

The Senate

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Committee of Privileges

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Possible unauthorised disclosure of draft reports  
of Community Affairs References Committee

121<sup>st</sup> Report

March 2005

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Senator David Johnston (Western Australia)

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# POSSIBLE UNAUTHORISED DISCLOSURE OF DRAFT REPORTS OF COMMUNITY AFFAIRS REFERENCES COMMITTEE

## Introduction

### *Matter no. 1 – possible unauthorised disclosure of draft report on poverty and financial hardship*

1.1 On 12 May 2004, on the motion of Senator Ferris at the request of Senators Knowles and Humphries, the Senate referred the following matter to the Committee of Privileges for inquiry and report:

Whether there was an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship and whether any contempt was committed in that regard.<sup>1</sup>

## *Background*

1.2 On 27 February 2004, articles based on the draft report of the Community Affairs References Committee's inquiry into poverty and financial hardship appeared in *The Advertiser*, *Courier Mail*, *Herald Sun* and *Mercury*, a week prior to the scheduled tabling of the committee's report and before any consideration by the committee. All were by the same journalist, presumably syndicated, but there were some variations in the content of each.<sup>2</sup> One article led to an editorial, and another to a cartoon.<sup>3</sup>

1.3 Senators Knowles and Humphries, both members of the Community Affairs References Committee, wrote to the President of the Senate on 29 March 2004, advising that the disclosure of the draft report had caused potential or actual interference with the committee's work.

1.4 In their letter, Senators Knowles and Humphries stated:

We have come to the conclusion that the disclosure has caused potential or actual interference with the work of the Committee, including:

- Disclosure was a week in advance of scheduled tabling and prior to any consideration by the Committee;
- A breach of trust had occurred that could affect the working relationship of committee members;

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1 *Journals of the Senate*, 12 May 2004, p. 3363. Appendix A, p. 15.

2 Appendix A, pp. 18-21.

3 Appendix A, pp. 19-20.

- The now altered status of the draft report could affect the Committee’s deliberations and pressure Committee members to agree with draft recommendations as the media had referred to recommendations in the report implying they already had all party support;
- We had been compromised by comments in the articles;
- Disclosure had interfered with our work; and
- Disclosure breached confidentiality in an attempt to gain political advantage.<sup>4</sup>

1.5 Senators Knowles and Humphries acknowledged:

Other members did not consider that the disclosure had significantly interfered with how the Committee worked. The work of the Committee had not been influenced in any significant way – no aspect of the report had been redrafted or recommendations revised as a result of the disclosure and the confidentiality of submissions and other evidence had been retained.<sup>5</sup>

1.6 As a result, the matter of privilege was not raised by the Community Affairs Committee. The two senators, however, considered that the matter warranted being raised under standing order 81 because they “still believe[d] that there ha[d] been potential or actual interference with the work of the Committee”.<sup>6</sup>

1.7 The President gave precedence to the matter of privilege on 11 May 2004. While the President, in his statement, noted that the committee had investigated the matter in accordance with the order of the Senate of 20 June 1996 and had determined that the disclosure had not substantially harmed its proceedings, he reminded the Senate that the order does not prevent other senators raising the issue as a matter of privilege. Accordingly, he left it to the Senate to determine whether the matter should be taken further.<sup>7</sup> The matter was referred to the Committee of Privileges the following day.

***Matter no. 2 – possible unauthorised disclosure of draft report on Hepatitis C and blood supply***

1.8 On 24 June 2004, on the motion of Senator McLucas, Chair of the Community Affairs References Committee, the Senate also referred the following matter to the Committee of Privileges for inquiry and report:

Having regard to the letter dated 23 June 2004 from the Community Affairs References Committee to the President, whether there was an unauthorised

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4 Appendix A, p. 16.

5 Appendix A, p. 17.

6 *ibid.*

7 Appendix A, pp. 13-14.



disclosure of a draft report of that committee, and whether any contempt was committed in that regard.<sup>8</sup>

### ***Background***

1.9 On 12 June 2004, articles based on the draft report of the Community Affairs References Committee on its inquiry into Hepatitis C and blood supply appeared in the *Sydney Morning Herald* and *The Age*. As with the first matter, the articles were by the same journalist with variations as between the two newspapers.<sup>9</sup> An editorial based on the article also appeared in the *Sydney Morning Herald* on 14 June 2004.<sup>10</sup>

1.10 In this second matter, Senator McLucas wrote to the President on 23 June 2004 on behalf of the committee, advising that the unauthorised disclosure had caused potential or actual interference with the committee's work, including:

- Disclosure was a week in advance of scheduled tabling and prior to the draft report's consideration by the Committee;
- The draft report was reviewed and some sections revised after the disclosure; and
- A breach of trust had occurred that could affect the working relationship of committee members.<sup>11</sup>

1.11 The President, when giving the matter precedence, noted that the Community Affairs References Committee had investigated the matter in accordance with the order of the Senate of 20 June 1996.<sup>12</sup>

1.12 The President's statements in relation to both matters are included at Appendices A and B to this report.<sup>13</sup>

### **Conduct of inquiries**

1.13 After having sought information from the Community Affairs Committee members at the relevant time, and given that the two references before the Committee of Privileges involved the same committee and the same subject matter, that is, possible unauthorised disclosure of draft reports, the Committee of Privileges decided to deal with both references together. The two members of the Community Affairs Committee, Senators Knowles and Humphries, who raised the first matter and who participated in the decision to raise the second matter with the President, are also

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8 *Journals of the Senate*, 24 & 25 June 2004, p. 3699, Appendix B, p. 34.

9 Appendix B, pp. 36-37.

10 Appendix B, p. 38.

11 Appendix B, p. 35.

12 Standing Orders and other Orders of the Senate, November 2004, p. 120.

13 Appendix A, pp. 13-14; Appendix B, p. 33.

members of the Committee of Privileges. They received no private documents, and did not participate in any of the proceedings, of the Committee of Privileges in respect of these two matters.

1.14 In accordance with normal procedures, the Committee of Privileges wrote to all members and the secretary of the Community Affairs Committee seeking information.<sup>14</sup> The membership of the Community Affairs Committee was the same in respect of each inquiry, although the chair had changed from Senator Hutchins to Senator McLucas. All six members replied. None admitted to disclosing either of the draft reports; nor did they indicate any knowledge of who might have done so. The secretary of the committee denied, on behalf of himself and his staff, that they had revealed without authority the content of either of the draft reports.

1.15 As indicated above at paragraphs 1.5-7, in the first case there was a division within the Community Affairs Committee before the matter was referred to the Committee of Privileges as to whether its proceedings were significantly affected as a result of the premature publication of a draft report. A majority of that committee concluded that there had been no substantial adverse effect. Two members, however, took the opposite view. It is no coincidence that they are members of the Committee of Privileges, one of whom in particular has had extensive experience in general committee work, is a long-standing member of the Committee of Privileges, and is well aware of the changes in committee operations that can develop as a result of the betrayal of trust implicit in leaking. The other has had extensive experience in another legislature.

1.16 The second matter was referred as a result of actions by the Community Affairs Committee as a whole. In the letter to the President seeking precedence for a matter of privilege, the chair of the committee indicated that the disclosure had caused potential or actual interference with its work. When asked explicitly by the Committee of Privileges whether any interference, actual or potential, was substantial, however, individual members of the Community Affairs Committee varied in their responses. While acknowledging that interference had indeed occurred, some members appear not to have regarded it as substantial.

1.17 The responses in respect of both references are included at Appendices A and B to this report.<sup>15</sup> The committee was considerably assisted in its deliberations on the general matter of unauthorised disclosure by these thoughtful responses.

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14 Appendix A, pp. 22-23; Appendix B, pp. 39-40.

15 Appendix A, pp. 24-29; Appendix B, pp. 41-51.

## Comment

### *Previous matters*

1.18 The two matters referred to the Committee of Privileges illustrate well the problems this committee has recently encountered in dealing with matters of unauthorised disclosure of draft reports. When considering these references, and also the reference the subject of the 120<sup>th</sup> report,<sup>16</sup> Privileges Committee members reviewed previous matters of unauthorised disclosure, and views that the committee had expressed in its 74<sup>th</sup> report<sup>17</sup> which dealt with a spate of unauthorised disclosures. That report made it clear as to how severely the committee intended to approach all future matters of this nature.

1.19 In succeeding reports the committee did have some success in making definitive findings on matters of unauthorised disclosure. However, in a case involving the chair and members of the Environment, Communications, Information Technology and the Arts (ECITA) Legislation Committee, discussed in the Privileges Committee's 112<sup>th</sup> report,<sup>18</sup> the Committee of Privileges encountered a problem which has again occurred in respect of the reference on which the committee most recently reported<sup>19</sup> and the two references concerning the Community Affairs Committee.

1.20 In the ECITA Committee case, even though the procedures recommended by this committee in 1996 had been followed, the chair found himself alone at a public hearing in arguing, in this committee's view persuasively, that, under the rules regarding contempt as understood till that time, substantial interference with the proceedings of the ECITA Committee had occurred through the unauthorised disclosure of a draft report. Other members, when pressed at the public hearing, concluded that no substantial actual or potential interference had occurred, although most had participated in the ECITA Committee's decision to raise the matter. Again, and also not coincidentally, the chair of the ECITA Committee had been a long-standing member of the Privileges Committee.

1.21 In the 120<sup>th</sup> report, the committee noted that no members of the Select Committee on the Free Trade Agreement between Australia and the United States of America believed that any substantial interference had occurred – a conclusion with which, for reasons outlined in that report, this committee concurred.

### *Present matters*

1.22 In the two cases the subject of this report, there was a significant variation in Community Affairs Committee members' perception about the effects of the

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16 Senate Committee of Privileges, 120<sup>th</sup> report, PP 52/2005.

17 Senate Committee of Privileges, 74<sup>th</sup> report, PP 180/98.

18 Senate Committee of Privileges, 112<sup>th</sup> report, PP 11/2003.

19 Senate Committee of Privileges, 120<sup>th</sup> report, PP 52/2005.

unauthorised disclosure on the operations of that committee, both before and after the matters were referred by the Senate. What is important to this committee in dealing with matters of unauthorised disclosure is to receive evidence from persons or committees who raise a matter of privilege of this nature as to whether the operations of the relevant committee have been substantially interfered with as a result of the unauthorised disclosure. A feature of both matters was that the initial letters raising them for the President's consideration did not address the question whether the potential or actual interference with the work of the committee had been substantial.

1.23 It may be noted that the terms of the Procedural Order of the Senate of 20 June 1996 which enjoins other committees to determine whether unauthorised disclosure should be raised as a matter of privilege includes at paragraphs (b) and (c) the word "substantial" before "interference".<sup>20</sup> It is for this reason, and also the reason that in order to find contempt the Committee of Privileges must itself judge whether substantial obstruction has (potentially) occurred, that the committee has sought declarations or clarifications from members of the relevant committee as to whether they regard any identified interference as substantial.

1.24 As indicated, the responses by committee members when pressed by the Committee of Privileges have varied. If there is no unanimity of view by the members of a committee even when that committee as a whole has raised a matter of privilege, it is difficult for this committee to see how the threshold test of substantial interference can be reached. The Committee of Privileges is entitled to make findings from its own knowledge and experience that a strict liability offence has occurred, and there is a strong argument to suggest that any deliberate unauthorised disclosure intrinsically constitutes substantial interference with the operations of any committee, because of the betrayal of trust necessarily involved. Ever since the passage of the Parliamentary Privileges Act and the Senate privilege resolutions, however, the committee has declined to do so. It sees no reason to change its approach in respect of the present matters. Consequently, the Committee of Privileges has decided not to take the matters further, either by the futile process of seeking information from the media or through public hearings to seek denials from those involved. It may be noted that the committee reached similar conclusions in respect of the 120<sup>th</sup> report, which was tabled on 8 March 2005.

### *Consideration of unauthorised disclosures as contempts*

1.25 The question of "substantial interference" has dominated the Privileges Committee's consideration of the present matters. This has led the committee to examine whether it should change its approach to handling such matters.

1.26 The committee has always – and with good reason – made the assumption, however distasteful, that deliberate unauthorised disclosure is usually made by or on behalf of parliamentary committee members themselves. Having by its

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20 Standing Orders and other Orders of the Senate, November 2004, p. 120.

recommendations in 1996 made other committees initially responsible for establishing whether their own proceedings are significantly adversely affected by unauthorised disclosures, the Committee of Privileges has now decided to give consideration to the question whether dealing with matters such as the leaking of draft reports or private committee deliberations should involve questions of contempt at all, but rather should be treated as matters going to the internal operations of parliamentary committees, to be dealt with as disciplinary matters within the committees themselves. It should be reasonable to expect that elected members have the maturity to take their responsibilities seriously, without the need for any sanction or potential punishment.

1.27 As previously expounded in its 112<sup>th</sup> report,<sup>21</sup> one sanction available to the Committee of Privileges is to hold a public hearing under which a culprit can either confess to having leaked or, alternatively, to lie under oath – a dangerous position to be in when at least one other person knows that that person has lied. While there is some attraction in discomfiting renegade committee members through the requirement that they deny on oath that they have revealed information, the advantages of doing so are outweighed by the disadvantages.

1.28 The more irresponsible committee members will continue to leak, regardless of any sanctions, safe in the knowledge that journalists will not reveal their sources. For the journalists concerned, once the apparent frisson of excitement which comes from being party to a leak and the subject of potential contempt charges disappears, the level of interest in a story is likely concomitantly to diminish. As the committee has had cause to observe in previous reports, frequently the only element of certain reports which makes them newsworthy is the fact that conclusions or recommendations are leaked.

### ***Possible changes to legislative and procedural provisions relating to privilege***

1.29 The committee acknowledges the difficulty in finding leakers of draft reports and the like. This is not unusual in dealing with such matters. After all, if governments, with so many law enforcement resources at their disposal, have a similar level of failure in discovering leakers, a parliamentary committee, with limited resources other than an expectation that people will tell the truth, cannot be expected to do so.

1.30 In any case, the committee has always taken the view that its most important function is to protect witnesses giving information to each House of Parliament and their committees. That this is the general view of the Parliament is acknowledged through the provisions in the *Parliamentary Privileges Act 1987* that separately specify that intimidation of witnesses and unauthorised disclosure of in camera evidence may be prosecuted in the courts as criminal offences.<sup>22</sup>

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21 Senate Committee of Privileges, 112<sup>th</sup> report, PP 11/2003, p.a. paragraph 1.26..

22 Sections 12 and 13.

1.31 All other matters which may be treated as possible contempts under resolutions of the Senate are covered by the following general provision in section 4 of the Act:

**Essential element of offences**

4. Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

1.32 The question of unauthorised disclosure requires far more wide-ranging consideration than the Committee of Privileges contemplated when it received these two references, together with the reference involving the Senate Select Committee on the Free Trade Agreement. It was only when the committee was deliberating again on the meaning of "substantial" in respect of the present two references that it directed its attention to a possible change of attitude to matters of unauthorised disclosure.

1.33 As indicated at paragraph 1.13, both Senator Knowles and Senator Humphries were enforcedly absent when the committee was considering the matters. If the more broad-ranging approach the committee is considering is to be contemplated, possibly involving changes to legislative and procedural provisions relating to privilege, the committee considers that a full complement of its members is required to examine the ramifications. The Committee of Privileges has therefore decided that it should make a further report on the question of unauthorised disclosure as a separate reference, following completion of its consideration of the three matters most recently before it. In the meantime, the committee has requested and received information, via the Clerk of the Senate, from many legislatures throughout the world on their current practices. The responses will be evaluated and compiled into a research document, which the committee intends to publish as part of its deliberations on the general question of unauthorised disclosure.

## **Conclusion**

1.34 The committee as at present constituted is of a mind to make a radical recommendation in respect of improper unauthorised disclosure of parliamentary committee reports and proceedings but wishes to discuss the matter in greater detail once the full membership of the committee is available to do so. The committee considers that in the meantime it would be unfair to members of the Community Affairs References Committee to make a generalised finding of contempt. This would be a slur on all members without further investigations or without acting against the publishers of the draft – a reversal of the concerns which the committee has had in the past about making a finding against, and penalising, the receivers of stolen goods rather than their purveyors.

1.35 In order to give effect to the committee's intentions, it proposes to give a notice of motion in the following terms:

That the following matter be referred to the Committee of Privileges for inquiry and report on or before 15 June 2005:

Whether, and if so what, acts of unauthorised disclosure of parliamentary committee proceedings, evidence or draft reports should continue to be included among prohibited acts which may be treated by the Senate as contempts.

## **FINDINGS**

1.36 The Committee of Privileges makes the following findings:

- (1) That there was an unauthorised disclosure of each of two draft reports of the Senate Community Affairs References Committee;
- (2) That the Committee of Privileges has been unable to discover, following denials by members of the Community Affairs References Committee – the most likely sources of the unauthorised disclosures – and committee staff, who improperly disclosed details of the draft reports;
- (3) That the Committee of Privileges would be unlikely to discover the source of the unauthorised disclosures, even if it were to pursue the matter further;
- (4) That the unauthorised disclosures are likely to have been deliberate;
- (5) That, under the current interpretation of acts which may constitute contempts of the Senate, and notwithstanding the views of some members of the Community Affairs References Committee, prima facie the unauthorised disclosures were serious, and had a tendency substantially to interfere with the work of that committee in that:
  - (i) the unauthorised disclosure of both draft reports occurred before the committee had had the opportunity to consider them;
  - (ii) consequently, deliberations were or could have been influenced, and conclusions changed, as a result of the unauthorised disclosure; and
  - (iii) the relationship of trust which underpins successful committee inquiries has been seriously undermined if not destroyed as a result of these two disclosures.
- (6) That, while it would be open to the Committee of Privileges to find that a contempt of the Senate has been committed by persons unknown and by the publication of the draft reports, it declines to do so for reasons reflected in the conclusion at paragraph 1.34

John Faulkner  
**Chair**





## APPENDIX A

DOCUMENT	PAGE(S)
Extract from Senate Hansard, 11 May 2004, pp. 22765-6, Statement by Mr President	13-14
Extract from <i>Journals of the Senate</i> No. 145, 12 May 2004	15
<p>Tabled paper — Letter to Senator the Hon. Paul Calvert, President of the Senate, dated 29 March 2004, from Senators Sue Knowles and Gary Humphries</p> <p>Attachments:</p> <ul style="list-style-type: none"> <li>• Extract from <i>The Adelaide Advertiser</i>, 27 February 2004</li> <li>• Extract from <i>The Courier Mail</i>, 27 February 2004</li> <li>• Extract from <i>The Herald Sun</i>, 27 February 2004</li> <li>• Extract from <i>The Hobart Mercury</i>, 27 February 2004</li> </ul>	<p>16-17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p>
Letter, dated 13 May 2004, from Committee of Privileges	22-23
Letter, received 24 May 2004, from Senator Jan McLucas	24
Letter, dated 19 May 2004, from Senator Sue Knowles	25
Letter, dated 25 May 2004, from Senator Steve Hutchins	26
Letter, received 2 June 2004, from Senator Gary Humphries	27
Letter, received 15 June 2004, from Senator Claire Moore	28
Letter, dated 16 June 2004, from Senator Meg Lees	29



**PRIVILEGE**

**The PRESIDENT** (3.33 p.m.)—Senators Knowles and Humphries, by letter dated 29 March 2004, have raised a matter of privilege under standing order 81, and asked that I determine the matter in accordance with that standing order. The matter is the unauthorised disclosure of the draft report of the Community Affairs References Committee in its inquiry into poverty. There is no doubt that there was an unauthorised disclosure of the draft report of the committee. The four press reports referred to by the senators each state that a draft report was seen or obtained by the newspaper concerned.

The resolution of the Senate of 20 June 1996 requires that committees which are affected by unauthorised disclosures of their documents follow the following procedures: (a) the committee shall seek to discover the source of the disclosure, including by the chair of the committee writing to all members and staff asking them if they can explain the disclosure; (b) the committee should come to a conclusion as to whether the disclosure had a tendency substantially to interfere with the work of the committee or of the Senate, or actually caused substantial interference; and (c) if the committee concludes that there has been potential or actual substantial interference, it shall report to the Senate and the matter may be raised with the President by the chair of the committee in accordance with standing order 81.

It appears from the information provided by Senators Knowles and Humphries that the

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CHAMBER

committee has followed these steps and that the majority of the members of the committee have concluded that the disclosure did not interfere with the work of the committee. On this basis, the committee has not made a report under paragraph (c). Senators Knowles and Humphries, in effect, dissent from this conclusion of the committee and the committee's decision not to raise a matter of privilege. The order of the Senate makes it clear that it does not prevent a senator raising a matter of privilege under standing order 81. Senators Knowles and Humphries have the right to raise the matter of privilege in spite of the committee's decision.

In determining whether a motion to refer a matter to the privileges committee should have precedence, I am required to have regard to the following criteria: (a) the principle that the Senate's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Senate and its committees and for senators against improper acts tending substantially to obstruct them in the performance of their functions, and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Senate; and (b) the existence of any remedy other than that power for any act which may be held to be a contempt.

The question which arises is whether the fact that a committee has concluded that its work was not interfered with, and that it should not raise a matter of privilege, means that the matter does not meet criterion (a). I do not think that this conclusion should be drawn. Criterion (a) in effect requires me to consider the seriousness of the matter. The seriousness of the matter, as described in that criterion, is not affected by a decision by a committee that an unauthorised disclosure has not substantially interfered with its work. It is open to the Senate to take the view that

the matter is serious regardless of that conclusion by the committee.

I therefore consider that the appropriate course is for me to give the matter precedence and leave it to the Senate to determine whether the matter should be referred to the privileges committee. The Senate may then determine what weight it should give to the conclusion of the committee that the committee's work was not interfered with. It will then be for the Senate to determine whether that conclusion should lead the Senate to refrain from any further inquiry, through the privileges committee, into the matter. I table the letter from Senators Knowles and Humphries, who may now give notice of a motion.

**Senator FERRIS** (South Australia) (3.37 p.m.)—At the request of Senator Knowles and Senator Humphries, I give notice that, on the next day of sitting, they will move:

That the following matter be referred to the Committee of Privileges:

Whether there was an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship and whether any contempt was committed in that regard.

2002-04

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## JOURNALS OF THE SENATE

No. 145

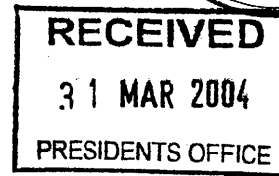
WEDNESDAY, 12 MAY 2004

### 20 PRIVILEGES—STANDING COMMITTEE—REFERENCE

Senator Ferris, at the request of Senators Knowles and Humphries and pursuant to notice of motion not objected to as a formal motion, moved matter of privilege notice of motion no. 1—That the following matter be referred to the Committee of Privileges:

Whether there was an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship and whether any contempt was committed in that regard.

Question put and passed.



29 March 2004

Senator the Hon Paul Calvert  
President of the Senate  
Parliament House  
Canberra ACT 2600

Dear Mr President

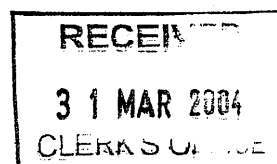
We write to raise a matter of privilege in accordance with Standing Order 81.

On 27 February 2004 articles based on the draft report of the Committee's inquiry into poverty and financial hardship appeared in *The Advertiser*, *Courier Mail*, *Herald Sun* and *Mercury*. Copies of the articles are attached.

In accordance with the procedures contained in the continuing order of the Senate relating to 'Unauthorised disclosure of committee proceedings, documents or evidence', we asked (and he eventually agreed) that the Chairman write to all members and staff asking them if they can explain the disclosure. This did not disclose the source of the leak.

We have come to the conclusion that the disclosure has caused potential or actual interference with the work of the Committee, including:

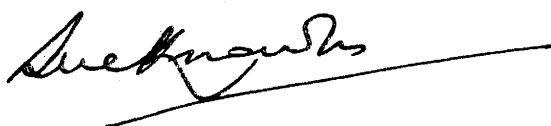
- Disclosure was a week in advance of scheduled tabling and prior to any consideration by the Committee;
- A breach of trust had occurred that could affect the working relationship of committee members;
- The now altered status of the draft report could affect the Committee's deliberations and pressure Committee members to agree with draft recommendations as the media had referred to recommendations in the report implying they already had all party support;
- We had been compromised by comments in the articles.
- Disclosure had interfered with our work; and
- Disclosure breached confidentiality in an attempt to gain political advantage.




Other members did not consider that the disclosure had significantly interfered with how the Committee worked. The work of the Committee had not been influenced in any significant way – no aspect of the report had been redrafted or recommendations revised as a result of the disclosure, and the confidentiality of submissions and other evidence had been retained.

We still believe that there has been potential or actual interference with the work of the Committee. We therefore raise the unauthorised disclosure with you for consideration and determination in accordance with Standing Order 81.

Yours sincerely



**SUE KNOWLES**  
**SENATOR FOR WESTERN AUSTRALIA**



**GARY HUMPHRIES**  
**SENATOR FOR ACT**



Advertiser (Adelaide) Friday 27/2/2004  
General News Page 7  
Circulation: 214,477  
Size: 522.48 sq.cms.

# Fight against poverty targets credit sector

By LUKE McILVEEN  
in Canberra

A CRACKDOWN on the credit industry and a national taskforce to combat poverty are the main recommendations of a ground-breaking Senate inquiry into the causes of financial hardship.

The inquiry will next week recommend the creation of a new department to tackle poverty and report directly to Prime Minister John Howard.

It has taken evidence from charities, community groups and workers nationwide for the past 12 months.

A draft report obtained by *The Advertiser*, shows dishonest credit agencies will be one major target of the Senate Community Affairs References Committee.

It also recommends:

**FUNDING** schools to provide disadvantaged children with a proper breakfast.

**MAKING** it easier for young

adults to receive the Youth Allowance.

**GIVING** university students rent assistance as well as Austudy payments.

The report calls on credit providers to reveal such tricks of the trade as hassle-free loans with massive interest rates and fees attached.

Lenders could also be forced to include a warning on the loan offer if the loan is an "unusually expensive" form of credit.

One recommendation wants credit agencies to be forced to present all loan schemes in "plain English" and prohibited from accepting essential household goods as security.

The national credit card debt continues to spiral and now stands at \$26.4 billion.

The Reserve Bank says Australians put \$1 billion on plastic to get through last Christmas alone and the average card is now \$2377 in the red.

Pawnbrokers also would come in for greater scrutiny, with a

Ministerial Council on Pawnbroking to be recommended by the committee.

An overhaul of the youth welfare system is also discussed in the 450-page report. Where young adults must be 25 to be classified as "independent" by the state - and therefore eligible for welfare support - the committee demands that the age be lowered to 21.

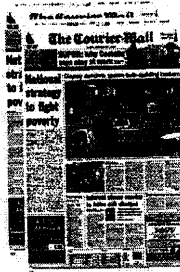
If implemented, the report would be good news for university students, who could be allowed to claim rent assistance while getting Austudy benefits.

The Federal Government will not be compelled to adopt all of the 97 recommendations, but the inclusion of two Liberal senators on the six-person panel will put pressure on the Prime Minister to address several of the issues in the lead-up to the federal election.



REALLY DIFFICULT: Andrew Timms with son Dion and dog Tara at their Angie Park home yesterday





Courier Mail Friday 27/2/2004  
General News Page 1  
Circulation: 216,729  
Size: 304.09 sq.cms.

## National strategy to fight poverty

Luke McIlveen

A CRACKDOWN on the credit industry and a national taskforce to combat poverty are key recommendations of a groundbreaking Senate inquiry into causes of financial hardship.

The inquiry next week will recommend that the Federal Government create a new department charged with tackling poverty and reporting directly to the Prime Minister.

In its draft report, obtained by *The Courier-Mail*, the Senate Community Affairs References Committee targets dishonest credit agencies.

It wants to expose credit tricks of the trade such as "hassle-free" loans carrying massive interest rates and fees.

Agencies may be forced to present all loan schemes in "plain English", to warn clients if they are offering an "unusually expensive" form of credit, and they may be prohibited from accepting essential household goods as security.

Pawnbrokers would also come in for greater scrutiny from a proposed Ministerial Council on Pawnbroking.

As well, the report recommends:

- Funding schools to provide disadvantaged children with a proper breakfast.
- Making it easier for young adults to receive the Youth Allowance.
- Giving university students rent assistance as well as Austudy.

The Senate inquiry received submissions from charities, community groups and ordinary workers around the country over the last year.

Its 450-page report also discusses an overhaul of the youth welfare system, including lowering the age from 25 to 21 for full-time students to be classified as

"independent" and therefore eligible for support

The Federal Government will not be compelled to adopt all of the 97 recommendations, but the inclusion of two Liberal senators on the six-strong committee will put pressure on Prime Minister John Howard to address several of the issues in the lead-up to the federal election.

The report found that women were more likely to fall into poverty. The poorest families tended to be single women with two or more children.

The report also blamed the increase of casual work for a new generation of working poor.

The Federal Government has been accused of hiding true unemployment by failing to take into account those forced out of full-time and into part-time work.

The blueprint for tackling financial hardship was taken from a similar experiment in Ireland, where a government agency ensured that families and the elderly do not fall below an official poverty line.

Queensland Unitingcare Centre for Social Justice director Noel Preston said he also expected to see recommendations relating to health and affordable housing.

Dr Preston said the recommendations had to be translated into manageable policies if they had any chance of success.

"It is absolutely vital for the wellbeing of our society that we show even greater commitment to a crusade against the cancer of poverty in our society," he said.

"If that requires dedicating and reconstructing public sector resources, such as in a new department, then that is to be welcomed.

"My worry is that because it's such a huge shopping list that both government and the public at large will sort of recoil in apathy."

Leahy's view, Page 20



**Herald Sun (Melbourne) Friday 27/2/2004**  
**General News Page 15**  
Circulation: 556,000  
Size: 190.79 sq.cms.

# Credit industry shake-up sought

**Luke McIlveen**

A CRACKDOWN on the credit industry and a national taskforce to fight poverty are the main recommendations of a Senate inquiry into the causes of financial hardship.

According to a draft report, seen by the *Herald Sun*, dishonest credit agencies will be a big target of the Senate Community Affairs References Committee.

It also recommends:

**FUNDING** schools to provide disadvantaged children with a proper breakfast.

**MAKING** it easier for young adults to get a Youth Allowance.

**GIVING** university students rent assistance as well as Austudy.

The national credit card debt continues to climb and stands at \$26.4 billion.

According to the Reserve Bank, Australians put \$1 billion on plastic to get through last Christmas alone, and the average card is \$2377 in the red.

The report calls on credit providers to reveal tricks of the trade, such as hassle-free loans

with huge interest rates and fees attached.

Lenders could also be forced to include a warning on the loan offer if the loan was an unusually expensive form of credit.

Under the recommendations, credit agencies would be forced to present all loan schemes in "plain English" and prohibited from accepting essential household goods as security.

Pawnbrokers would also come in for greater scrutiny; a ministerial council on pawnbroking is to be recommended.

The inquiry will next week recommend a new department to tackle poverty, reporting directly to the Prime Minister.

The inquiry has taken evidence from charities, community groups and ordinary workers around the country for the past 12 months.

An overhaul of the youth welfare system is also discussed in the 450-page report.

Where young adults must be 25 to be classified as "independent" by the state — and therefore eligible for welfare support

— the committee demands that the age be lowered to 21.

The Federal Government will not be compelled to adopt all 97 recommendations, but the inclusion of two Liberal senators on the six-man inquiry will put pressure on Prime Minister John Howard to address several of the issues in the lead-up to the federal election.

The report found that women were more likely to fall into the poverty trap because in most cases they were expected to put work before raising children.

The poorest families tended to be single women with two or more children.

The report also blamed the increase in casual work for the new generation of working poor.

The blueprint for tackling financial hardship was taken from a similar experiment in Ireland, where a government poverty agency ensures that families and the elderly do not fall below an official poverty line.

**Editorial, Page 20**



Mercury (Hobart) Friday 27/2/2004  
General News Page 18  
Circulation: 51,969  
Size: 534.24 sq.cms.

# Poverty taskforce names its targets

An inquiry is expected to urge big changes. **LUKE McILVEEN** in Canberra reports

**A** CRACKDOWN on the credit industry and a national taskforce to combat poverty are the main recommendations of a ground-breaking Senate inquiry into the causes of financial hardship.

The inquiry will next week recommend a new department to tackle poverty, which would report directly to the Prime Minister.

It has taken evidence from charities, community groups and ordinary workers around the country for the past 12 months.

A draft report obtained by News Limited says dishonest credit agencies will be one of the big targets of the Senate Community Affairs References Committee.

It also recommends:

- Funding schools to provide disadvantaged children with a proper breakfast.
- Making it easier for young adults to get the Youth Allowance.
- Giving university students rent assistance as well as Austudy.

The report calls on credit providers to reveal tricks of the trade, such as hassle-free loans with massive interest rates and fees attached.

Lenders could also be forced to include a warning on the loan offer if the loan is an "unusually expensive" form of credit.

Under the report's recommendations, credit agencies would be forced to present all loan schemes in "plain English" and be prohibited from accepting essential household goods as security.

The national credit card debt continues to spiral and now stands at \$26.4 billion.

The Reserve Bank says Australians put \$1 billion on plastic to get through last Christmas alone and the average card is now \$2377 in the red.

Pawnbrokers would also

come in for greater scrutiny, with a Ministerial Council on Pawnbroking to be recommended by the committee.

An overhaul of the youth welfare system is also discussed in the 450-page report. Where young adults must be 25 to be classified as "independent" by the state, and therefore eligible for welfare, the committee demands the age be lowered to 21.

If implemented, the report would also be good news for university students, who could be allowed to claim rent assistance while receiving Austudy benefits.

Improving child nutrition by providing funding for free breakfasts in schools in disadvantaged areas is another of the committee's recommendations.

The Federal Government will not be compelled to adopt all of the 97 recommendations, but the inclusion of two Liberal senators on the six-person committee will put pressure on Prime Minister John Howard to address several of the issues in the leadup to the federal election.

The report found that wom-

en were more likely to fall into the poverty trap because they were expected to put work before raising children in most cases. The poorest families tended to be single women with two or more children.

The report also blamed the increase of casual work for the new generation of working poor. The Federal Government has been accused of hiding true unemployment statistics by failing to take into account those forced out of full-time and into part-time and casual work.

Treasurer Peter Costello, who this week encouraged older Australians to work longer, has held up the seemingly low unemployment level — just under 6 per cent — as one of the Howard Government's big achievements.

The blueprint for tackling financial hardship was taken from a similar experiment in Ireland, where a government poverty agency ensures that families and the elderly do not fall below an official poverty line.



AUSTRALIAN SENATE  
CANBERRA ACT

**COMMITTEE OF PRIVILEGES**

PARLIAMENT HOUSE  
CANBERRA ACT 2600  
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FAX: (02) 6277 3199  
EMAIL: Priv.sen@aph.gov.au

13 May 2004

**PERSONAL AND CONFIDENTIAL**

Senator Jan McLucas  
Chair  
Community Affairs References Committee  
The Senate  
Parliament House  
CANBERRA ACT 2600

**similar letter to all members of the committee**

Dear Senator McLucas

As you may know, the Committee of Privileges received the following reference on 12 May 2004:

Whether there was an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship and whether any contempt was committed in that regard.

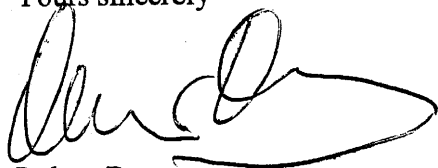
For the purpose of its inquiry, the committee decided at a recent meeting to seek information from members and relevant participating members of the Community Affairs References Committee at the time. Accordingly, the committee would appreciate a written response from you to the following questions:

- Can you confirm that you did not disclose to any person, not authorised by the committee to receive it, a copy of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship?
- Do you have any knowledge or evidence of who may have disclosed a copy of the draft report to any person not authorised by the committee to receive it?
- In your assessment, did the unauthorised disclosure of the draft report amount to an act tending substantially to interfere with the work of the committee, or actually causing substantial interference, either at the time of the unauthorised disclosure or subsequently?

In your response to the third question the committee would appreciate your reasons for the assessment, including examples, if possible, of actual or potential interference with the committee's work.

The committee would appreciate your response as soon as possible, but in any case no later than 11 June 2004. It should be addressed to the secretariat at the above address. While any comments are confidential until the committee authorises their release, it normally assumes that they will be made public at an appropriate stage of an inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert Ray', written in a cursive style.

Robert Ray  
**Chair**



## SENATOR JAN McLUCAS

Labor Senator for Queensland



Senator Robert Ray  
Chair  
Committee of Privileges  
The Senate  
Parliament House  
CANBERRA ACT 2600

Dear Senator Ray *Robert*

Thank you for your letter of 13 May 2004 regarding the recent reference to the Committee of Privileges.

I can confirm that I did not disclose to any person a copy of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship.

I have no knowledge or evidence of who may have disclosed a copy of the draft report to any person.

It is my view that whilst it is clear the disclosure of the Draft Report did occur, the publication of the articles did not interfere with the work of the Committee, then or subsequently. No aspect of the report was redrafted nor did recommendations change as a result of the publication of the news items. Confidentiality of submissions and other evidence was retained.

I hope this assists with your inquiry. If you have any further questions please do not hesitate to contact me.

Yours sincerely

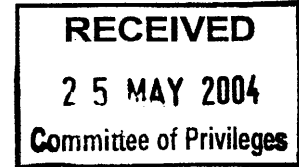
*Jan McLucas*

**Jan McLucas**  
**LABOR SENATOR FOR QUEENSLAND**



PARLIAMENT OF AUSTRALIA • **THE SENATE**  
**OFFICE OF SENATOR SUE KNOWLES**  
LIBERAL SENATOR FOR WESTERN AUSTRALIA

19<sup>th</sup> May 2004



Senator the Hon Robert Ray  
Chairman  
Committee of Privileges  
Parliament House  
CANBERRA ACT 2600

Dear Robert,

Thank you for your letter of 13 May 2004 in which you refer to the unauthorised disclosure of the Draft Report of the Community Affairs References Committee.

Yes, I am aware of the reference because it was Senator Humphries and I who referred the matter.

I considered it an extremely blatant and deliberate leak of the Draft and one that should properly be investigated by your committee.

I do not know who leaked the Draft as I most certainly did not and my staff had not had access to the material prior to the newspaper articles appearing.

The comprehensive leak occurred prior to the committee's initial consideration of the Draft and, as such, it clearly (in my opinion) impacted on the deliberations of the committee. Secondly, I viewed it as a deliberate intention to intimidate government senators into agreeing to a certain course of action. Thirdly, such a leak could hardly be 'accidental' as the journalist/s had obviously been provided with a very detailed account of one side of the committee's deliberations. Fourthly, it left me in no doubt whatsoever that there was no room for or intention of negotiation on the findings of the inquiry or the subsequent recommendations.

I wish you well in the committee's attempt to find the person or persons who have committed such a blatant breach of Parliamentary Privilege.

Yours sincerely,

**SUE KNOWLES**  
**SENATOR FOR WESTERN AUSTRALIA**



PARLIAMENT OF AUSTRALIA • THE SENATE

**SENATOR STEPHEN HUTCHINS**  
*SENATOR FOR NEW SOUTH WALES*

Secretary  
**Committee of Privileges**  
The Senate  
Parliament House  
Canberra ACT 2600  
AUSTRALIA

Dear Secretary,

I am writing regarding the Committee of Privileges reference of 12 May 2004 and its subsequent correspondence of 13 May 2004 regarding the possible disclosure of the Community Affairs References Committee's draft report into poverty and financial hardship.

I shall address the three areas in which the committee desires a response in turn:

I can confirm that I did not disclose to any person, not authorised by the committee to receive it, a copy of the draft report in question.

I can also state that I do not have any knowledge of who may have disclosed a copy of the draft report to any person not authorised by the committee to receive it.

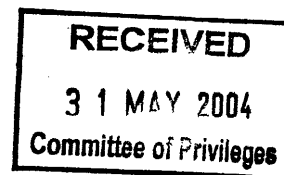
Furthermore, the possible unauthorised disclosure of the report in the period preceding the tabling of the report did not substantially or otherwise interfere with the work of the committee and did not impair or effect the recommendations, minority report or any other aspect of the report or inquiry.

Thank you for your consideration of this matter.

Yours sincerely,

**Senator Stephen Hutchins**  
**Senator for New South Wales**

*Tuesday 25 May 2004*





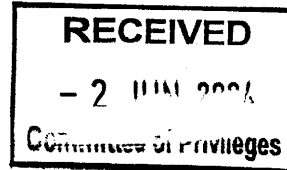


# Gary Humphries

Senator for the ACT

Shop B12 Canberra Centre Bunda Street Canberra ACT 2601  
Tel: (02) 6247 6444 Fax: (02) 6257 4140  
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email: senator.humphries@aph.gov.au

Senator Robert Ray  
Chair  
Committee of Privileges  
Parliament House  
CANBERRA ACT 2600



Dear Senator Ray,

Thank you for your letter of 13 May 2004 concerning the reference to the Committee of Privileges of 12 May 2004.

My response to the questions you ask is as follows:

1. I confirm that I did not disclose to any person a copy of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship.
2. I have no knowledge or evidence of who may have disclosed a copy of the draft report contrary to Standing Orders.
3. In my view, the unauthorised disclosure of the draft report most certainly amounted to an act actually causing substantial interference with the work of the Committee. The discussions within the Committee itself were certainly prejudiced, indeed somewhat poisoned, by the early disclosure of the contents of the draft report in the media. The question of the breach of the Committee's confidences overshadowed discussion of the contents of the report.

I trust this information is of assistance to the Committee.

Yours sincerely

Gary Humphries  
Senator for the ACT

May 2004

Ref: BB



Rosemary Laing  
Acting Secretary  
Committee of Privileges

Ref — Poverty Committee

In response to the questions from Senator Ray received in my office 14 May 2004, I have the following comments

1. I did not disclose to any person a copy of the draft report of the Community Affairs Reference Committee in relation to poverty and financial hardship.
2. I have no knowledge or evidence on any disclosure.
3. Although I was not in Canberra at the time of the formal tabling/release of this report, I do not believe that there was any real interference in the impact of the report by the disclosure in the media. However I do not believe that any unauthorised disclosure is appropriate. I regret that there was any distraction regarding this disclosure, as the real issues identified in the report are serious and should focus on our attention.

I am happy to answer any other questions in response to the committee at any time.

Thank You

**Labor Senator for Queensland**

*Working for Social Justice and Equality for all Queenslanders*

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& Samsonvale Rds  
Strathpine

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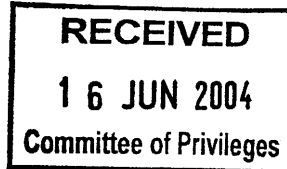


**SENATOR MEG LEES**

Australian Progressive Alliance  
Senator for South Australia

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Kensington SA 5068  
Ph (08) 8331 8111  
Fax (08) 8331 8499

Parliament House  
Canberra ACT 2600  
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16 June 2004

The Secretary  
Senate Committee of Privileges  
Department of the Senate  
Parliament House  
CANBERRA ACT 2600

Dear Secretary

I apologise for the delay in responding to the letter from Senator Robert Ray of 13 May 2004, concerning an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship.

In response to the three questions posed I provide the following response:

- I can confirm that I did not disclose to any person, not authorised by the committee to receive it, a copy of the draft report of the Community Affairs References Committee in relation to poverty and financial hardship.
- I do not have any knowledge or evidence of who may have disclosed a copy of the draft report to any person not authorised by the committee to receive it.
- I believe that the authorised disclosure of the report did not amount to an act tending to substantially interfere with the work of the committee, or actually causing substantial interference, either at the time of the unauthorised disclosure or subsequently.

Yours sincerely

Meg Lees  
Australian Progressive Alliance  
Senator for South Australia



## APPENDIX B

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Extract from <i>Journals of the Senate</i> No. 154, 24 & 25 June 2004	34
<p>Tabled paper — Letter to Senator the Hon. Paul Calvert, President of the Senate, dated 23 June 2004, from Senator Jan McLucas, Chair, Community Affairs References Committee</p> <p>Attachments:</p> <ul style="list-style-type: none"> <li>• Extract from <i>The Sydney Morning Herald</i>, 12 June 2004</li> <li>• Extract from <i>The Age</i>, 12 June 2004</li> <li>• Extract from <i>The Sydney Morning Herald</i>, 14 June 2004</li> </ul>	<p>35</p> <p>36</p> <p>37</p> <p>38</p>
Letter, dated 5 August 2004, from Committee of Privileges	39-40
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Letter, dated 25 August 2004, from Senator Claire Moore	47
<p>Letter, dated 30 August 2004, from Mr Elton Humphery, Secretary, Community Affairs References Committee</p> <p>Attachments:</p> <ul style="list-style-type: none"> <li>• Letter, dated 17 June 2004, from Mr Elton Humphery to Senator Jan McLucas, Chair, Community Affairs References Committee</li> <li>• Letter, dated 9 March 2004, from Mr Elton Humphery to Senator Steve Hutchins, Chair, Community Affairs References Committee</li> </ul>	<p>48</p> <p>49</p> <p>50</p>
Letter, dated 10 September 2004, from Senator Meg Lees	51



**Community Affairs References Committee****Privilege**

**The PRESIDENT** (10.26 p.m.)—The Community Affairs References Committee, by a letter dated 24 June 2004 from its chair, has raised a matter of privilege under standing order 81 in relation to an unauthorised disclosure of its draft report arising from its inquiry into hepatitis C and blood supply in Australia. There is little room for doubt that an unauthorised disclosure has occurred as the draft report is explicitly referred to in press items. The committee has carried out its obligations under the resolutions of the Senate of 20 June 1996 relating to unauthorised disclosure of committee documents by conducting a preliminary investigation into the matter. The committee has also concluded that the unauthorised disclosure has caused potential or actual substantial interference with its work. The matter accordingly meets with the criteria which I am required, under the standing order, to consider and, therefore, determine that precedence be given to a motion to refer the matter to the Privileges Committee. I table the correspondence from the committee in accordance with standing order 81. A motion may be moved immediately to refer the matter to the Privileges Committee.

**Senator McLUCAS** (Queensland) (10.27 p.m.)—I move:

That the following matter be referred to the Committee of Privileges:

Having regard to the letter dated 23 June 2004 from the Community Affairs References Committee to the President, whether there was an unauthorised disclosure of a draft report of that committee, and whether any contempt was committed in that regard.

Question agreed to.

2002-04

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

## **JOURNALS OF THE SENATE**

No. 154

THURSDAY, 24 JUNE 2004  
AND  
FRIDAY, 25 JUNE 2004

Senator McLucas moved—That the following matter be referred to the Committee of Privileges:

Having regard to the letter dated 23 June 2004 from the Community Affairs References Committee to the President, whether there was an unauthorised disclosure of a draft report of that committee, and whether any contempt was committed in that regard.

Question put and passed.





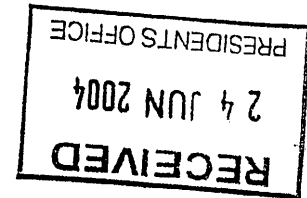
AUSTRALIAN SENATE

**COMMUNITY AFFAIRS**

REFERENCES COMMITTEE

LEGISLATION COMMITTEE

**References Committee**



PARLIAMENT HOUSE  
CANBERRA ACT 2600

Tel: (02) 6277 3515

Fax: (02) 6277 5829

Email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Website: [http://www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

23 June 2004

Senator the Hon Paul Calvert  
President of the Senate  
Parliament House  
Canberra ACT 2600

Dear Mr President *Paul*

I write on behalf of the Community Affairs References Committee to raise a matter of privilege for your consideration and determination in accordance with Standing Order 81 in accordance with Standing Order 81.

On 12 June 2004 articles based on the draft report of the Committee's inquiry into hepatitis C and blood supply appeared in the *Sydney Morning Herald* and *The Age*. An editorial based on the article appeared in the *Sydney Morning Herald* on 14 June. Copies of the articles are attached.

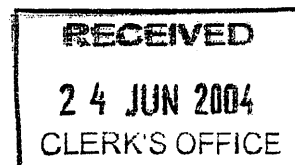
In accordance with the procedures contained in the continuing order of the Senate relating to 'Unauthorised disclosure of committee proceedings, documents or evidence', I have written to all members and staff asking them if they can explain the disclosure, but without success.

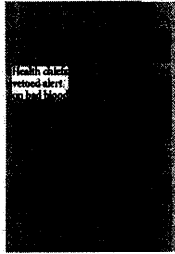
Members of the Committee have come to the conclusion that the disclosure has caused potential or actual interference with its work, including:

- Disclosure was a week in advance of scheduled tabling and prior to the draft report's consideration by the Committee;
- the draft report was reviewed and some sections revised after the disclosure;
- A breach of trust had occurred that could affect the working relationship of committee members.

Yours sincerely

*Janet Lucas*  
Senator Jan McLucas  
Chair





## Health chiefs vetoed alert on bad blood

Gerard Ryle

A Federal Government body ruled out blanket public warnings about hepatitis C in donated blood as far back as 1991, since when thousands of people have learned they are infected with the virus.

The Red Cross blood service raised the question of whether an alert - similar to that issued at the height of the AIDS crisis - should be issued, but it was ruled out by the National Health and Medical Research Council.

Now a Senate inquiry admits that the current system for alerting people about the virus is not working. And yet the draft recommendations of that inquiry, details of which have been obtained by the *Herald*, rule out any compensation for living victims who were infected by donated blood.

Instead, they should get an apology, the Senate committee will say when it reports next Thursday. A fund will be established to provide financial assistance, but this is likely to be restricted to allowing victims to get better access to existing health and educational services.

The inquiry also recommends that hemophiliacs be given access to artificial blood products after it was told that up to 80 per cent of them have been infected with hepatitis C.

Victims' groups claim as many as 20,000 people have been infected by donated blood. The Red Cross told the inquiry there were about 8000 living victims.

Among the findings is an ad-

mission that the system to detect hepatitis C in blood recipients - jointly run by the Red Cross and the state and federal governments - is inadequate. The multi-million-dollar "Lookback" system was put in place in the early 1990s after blanket public warnings were ruled out.

Under Lookback, if a blood donor is found with the virus all previous donations by that person are traced and recipients are told they might have hepatitis C. Similarly, if past recipients of blood products get sick, other people who have received blood from their donor are contacted.

But the Senate inquiry was told that, because of poor record keeping by hospitals, thousands of Australians may still be unaware that they have the virus. The long incubation period of the virus, which can be as long as 20 years, complicates the process.

The inquiry recommends establishing a more effective program, which could yet lead to the kind of public alert that was suggested in 1991. The Senate inquiry was established following a *Herald* investigation into problems in the blood system.

Brenton Wylie, the national blood products manager for the Red Cross, said it was the Government that decided not to issue a "universal Lookback" similar to that for HIV/AIDS.

"I think it is important to place on the record that the decision not to do the universal Lookback element was not made by the Red Cross," Dr Wylie has told vic-

tims. "That was made by a government agency and a government committee."

His comments were made last month at a meeting, chaired by a former NSW chief justice, Sir Laurence Street, where the Red Cross issued an apology for its part in the tragedy. A spokeswoman for the Red Cross said Dr Wylie was referring to the research council decision in 1991 not to introduce a universal Lookback program. That decision was confirmed by a second research council report in 1993. A council spokeswoman declined to comment.

Charles MacKenzie, president of a victims' charity, the Independent Blood Council, said the revelation explained why victims may not be compensated. "I personally believe that the Federal Government are liable for the fact that women who were infected were not warned and went on to have children who became infected through childbirth. This could have been averted if they had been warned.

"They should have had blanket warnings from the moment that they knew this was a problem. They can argue scientific technicalities but they cannot refute the fact that the public has a right to be warned about a danger to them."

The Reverend Bill Crews, who has campaigned for people with medically acquired hepatitis C, said: "I expect this will be the first of several inquiries which will eventually force justice to be done to those people who should have it."



Age Saturday 12/6/2004  
General News Page 9  
Circulation: 197,000  
Size: 203.11 sq.cms.

## Federal health body ruled out hep C warning

Gerard Ryle

A Federal Government body ruled out blanket public warnings about the risk of contracting hepatitis C from donated blood as far back as 1991, it has been revealed.

The Red Cross Blood Service raised the question of whether an alert similar to that issued at the height of the AIDS crisis should be issued, but it was ruled out by the National Health and Medical Research Council. Since then thousands of people have learned they are infected with the virus, which they contracted from contaminated blood.

A Senate inquiry has now found that the present system for alerting people about the virus is not working. But the draft recommendations of that inquiry, details of which have been obtained by *The Sydney Morning Herald*, rule out any compensation for living victims who were infected by donated blood.

Instead, they should get an apology, the Senate committee

will say when it reports next Thursday.

A fund will be established to provide financial assistance but this is likely to be restricted to allowing victims to get better access to existing health and educational services.

The inquiry recommends that hemophiliacs be given access to artificial blood products after it was told that up to 80 per cent of them have hepatitis C.

Victims' groups claim up to 20,000 people have been infected by donated blood. The Red Cross told the inquiry there were about 8000 living victims.

Among the major findings is an admission that the system to detect hepatitis C in blood recipients jointly run by the Red Cross and state and federal governments is inadequate. This system, the multimillion-dollar, taxpayer-funded "Lookback" program, was put in place in the early 1990s after blanket public warnings were ruled out.

Under Lookback, if a blood donor is found with the virus, all

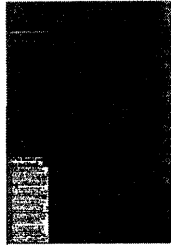
previous donations by that donor are traced and those who received the blood are told that they might have hepatitis C. If past recipients get sick others who got blood from the original donor would be contacted.

But the Senate inquiry was told that, because of poor record keeping by hospitals, thousands of Australians may still be unaware they have the virus.

The inquiry recommends establishing a more effective program, which could yet lead to the kind of alert suggested in 1991.

Red Cross national blood products manager Brenton Wylie said it was the Government that decided not to issue a "universal Lookback" similar to HIV/AIDS. "I think it is important to place on the record that the decision not to do the universal Lookback element was not made by the Red Cross," Dr Wylie told a meeting of victims last month.

A spokeswoman for the council declined to comment.



## The Sydney Morning Herald

# Who should pay for bad blood?

The Red Cross has so far borne the full brunt of criticism for infected blood and blood products spreading hepatitis C. It is now clear that a Federal Government agency was also involved.

As the *Herald* has reported, the Government decided as long ago as 1991 that there was no need for blanket public warnings that those receiving transfusions and other blood products might be exposed to the hepatitis C virus. Now thousands of Australians are known to have been infected by hepatitis C, making the infection the most important viral epidemic since that of HIV in the 1980s.

Recently, in private mediation with people with hepatitis C, the Red Cross accepted, for the first time, responsibility for its role in the spread of tainted blood by apologising to the those infected. This was an important shift for an organisation that had sought to ignore public pressure on the issue, pressure that led to a Senate inquiry into hepatitis C and the blood supply. The inquiry's report, to be released this week, is expected to recommend an apology while seeking to blunt the pressure for proper compensation.

Since the role of the Red Cross in transmitting tainted blood became apparent during the 1990s, it has consistently sought to limit its liability. As Sir Laurence Street put it during the mediation session, to do otherwise would bankrupt the organisation. The role of the Red Cross, in the collection and distribution of blood, is clear. Less straightforward is the role of the federal and state governments and also of CSL, the former Commonwealth Serum Laboratories, which processes the blood. Clarifying these roles is fundamental to a proper resolution of the issue of liability.

The *Herald* understands that the Senate report suggests establishing a fund to assist people with hepatitis C, but only with health and educational services. That would fall well short of proper compensation. Through no fault of their own, the health – and lives – of thousands of Australians has been affected adversely by receiving tainted blood and blood products. Proper redress is needed for those who have lost their jobs or have had their personal lives shattered. A wrong needs to be righted.



AUSTRALIAN SENATE  
CANBERRA ACT

**COMMITTEE OF PRIVILEGES**

PARLIAMENT HOUSE  
CANBERRA ACT 2600  
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EMAIL: Priv.sen@aph.gov.au

5 August 2004

**PERSONAL AND CONFIDENTIAL**

Senator Steve Hutchins  
Community Affairs References Committee  
The Senate  
Parliament House  
CANBERRA ACT 2600

**similar letter to all members of the committee**

Dear Senator Hutchins

As you may know, the Committee of Privileges received the following reference on 24 June 2004:

Having regard to the letter dated 23 June 2004 from the Community Affairs References Committee to the President, whether there was an unauthorised disclosure of the draft report of that committee, and whether any contempt was committed in that regard.

Copies of the President's statement, and of the letter which he tabled when giving the matter precedence, are enclosed for your information, together with the 74<sup>th</sup> report of the Committee of Privileges which sets out its views on unauthorised disclosure.

The Committee of Privileges has decided to invite you to make any comments you may have on issues arising from the matter. Specifically, the committee would appreciate a written response from you to the following questions:

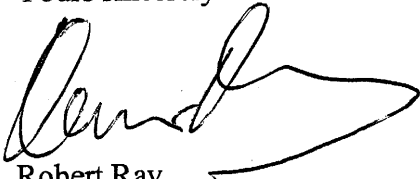
- Did you disclose to any person, not authorised by the committee to receive it, a copy of the draft report of the Community Affairs References Committee in relation to Hepatitis C?
- Do you have any knowledge or evidence of who may have disclosed a copy of the draft report to any person not authorised by the committee to receive it?
- In your assessment, did the unauthorised disclosure of the draft report amount to an act tending substantially to interfere with the work of the committee, or actually causing substantial interference, either at the time of the unauthorised disclosure or subsequently?

In your response to the third question the committee would appreciate your reasons for the assessment, including examples, if possible, of actual or potential interference with the committee's work.

I have written in similar terms to other members and the secretary of the committee.

The committee would appreciate your response as soon as possible, but in any case no later than 30 August 2004. Please send it to Miss Anne Lynch, secretary of the Privileges Committee, Room SG.39, Parliament House, Canberra ACT 2600. While any comments are confidential until the committee authorises their release, it normally assumes that they will be made public at an appropriate stage of an inquiry. If you need any further information on the matter, you may care to get in touch with the secretary on the above telephone or fax numbers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Robert Ray', written in a cursive style.

Robert Ray  
**Chair**

Encl.

cc Mr Elton Humphery  
Secretary  
Community Affairs References Committee

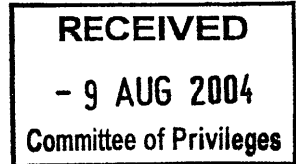


PARLIAMENT OF AUSTRALIA • THE SENATE

**SENATOR STEPHEN HUTCHINS**  
*SENATOR FOR NEW SOUTH WALES*

Monday, 9 August 2004

Ms Anne Lynch  
Secretary, Privileges Committee  
Room SG.39, Parliament House  
Canberra ACT 2600



Dear Ms Lynch, *Anne*

I write in response to your letter of 5 August 2004 with regard to the reference to the Committee of Privileges on 24 June 2004.

In response to the three questions posed to me, please find my answers below in the same order that they were posed:

- I did not disclose a copy of the draft report to anyone who was not entitled to receive it.
- I do not know who may have disclosed a copy of the report.
- I am of the firm belief that the disclosure of any report is regrettable because of the potential for it to undermine the work of the relevant Senate committee. In this case, however, I do not think that the disclosure of the report caused substantial interference to the process of producing the final report. The process of considering the draft report for this particular reference aimed to, and succeeded in, producing a consensus report. As such, I believe that the alleged disclosure of the draft report had little impact on the findings of the committee.

Should you require any further information, please do not hesitate to contact me on 02 9687 4600 or 02 6277 3095.

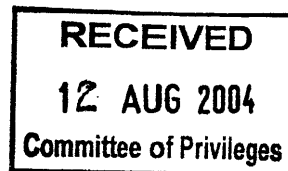
Yours sincerely,

Senator Steve Hutchins  
**Labor Senator for New South Wales**



PARLIAMENT OF AUSTRALIA • THE SENATE  
OFFICE OF SENATOR SUE KNOWLES  
LIBERAL SENATOR FOR WESTERN AUSTRALIA

10 August 2004



Miss Anne Lynch  
Secretary  
Committee of Privileges  
Parliament House  
CANBERRA 2600

Dear Anne,

I write in reply to the Chairman's letter of 5 August 2004 regarding the unauthorised disclosure of the draft report of the Community Affairs References Committee into Hepatitis C.

I wish to make the blatantly obvious observation that this is the second such leak from this Committee in succession. I was under the impression that there had been broad agreement by members of the Committee that every effort would be made to have a unanimous report that would benefit the sufferers of Hepatitis C and ensure the continuity of the blood supply in Australia. It was therefore most disturbing to have had such a blatant leak of our deliberations.

With regard to the three specific questions asked by the Chairman I respond as follows:

Neither my staff nor I disclosed the draft to anyone. I did not speak to anyone outside the Committee and the Secretariat.

I do not have any precise evidence of who may have disclosed a copy of the draft report to an unauthorised person. The media, I understand, did seek comments from some members of the Committee. I cannot, obviously, know what was said (or not said) to the journalist/s or in fact to other parties that have had a long-term interest in the issue and who were quoted in the some of the articles.

I most certainly believe this further leak has had an effect on the work of the Committee due to the aforementioned wish of most Committee members to have a unanimous report. The unauthorised leak placed considerable pressure on the members in a way that was certainly not envisaged.

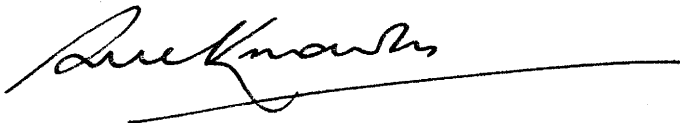
2/..



That pressure substantially came from the fact that those other interested parties (who had been provided with the information) had formed and enunciated opinions on the draft. Those people seek to represent a broad range of individuals who have been seriously affected either emotionally or physically, or both. The fact they were commenting publicly that, in their opinion, the Committee's recommendations fell well short of their preferred outcome was genuinely unhelpful. This inquiry was about peoples' lives, their families and their general well-being, not something impersonal that could be dismissed with a flick of the pen.

All in all, I find this further unauthorised disclosure totally unacceptable for any reason. I will assist the Committee of Privileges in its pursuit of the source of the information.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Sue Knowles', written in black ink. The signature is positioned above a solid horizontal line that extends across the width of the signature.

**SUE KNOWLES**  
**SENATOR FOR WESTERN AUSTRALIA**



SENATOR JAN McLUCAS  
Labor Senator for Queensland

12 August 2004

Senator Robert Ray  
Chair  
Senate Committee of Privileges  
Parliament House  
Canberra ACT 2600

Dear Senator Ray *Robert*

Thank you for your letter inviting me to respond to the reference to your Committee about the unauthorised disclosure of the draft report on Hepatitis C and blood supply in Australia.

At the outset, it is clear to me that the report was provided to at least one journalist and possibly other individuals.

I was contacted by Mr Gerard Ryle in my capacity as Chair of the Committee requesting I comment on the recommendations of the Report. I advised him that I could not and that any publication of material from the Draft Report could be in contempt of the Senate. This occurred in the week prior to the tabling. You have been previously supplied with the articles from the Sydney Morning Herald and The Melbourne Age attributed to him.

I can assure your Committee that neither I, nor members of my staff disclosed either parts of or the complete Draft Report to anyone. Further, I have no knowledge or evidence of who may have disclosed a copy of the report to a person not authorised to receive it.

As I was keen to bring down a unanimous Report in the best interests of those affected by Hepatitis C, I requested the Secretariat to provide the first draft of the Report to all members of the Committee as soon as it was completed. This occurred on 27 May 2004.

The Committee met twice on 15 June 2004 to consider the Draft Report and some proposed amendments that had been provided by Committee members before reaching final agreement on the Report. This consideration all occurred after the publication of the Ryle articles on 12 June 2004. Some of these amendments were, in my view, a response to the publication of the articles.

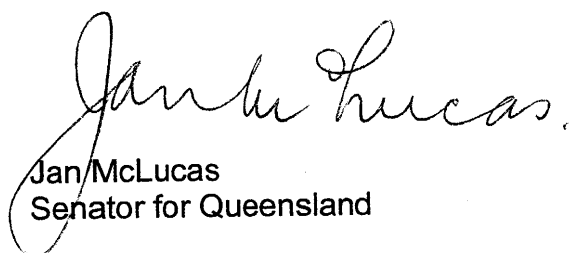
Therefore, in response to your third question the Committee has come to the conclusion that:

- disclosure was a week in advance of scheduled tabling and prior to the draft report's consideration by the Committee;
- the draft report was reviewed and some sections revised after the disclosure;
- A breach of trust had occurred that could affect the working relationship of committee members.

It is ironic that on the tabling of the Report on 17 June 2004, there was in my view limited coverage of the issues canvassed and recommendations made. This can be attributed to the fact that the issue had been covered the previous weekend and therefore not considered 'news'. This was unfortunate as many of those who acquired Hepatitis C through the blood supply along with their advocates, argued for greater public understanding of the infection, methods of contraction and impact on their lives. The person who has disclosed the draft report has in fact done a huge disservice to those who have acquired Hepatitis C through blood products.

Thank you for conducting this inquiry.

Yours sincerely



Jan McLucas  
Senator for Queensland



# Gary Humphries

Senator for the ACT

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Parliament House Office Tel: (02) 6277 3446 Fax: (02) 6277 5746

email: senatorhumphries@aph.gov.au

Senator Robert Ray  
Chair of the Committee of Privileges  
The Senate  
Parliament House  
CANBERRA ACT 2600

Dear Senator Ray,

I refer to your letter of 5 August concerning the matter of the leaking of a draft report of the Community Affairs References Committee enquiry into Hepatitis C.

I answer your questions as follows:

1. I did not enclose to any person a copy of the draft report in question.
2. I have no knowledge as to the identity of the person or persons who disclosed the draft report in an unauthorised fashion.
3. The issue of how the unauthorised disclosure affected the work of the committee is a difficult matter to quantify. Coming close on the heels of a previous unauthorised disclosure from the same committee, I have to say that there has been a substantial change in the atmosphere of the committee and an erosion of the level of trust which operates necessarily on many Senate committees, and which hitherto was present in this committee's work. This change in relationships between committee members is difficult to describe and impossible to quantify, but is evident in the way members now seem to approach the work of this committee. In committee discussions and hearing, for example, there does appear to be a heightened sense of the political context of the matters before the committee, in a way that I believe detracts from a focus on the evidence and the issues before us. I for one am more careful about the issues which I discuss in the committee, bearing in mind for the potential for anything which I or others might say to appear in the media.

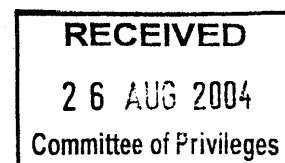
I hope the committee finds these comments helpful.

Yours sincerely

Gary Humphries  
Senator for the ACT

23 August 2004

Ref: MP





Miss Anne Lynch  
Secretary of the Privileges Committee  
Room SG.39  
Parliament House  
Canberra ACT 2600  
25 August 2004

RECEIVED  
30 AUG 2004  
Committee of Privileges

**Inquiry into Hepatitis C & Blood Supply in Australia**

In response to Committee of Privileges letter, I cannot explain the disclosure. My first knowledge was the chair's advice to me that it had occurred.

I do not believe that the disclosure "had a tendency substantially to interfere with the work of the Committee." However, I do think that it affects the team trust of the Committee and did divert some effort from the final discussions of the draft report.

While this was not major, I think that this reflects on the professionalism of our whole Committee and the Secretariat and this is not justified.

Thank you.

**Senator Claire Moore**  
**Labor Senator for Queensland**

*Working for Social Justice and Equality for all Queenslanders*

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Strathpine 4500

Electorate Office  
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Parliament House  
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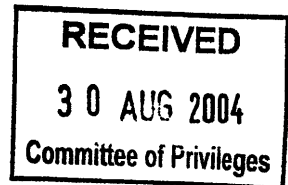


AUSTRALIAN SENATE

**COMMUNITY AFFAIRS**

REFERENCES COMMITTEE

LEGISLATION COMMITTEE



PARLIAMENT HOUSE

CANBERRA ACT 2600

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Fax: (02) 6277 5829

Email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Website: [www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

30 August 2004

Ms Anne Lynch  
Secretary  
Senate Committee of Privileges

Dear Ms Lynch

I refer to your correspondence relating to the unauthorised disclosure of draft reports prepared by the Community Affairs Committee.

Please find attached copies of correspondence on behalf of the secretariat relating to the unauthorised disclosures.

Yours sincerely

Elton Humphery  
Committee Secretary



AUSTRALIAN SENATE

**COMMUNITY AFFAIRS**

REFERENCES COMMITTEE

LEGISLATION COMMITTEE

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CANBERRA ACT 2600

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Website: [http://www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

17 June 2004

Senator Jan McLucas  
Chair  
Community Affairs References Committee  
Parliament House  
Canberra

Dear Senator

**Unauthorised disclosure of draft report**

I refer to your letter of 16 June relating to the unauthorised disclosure of the draft report into Hepatitis C and the blood supply in Australia.

Neither I nor any of the secretariat staff were involved in the unauthorised disclosure of the draft report.

Yours sincerely

Elton Humphery  
Committee Secretary



AUSTRALIAN SENATE

**COMMUNITY AFFAIRS**

REFERENCES COMMITTEE

LEGISLATION COMMITTEE

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Website: [www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca)

9 March 2004

Senator Steve Hutchins  
Chair  
Community Affairs References Committee  
Parliament House  
Canberra

Dear Senator



**Unauthorised disclosure of draft report**

I refer to your letter of 8 March relating to the unauthorised disclosure of the draft report into poverty and financial hardship.

Neither I nor any of the secretariat staff were involved in the unauthorised disclosure of the draft report.

I can confirm that the Chairman's draft report was emailed by me directly to the six Committee members on Monday, 23 February 2003 at 11.24am. A hard copy of this draft was provided directly to Senator Forshaw as a participating member on Monday, 1 March 2003.

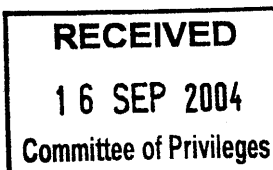
Yours sincerely

Elton Humphery  
Committee Secretary





**SENATOR MEG LEES**  
Australian Progressive Alliance  
Senator for South Australia



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Canberra ACT 2600  
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10 September 2004

Miss Anne Lynch  
Secretary  
Privileges Committee  
SG 39  
Parliament House  
CANBERRA ACT 2600

Dear Miss Lynch

I apologise for the delay in responding to the letter from Senator Robert Ray of 5 August 2004, concerning an unauthorised disclosure of the draft report of the Community Affairs References Committee in relation to Hepatitis C.

In response to the three questions posed I provide the following response:

- I can confirm that I did not disclose to any person, not authorised by the committee to receive it, a copy of the draft report of the Community Affairs References Committee in relation to Hepatitis C.
- I do not have any knowledge or evidence of who may have disclosed a copy of the draft report to any person not authorised by the committee to receive it.
- I believe that the unauthorised disclosure of the report did amount to an act tending to substantially interfere with the work of the committee. It lead to further discussions by the committee and an alteration of the recommendations.

Yours sincerely

Meg Lees  
Australian Progressive Alliance  
Senator for South Australia