mr David Lee                                 Director of Coaching and High Performance Manager,  
Soccer NSW  
Mr Peter Raskopoulos

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**Friday, 26 May 1995:**                    **Legislative Assembly Conference Room 814/815  
Parliament House  
Sydney**

Mr Edward Thomson                         Australian National Soccer Coach  
Australian Soccer Federation



**Wednesday, 14 June 1995:**

**Commonwealth Parliament Offices  
70 Phillip Street  
Sydney**

Mr Les Scheinflug

Australian Assistant National Soccer Coach and  
National Youth Coach, Australian Soccer Federation

Dr Graham Bradley

Mr Rale Rasic

Mr Kimon Taliadoros

Chief Executive, Australian Soccer Players' Association

Mr Alberto Mariani

Mr David Hill

Chairman, Australian Soccer Federation

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**IN DEFENCE OF CIVIL LIBERTIES**

**Minority Report by Senators Carr, Reynolds and Wheelwright**



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## IN DEFENCE OF CIVIL LIBERTIES

### Minority Report by Senators Carr, Reynolds and Wheelwright

1.1 During the course of the Committee's inquiry, Government Senators have objected to its operations, on several grounds. There were concerns about any apparent conflict between the role of a Senator and any police investigation or judicial proceedings that might arise from the Stewart report. There were concerns that the Stewart report itself was dangerously flawed. Government Senators also took the view that, as the Stewart report was a report to the Australian Soccer Federation (ASF), it should have been left to the ASF to deal with.

1.2 With regard to the findings of the Stewart report, as the Chair of the Committee pointed out at the hearing in Adelaide on 7 April 1995, Mr Stewart himself, on page 17 of his report, said:

The conclusions to which I have come are not 'findings' in the judicial sense. They are expressions of my opinion, formed on the basis of the material before me with all its acknowledged deficiencies, and must be seen in the context of the nature of the Inquiry. They are conclusions about which reasonable and honest minds could well differ.

1.3 The witness on that occasion, Mr Farrugia, responded: "I would have loved to have seen that, when the report was released, on the front page of the *Age* and every other front page where this story appeared, with that rider by the media. But it did not appear."

1.4 The newly appointed Chairman of the ASF, Mr David Hill, commented on the findings of the Stewart report on 7 April 1995 as follows:

... if you ask me to comment on it, I think Stewart's conclusions far exceeded the evidence he presented. It may have been that he was privy—as you are—to in camera evidence or had material where the witnesses were not prepared to be identified, and so on. If you look at Stewart's report and the evidence, which he acknowledged was untested, and then the conclusions he has reached, I think Stewart has been excessive and unfair.

1.5 Mr Hill repeated this view when he gave evidence on 14 June 1995:

I must say, as a general point, that I think Stewart's recommendations in relation to individuals in virtually every single case exceeded the evidence that he presented—in every single case. I think, in that respect, Stewart's report is a shocker. When asked by Senator Loosley at the hearing on 24 March 1995 to comment on the recommendations of the Stewart report, ASF President, Mr Wran said: "I find it hard to find the evidence to justify the recommendation that Thomson's role as coach should be terminated".

1.6 During the course of the Committee's inquiry, the civil liberties of individuals were trampled on by a gross abuse of the processes of the Senate. Under Parliamentary privilege, accusations were made about a range of prominent Soccer figures without any firm evidence and based on hearsay. We note the evidence the Chairman of the ASF, Mr David Hill, gave on 7 April 1995:

The mud sticks in these things. Just because people have an axe to grind and have a version of events, I do not think that constitutes grounds for sacking a national coach. It is a very difficult question. You have it; and when you finish your report, we will have it. As well as making decisions in the best interests of soccer, I think we have to have significant regard for the rights of individuals who may have been wronged in this.... In the end, my Board colleagues and I will have to act in a way we think serves the best interests of soccer. I have some regard—as I am sure my Board colleagues do—for the integrity of evidence. Really, Senator, you would have to agree that there are people who have appeared before this Committee who have said the most outrageous things based on what they have heard... Or they have repeated some rumour they are familiar with. The people who have been branded have not been charged with any offence and have not had the opportunity to say anything.

1.7 The Opposition sought to sensationalise the inquiry in the media by encouraging witnesses to come forward and present unfounded allegations and malicious hearsay as evidence, resulting in further unnecessary public vilification of prominent Soccer people. Further evidence of this is the fact that while in the end the inquiry failed to support Stewart's findings against individuals, during its

conduct it enabled the unsupported allegations contained in the report to receive widespread public airing, but prevented individuals from seeking legal redress. The Committee was the vehicle by which those allegations could first be made: the defamations contained in the Stewart report itself gained legitimacy and legal impunity by the Committee's work. As Senator Carr pointed out to Mr Constantine at the hearing on 25 May 1995:

It is then put on to us that one should be grateful for the opportunity to respond to allegations. It strikes me that it is a bit like a drunk driver who knocks over a pedestrian at a crossing saying that you should be grateful that we are taking you to hospital.

1.8 Senator Wheelwright reinforced this point at the hearing on 14 June 1995:

I agree with what Mr Mariani has said that, had the Stewart report come out by other means, they would have had normal civil remedies against that. I think it is a great step for the Senate committee to make to decide that they are going to decide how people should get remedies and how they should be able to clear their name. It is a great step into an arena which I am personally nervous about...

1.9 There was continual mention made by witnesses during the course of the Committee's inquiry of possible commission of serious crimes by persons connected with soccer, including non payment of tax on significant international transfer fees; alleged bribes to ensure permanent residence status for soccer players from overseas; and financial improprieties relating to outstanding payments made to ASF Board members and staff. The Committee continued to allow itself to be used for the airing of these allegations, even though it was aware that evidence gathered by it during its inquiry may not be used in a court of law. The Clerk of the Senate gave advice that evidence before a Parliamentary committee could not be used in judicial proceedings and therefore, a committee's inquiry could make it difficult for law enforcement authorities to conduct successful investigations into the same matters. Defence counsel would obviously use the fact that a matter had been uncovered by a committee to obstruct prosecution. It was conceivable that a guilty party could intentionally raise a matter before a committee to evade subsequent conviction. Therefore there was a distinct possibility that the Committee's pursuit of its inquiry would impede inquiries into the same matters by law enforcement authorities, and subsequent judicial proceedings. Senator Carr voiced his concerns on these matters at the hearing on 25 May 1995:

I want to make it very clear that I am very concerned about the abuses of natural justice that are involved in this Committee. On the one hand, you have allegations being made willy-nilly that go to the very heart of people's integrity throughout this country. Ordinary citizens' civil liberties are being infringed in that way without regard to due evidence. On the other hand, there are allegations being made about criminal activity which, in themselves, if true, cannot be used in a court of law. We have a situation where, through the work of this Committee, the innocent are being slandered and the guilty are being protected. That is why I have argued that this Committee is not doing its job well and is not doing a service to the Senate. That is why I am concerned.

1.10 Government Senators also note the evidence given by the Chairman of the Victorian Soccer Federation, Mr Henry Siwka, on 4 April 1995:

... Going to the Senate was then a matter of course. That was predetermined before the thing was issued to the Chairman of the Australian Soccer Federation and the Board of Commissioners. I firmly believe that.... Stewart was a willing ally to all of that. I do believe that Justice Stewart always knew this was heading for the Senate. He did not have the mandate or the power to subpoena witnesses and to grant them immunity from any defamatory action. But I think that always was the case.

1.11 On 30 June 1994, the day after Mr Stewart had agreed to commence his hearings in Sydney, Senator Campbell gave notice that he would move for the referral to this Committee of an inquiry into "the role of national sporting coaches in the international transfer of Australian players, with particular reference to matters relating to player transfers in the sport of soccer and the involvement of the national soccer coach, Mr Thompson."

1.12 Senator Carr referred to this at the public hearing on 25 May 1995:

It raises the question about how these sorts of inquiries get started. It was said last year that proposals were made for a Senate inquiry before Mr Justice Stewart. It was also said in the evidence that members of the Senate have been engaging in a great deal of private inquiry on these matters. Then we had a situation emerge whereby Stewart's report was subpoenaed by this Committee—before I was a member of this Committee, I hasten to add.



1.13 The end result of the Committee's inquiry has been a report that has no sustainable evidence of impropriety to support Stewart's accusations, makes generalised recommendations of little use to the code, but has been responsible for the unfair airing of accusations against individuals whose reputations have subsequently been trampled on. During the course of this unnecessary inquiry, the ASF has undertaken, of its own volition, a major administrative reform process which has seen: a new Board and management team appointed, and an energetic new five year plan drawn up. The National Soccer Summit held in Melbourne during 19-21 May 1995 has been recognised as a successful initiative. Government members note the response of interim ASF Chairman, Mr John Dimtsis to a question put to him by Senator Carr at the hearing on 18 May 1995, when Senator Carr asked what recommendations the Committee should make to the Commonwealth Government to further improve the administration of Soccer:

.... I heard your question. I am not suggesting that the Commonwealth Government should be doing anything. I believe that we within the soccer administrative capacity should be putting our house in order. I do not think we should be waiting on governments to be putting our place in order; I think we should be doing that ourselves. We have got our independent inquiry—that is finished. The Senate inquiry—that has got to come to a conclusion. But in the meantime I think we are getting many areas of our game in order at the moment, including our administration and the player matters, the contracts. What we are dealing with is if there is any impropriety, that should be dealt with. I think you will be able to find a lot more than Stewart. Stewart has given his recommendations, but a lot of people found it difficult to act on those recommendations without concrete evidence.

1.14 Even if it is accepted that the Committee's inquiry achieved anything, Government Senators believe that it should have been closed down much earlier given the ASF reforms. The Committee and its staff are now faced with the enormous task of complying with the Senate's procedures which oblige committees to give all persons named adversely in evidence opportunity to respond to any adverse comment.

1.15 On the findings and recommendation made in the majority report of the Committee concerning Mr Anthony Labbozzetta, Government Senators are in strong disagreement. There was no clear evidence presented that would justify the findings of the majority report in regard to the Okon transfer. The evidence of Mr Mariani which the non-Government Senators have used as the basis of their findings is far from conclusive. The Senate is not a court of law (even less a Senate Committee) and the judicial rules of evidence are not applied in its proceedings. It is not appropriate for the Committee to take on a quasi-forensic role, or that its report make findings with regard to particular persons. In this context, it is unreasonable to make findings such as those in the majority report.