

It is not acceptable. This is not the first time today that it has happened. We have had the government coming in and saying: 'All of a sudden we have changed our minds. These bills which were not urgent yesterday are automatically urgent.' Now they have changed it again and they are going to add on another few bills. They say, 'These are the bills we are going to say are urgent now.' It is the most obscure way to run business. They are ramming stuff through with no discussion beforehand. They say: 'This bill is urgent. Now this bill is urgent. Now these three bills are urgent. We are going to change our minds.' There is no discussion beforehand; they just come in and, bang, say that these bills are urgent. They cut off the discussion that is occurring right now. It seems to be the most absurd way to run a process. We are already sitting far longer because the government and the opposition could not reach agreement on their fiddling around the edges of the free trade agreement. It is not what the Greens think is an acceptable way to be running government business here in the Senate. (*Quorum formed*)

Question put:

That the motion (**Senator Ian Campbell's**) be agreed to.

The Senate divided. [12.36 p.m.]

(The Acting Deputy President—Senator A.B. Ferguson)

Ayes.....	47
Noes.....	<u>9</u>
Majority.....	38

#### AYES

BARNETT, G.	Bishop, T.M.
Boswell, R.L.D.	Brandis, G.H.
Buckland, G.	Campbell, G.
Campbell, I.G.	Carr, K.J.
Chapman, H.G.P.	Colbeck, R.
Collins, J.M.A.	Conroy, S.M.
Coonan, H.L.	Eggleston, A.
Evans, C.V.	Ferguson, A.B.
Ferris, J.M. *	Fifield, M.P.
Forshaw, M.G.	Hill, R.M.
Hogg, J.J.	Humphries, G.
Hutchins, S.P.	Johnston, D.
Kirk, L.	Knowles, S.C.
Ludwig, J.W.	Lundy, K.A.
Macdonald, J.A.L.	Mackay, S.M.
Marshall, G.	Mason, B.J.
McGauran, J.J.J.	McLucas, J.E.
Moore, C.	O'Brien, K.W.K.
Patterson, K.C.	Payne, M.A.
Santoro, S.	Scullion, N.G.
Stephens, U.	Tchen, T.

Tierney, J.W.	Troeth, J.M.
Watson, J.O.W.	Webber, R.
Wong, P.	

#### NOES

ALLISON, L.F. *	Bartlett, A.J.J.
Brown, B.J.	Cherry, J.C.
Greig, B.	Murray, A.J.M.
Nettle, K.	Ridgeway, A.D.
Stott Despoja, N.	

\* denotes teller

Question agreed to.

#### Allotment of Time

**Senator IAN CAMPBELL** (Western Australia—**Manager of Government Business in the Senate**) (12.40 p.m.)—I move:

That the time allotted for consideration of the remaining stages of the bills be as follows:

Anti-terrorism Bill (No. 3) 2004 and	
Anti-terrorism Bill (No. 2) 2004	until 2 pm, 13 August 2004
Marriage Amendment Bill 2004	until 5.30pm, 13 August 2004
Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Bill 2004	until 6 pm, 13 August 2004.

It is important when the Senate considers a time management motion that a couple of points be made. The Senate always has it in its hands to make decisions about how much priority and how much time it allocates to legislation. We have, of course, during the last fortnight spent almost every hour of every sitting day on a very important piece of legislation—the free trade agreement. The parliament has passed that legislation into law, and it is a great piece of history that this parliament has made as a result. But we did spend all of the time of every sitting day for the entire fortnight—the time available for government business, I might say—to pass one bill, and there were more than 23 other bills that we sought to deal with.

Because the Senate has not been able to make decisions about time management and the time to apply to bills, we have now sought the Senate's agreement that we do allocate times to ensure that these remaining bills are dealt with in a reasonable time. The Senate will make its own decision about how long it wants to spend on the time management motion and how much time it will spend on the bills. That is a matter for all senators. I am not going to delay the debate any longer than necessary, so that we can maximise the time available for debate on the legislation and minimise time on what is effectively a motion that seeks to create a time management process.

We have chosen to allocate time to each of these bills. The marriage bill will commence after the votes

on the anti-terrorism bill and conclude at 5.30 p.m., then the Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Bill 2004 will conclude at 6 p.m. We have chosen that time because it allows the remainder of the afternoon to deal with this legislation—for any senator who wants to have a say to have a say—and to reach a democratic conclusion to these matters. It also ensures that all senators can have a reasonable chance at getting home at a reasonable hour this evening and not see the Senate sitting into the night and into the weekend. I think it is a sensible time management proposal and I commend it to the Senate.

**Senator BARTLETT** (Queensland—Leader of the Australian Democrats) (12.44 p.m.)—It would be difficult to have a more precise example of this government treating the Senate with utter contempt. The government suggests that we should be cooperative. I do not think we should even go through the motions of trying to be cooperative when we get spat in the face like this. I do not think we should even go through the pretence in future—it would save us the time of trying to pretend this government gives a toss what anyone else thinks. The government pretends to consult and then it comes along with drivel like that. I do not know whether it is against standing orders to mislead the Senate, but virtually every statement the minister just made is grossly misleading.

We saw 43 Australians willing to stick their necks out at the start of this week and cop vilification from this government as a consequence. The contempt for the truth that this government has is historical in its enormity and we have just seen another example of it. To somehow or other blame the Senate for having spent the last two weeks debating the free trade agreement when we had to sit here whilst the government and the opposition waited for the word from the United States about whether they could go ahead is just a disgrace. You could have stopped that debate at any time and brought on any of these bills. You know it and you continue with this fatuous pretence that somehow or other it is the Senate's fault that you let that debate go on until you figured out what you were going to do. Then you have the gall to say that you are allowing anybody who wants a say to have one. Let me quote the minister's words: 'Any senator who wants a say on these bills can have a say.' That is totally dishonest. Your own speakers list has enough people on it to go well beyond 3½ hours. You are quite happy to let a bunch of hate merchants sit in the middle of our great hall and spew out bile against gay and lesbian people in this community.

That you had the gall to come in here to try to gag us from giving the truth about what you were doing is an absolute disgrace. It is probably quite appropriate that you are trying to gag debate on a bill that is trying to take away people's freedom of speech under the an-

ti-terrorism laws—completely appropriate. The next step, no doubt, will be making speaking in the parliament against the law—an act of sedition or something. Can you believe that the Labor Party would agree to it? They have just voted to say that these matters are urgent. It is not urgent to make sure that carers get properly paid because you stuffed up the legislation by rushing it through back in June. That is not urgent. It is not urgent to fix up all the mispayments with the family benefit payments that you stuffed up by rushing it through after the budget. That is not urgent. It is not urgent to make sure people get their proper entitlements. It is not urgent to make sure that people who need assistance get it. What is urgent? Ripping away peoples' freedoms, taking away freedom of speech, taking away freedom of association, attacking marriage and vilifying gay and lesbian people—that is urgent. That is what is urgent to the Labor Party—nothing else.

When was the last time we had a guillotine? I still cop flak from you guys for a guillotine in 1999 over how outrageous it was. We had a week-long debate that was guillotined at the end of it and you said how appalling it was. What do we get? We get 3½ hours on gay marriage. That is what is urgent. It is the only guillotine, I suspect, since the last election that Labor have supported, and they have supported it to comply with John Howard's agenda of vilifying gay and lesbian people. It is unbelievable—absolutely unbelievable. On your own speakers list there are six Labor senators wanting to speak on this bill about marriage. There are four from the coalition and others from the crossbench. Even in the second reading debate we will not have time to deal with it. You have the absolute contempt to come here and say. 'This is a nice piece of benign time management.'

If the 43 eminent Australians who signed the letter at the start of the week because they thought things were bad in terms of lies, dishonesty and contempt for the democratic process from the government were to seek more signatories at the end of this week, they would get up to 43,000 eminent Australians. This is just an absolute disgrace—and to do it on legislation that attacks the community. Let me remind the Senate what we are doing. We are saying that this is so urgent we cannot leave it until we come back here in two weeks time. It is so urgent that we make sure there is no prospect of any same-sex relationship being recognised as marriage in the next two weeks that we have to do it now otherwise society will crumble and the world will end. How will we cope if we go another two weeks without stopping gay and lesbian people from being able to get married? That is what the Labor Party are saying. Do not just look at what is in these bills, look at the message it sends, which is even worse: you are giving priority above everything else to the deliberate agenda that you guys have spent the last three years criticising—the Prime Minister using dog whistle poli-

tics to vilify sections of the community. He has given up the dog whistle; he has brought out the megaphone. And you are there alongside him saying, 'Yes, that's OK.' In fact, it is not only okay; it is urgent. There is a well-known phrase about evil happening when good people do nothing.

**Senator Ferris**—That counts you out!

**Senator BARTLETT**—Senator Ferris gives the usual response from the government to anyone who criticises them—total vilification.

**Senator Vanstone**—You would not be doing that yourself, would you?

**Senator BARTLETT**—There is another minister. I know you want to gag people and that you are passing bills that prevent freedom of speech, but at the moment we still have the right to speak in the parliament. I am sure you would like to stop that. That is what you are trying to stop by passing your gag motion. Not only are good people doing nothing and allowing this evil to happen, people are actively making sure that it happens by giving these bills urgency. Normally I would not use such phrases as that but we had Senator Peter Cook speaking in here last June—I know he is not here and that he has been ill and I do not seek to take advantage of that—in a very passionate speech that went late and we did not gag that debate. We let that go as long as you liked because we knew you believed it was important. It was a very passionate debate. He specifically said that the Senate was passing evil legislation because it potentially allowed people's rights of association as workers in the building industry to be compromised. And we understood those concerns. That is why we put in place protection after protection after protection and a sunset clause at the end of it all. He was still unhappy with that, obviously.

Now we have these antiterror laws that take away the freedoms of every Australian, including freedom of association. These allow not only building workers but also everybody else to be targeted by a government. You know as well as anybody else that there are no depths to which this government will not go if they want to target a group and they think they can create the political circumstances to justify it. So do not ever come in here again and say that you are concerned about protecting workers from being targeted by this government. You are passing laws that make it a criminal offence to associate if a government minister is able to create a circumstance that he thinks he can get away with, without the protection of the courts at all. And you are giving it urgency over everything else! It is not even a matter of good people doing nothing; it is a matter of good people aiding and abetting. This is beyond belief. It is bad enough that we are even sitting on a Friday when we should not need to, let alone then gagging debate on such fundamental issues. You are saying, 'It is urgent that we take away as many free-

doms and rights from people as possible and do it really quickly before they notice and get a chance to be upset about it.' If you reworded the motion and were at least honest about that then maybe people would be a bit clearer about what you are doing.

I thought you would have learnt the lesson from three years ago about what happens when you acquiesce to absolutely massive power grabs by government—taking away people's freedom in a massive abuse of government power—but you are letting it happen again and guillotining this debate to allow it to happen. It is a tragedy. The real concern, of course, is not about the consequences of this in the chamber but about the consequences of this for the Australian people. Many Australians, as a direct consequence of this, will not only have far fewer freedoms but also feel a lot sadder about being Australian. They will feel, quite rightly, that they are lesser members of the community and that they are not safe to live their lives. It is impossible to overstate the seriousness of what is being allowed to happen here, and that is why it is impossible to overstate the enormity of the contempt that is being shown. (*Time expired*)

**Senator BROWN (Tasmania) (12.54 p.m.)**—It is black Friday, August 2004. What we are witnessing today is a sell-out by the Latham Labor Party of the democratic principle that you do not allow the government to ride over the right that there be debate by the people's representatives in this house of parliament when important issues for the whole nation are at stake. That is Labor's mantra. But today it has sold out that mantra because Prime Minister Howard wants to hold an election and Labor wants to get to it too—to prove it is further to the right, more Hansonite, than the Howard government.

This is a triple winner for John Howard today. He gets the free trade agreement up, and the Americans can knock out the minor change that this parliament has agreed to from Labor. He gets discrimination against gay and lesbian people having an equal right under the law to get married through here, supported by everybody on the Labor benches. Then he gets a guillotine motion through here to truncate debate on those issues and matters of enormous importance for the people of Australia so that he can hold an election at his leisure in the next month. And the Labor Party waits to take part in that election. We have two radical right parties in this parliament now vying for government. They have moved across to the right, cheek by jowl, to offer the public of this country no real choice. I hope every green group in this country notices the performance here today by the Labor Party—because that is where the problem lies—when they are considering the allocation of their preferences.

What is the difference between the Howard government and the Latham alternative when it comes to the

free trade agreement which sold out democracy to the United States this morning? What is the difference between the social justice view of the world from the Howard benches and the Latham benches when it comes to building in discrimination against gay and lesbian people in this country under the law? There is none. What is the difference when it comes to the democratic right of this parliament, held back on a Friday at the start of the spring session, which is unprecedented, to meet the Prime Minister's wish to have a free and unfettered ability to announce an election when he wants to—not in the interests of this country? The Labor Party has said, 'Yes, we will bring in the guillotine on that.' I ask all Australians: can you spot a difference between the Howard coalition and Latham Labor on any of those issues?

It has not escaped my attention that the last time every person on the Labor benches went across to vote for a guillotine on debate in this place it was on the regional forest agreement legislation to license the Prime Minister's death warrant on Tasmania's forests. Labor voted for that as well. Since that regional forest agreement came in, the destruction has doubled. Spot the difference, if you can, between these two camps. I know that there are people hurting, particularly on the Labor side about what the heavyweights in the Labor Party are doing here, but the fact is that they go across and vote with the government every time for these motions which breach Labor philosophy and Labor principle of the last 100 years—

*Senator Murray interjecting—*

**Senator BROWN**—and, as Senator Murray correctly reminds me, small 'l' liberal philosophy and the philosophy of The Nationals, who are more grassroots in their make-up than the other parties. Getting the free trade agreement through—that was the big one. Labor supported it. Then there was this dastardly move to support the government on the built-in discrimination. Labor are voting for discrimination. It is not a matter of saying, 'Let's leave things as they are.' It is about moving to say, 'We support the Howard government in their philosophy of putting a prohibition in the marriage law.' That prohibition came from a debate under the Bush administration in the United States.

What has happened to the Labor Party? That is something that will have to be left to the electorate. They are sick and tired of the Howard government. But they do have alternatives—and those alternatives are at this end of the chamber.

**Senator Boswell**—They won't vote Green! You only get six per cent of the vote.

**Senator BROWN**—The Leader of The Nationals intervenes about the percentage of the vote. The fact is that is a bigger vote in this country than the vote for his party. He should look at the figures. That is something

we will see in greater numbers this time than we have ever seen before.

Nevertheless, we put our faith in the people. You can cut the debate here. You can hand the powers to the United States trade department. You can usurp the powers of the courts here and give them to some faceless trade ayatollah, as Labor and Liberal did this morning in determining matters of importance to this country. The job of all of us is to get that to the people—and we will—in the coming weeks. But, if Latham Labor loses the next election, it will be writ large through its cave-in on three basic issues in this black Friday parliament of 2004.

**The ACTING DEPUTY PRESIDENT (Senator McLucas)**—I acknowledge that you are seeking the call, Senator Cherry, but I understand Senator Vanstone is seeking the call. For balance, I call Senator Vanstone.

**Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (1.02 p.m.)**—I thank Senator Cherry. Rather unwisely, I was not expecting the good senator to finish before his allotted time. So I thank you, Senator Cherry; you were on your feet before me. There are just a few things I would like to say in this debate. I have been thinking for some time, since I am in my 20th year, about just what it is that deceives the demos and what diminishes democracy. I am absolutely certain of one thing that does not deceive them and that does not diminish democracy, and that is articulate and focused debate.

What can deceive the people, the demos, and what certainly does diminish democracy is the bandying about of wild allegations, allegedly to support your cause. There is a suggestion that a majority of the Senate—and it will only happen with the support of the majority of the Senate—deciding to order its debate and allocate what it believes is appropriate time for something is somehow a curtailment of free speech. Anybody in here is free to say as much as they like outside the parliament as well. There is no curtailment of free speech whatsoever. There is no sell-out of democracy when people properly elected in a democratic system come together in the chamber and decide how they would like to conduct their affairs. To somehow label that as a sell-out of democracy defies belief.

As I said, I am not going to take up much time, because it may be that the more time we spend on this process issue, the less time there is to spend on the substantive arguments. Those who feel so strongly about these issues might like to consider that and to spend more time on the substantive issues than on the process issues. It sometimes just has to be the case that, if you are in the minority, you lose. Sometimes the government loses because minority senators join with

the opposition. We do not say, 'Hold on, our free speech has been curtailed because minority senators have joined with the opposition.' Frankly, I do not hear the Labor Party behaving like wimps when they lose because minority senators join with the government. The only people who appear to be complaining when they lose, when they are not in the majority or with the majority, are the minority senators.

I want to make a couple of points, because it is quite important to look back at the history of the Australian Democrats, who now wish to complain about an effective guillotine being put in place. As I was here prior to 1996, I remember rolling guillotines regularly being endorsed by the Australian Democrats with the then government, the Australian Labor Party, regarding it as efficient management of Senate business. There were many of them. In 1991 the political broadcasting bill was guillotined—except by Senator Sowada, and, incidentally, you have been diminished since her loss—in 1990 there were 52 bills guillotined, in 1993 the Native Title Bill was guillotined, and in 1999 about 30 bills were guillotined—all with the support of the Australian Democrats.

When you look back at that history, you say to yourself: 'Heavens above! I would have thought that the Australian Democrats' record indicates that they believe it is appropriate for the minor parties to sit down with the government or the opposition of the day and decide how Senate business should be run.' So, when anyone wants to look at a hypocritical approach, when anyone wants to look at whether it is one view today and another view tomorrow, we know exactly where to look. The Labor Party has had the same view on these things as we have for some time. So let us put that protestation to one side and put it against the Democrats' record. Let us drag it out next time we hear the Democrats saying, 'We just want to keep them honest.' Here is a party which has supported rolling guillotines time after time, year after year, and now does not like it when it happens to them.

The second point I want to make is about the suggestion put by a number of speakers—and this can be dealt with in the substance of the debate, so I will not talk about it much—that somehow the amendments to the Marriage Act are vilification of the gays; that is what the major parties are seeking to do.

**Senator Cherry**—Which they are!

**Senator VANSTONE**—This can be debated in the substance of the bill. It happens to be the case at the moment that a marriage in Australia is between a man and a woman. That will be the case after the passage of these amendments. There is a lot of huff and puff going on down the other end, which is quite unreasonable. To suggest that to people who have been longstanding supporters of people in the gay community—in their friendships and in employment—on this side and that

side of the chamber is in itself a vilification that I reject on my behalf and on behalf of many others. If these issues are so important—and I believe they are—let us get on with the Senate, properly elected people, deciding its process and then let us go to the substantive debate.

**Senator CHERRY (Queensland) (1.07 p.m.)**—What extraordinary accusations! I am extremely disappointed in the actions of the government this morning. If the Minister for Immigration and Multicultural and Indigenous Affairs looks at the history of the native title debate, the environmental protection bill debate and all those debates she will see that the guillotines were added at the end of a very long debate. From memory, I think the native title debate went for about 30 hours. It was intransigence on the part of the Liberal Party around about Christmas Eve, if I recall, that actually finally resulted in an orderly end to the debate. The Democrats have never, ever agreed to a guillotine that actually cuts short a second reading debate, let alone allows half an hour for the bill to be debated.

I notice that there are 19 senators on the speakers list for the **Marriage Amendment Bill 2004**—that is one-fifth of the entire Senate, including all three gay members of the Senate, wanting to speak on that bill. The government has allowed 3½ hours. We do not even have enough time for the senators to get on the record what they wish to say. It is very disappointing for the gay population of Australia that the government is acting in this way.

It suits me politically. I can go back to Queensland and say the government guillotined it. I will put out a leaflet through Ingrid Tall's electorate in Brisbane and tell people how hypocritical the party she has chosen to represent as a gay woman is. I can do that and go on to the Labor Party. It suits me. But it does not suit this Senate, as the setting of our democracy, to have important views curtailed in this way—to say that there will be 3½ hours for debate on the Marriage Act when there are fundamental issues at stake and when there is vilification of a fundamentally important part of our population, and half an hour for debate on the issue of prisoners' rights, which is again a fundamental issue of our democracy. It really disappoints me.

The key thing I want to say today is that this place lives on cooperation and it always has. What I find particularly offensive about this is the lack of respect that the government has shown for my party, the Democrats. I can accept they have got the numbers on this particular occasion, but they will need us. They will me and other Democrat senators at some stage. I can recall many times over the course of this year where I have been approached by Senator Campbell's office or Senator Ferris's office or other people's offices when they have been wanting cooperation on the management of some particular issue. We have tried to provide

that cooperation. We have tried to ensure that the government has had a reasonably workable Senate.

**Senator Bartlett**—The workplace bills.

**Senator CHERRY**—Yes, there were the workplace bills and there have been many bills on which the government has been able to look to cooperation from the Democrats. I cannot recall such appalling treatment of the Senate and the Democrats by the government over the course of this year. They have the numbers today and they will win on this occasion, but I say to Senator Campbell, Senator Ferris and Senator Vanstone that we will remember this. Next time you come cap in hand asking for cooperation in some matter of management we will remember that, on what for us was a fundamentally important bill—the **Marriage Amendment Bill 2004**—you guillotined 3½ hours of debate when 19 people wanted to speak on it in the Senate.

**Senator Ian Campbell**—What about the native title bill?

**Senator CHERRY**—After 30 hours of debate, Senator Campbell. Thirty hours of debate! Let us stop misrepresenting your position and the position of this particular parliament. The native title debate was actually a very long debate. The EPBC bill was a very long debate.

**Senator Ian Campbell**—What about the education bill?

**Senator CHERRY**—We have never guillotined a debate after half an hour of debate or after 3½ hours of debate with 19 people on the speakers list. You are showing complete contempt for the gay population of Australia by guillotining this bill. I know the whole bill is about contempt for the gay population of Australia, but by not even allowing it to be debated properly you are showing complete contempt.

*Senator Ian Campbell interjecting—*

**Senator CHERRY**—But I will remember. I am putting you on notice; I will remember your performance today.

*Senator Ian Campbell interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator McLucas)**—Senator Campbell, don't interject.

**Senator CHERRY**—I will remember that you did this without consultation with our party room. I will remember, and my colleagues will remember, the lack of respect you have shown today, and next time you come looking for cooperation I will remind you of this and I am sure you will probably regret the action you have undertaken today.

**Senator GREIG (Western Australia) (1.11 p.m.)**—There are two or three key points I want to make. The first picks up on that which Senator Cherry has raised and which I was going to speak to as well, and that is that there is a fundamental difference between guillo-

ting a very long debate at its end to progress business and bringing in a guillotine on a bill which you have not yet debated.

*Senator Ian Campbell interjecting—*

*Senator Cherry interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator McLucas)**—Senator Campbell, Senator Cherry!

*Senator Ian Campbell interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator McLucas)**—Senator Campbell, your interjections are being unhelpful.

**Senator GREIG**—Minister Vanstone made the point that we ought not to be talking to this motion but, rather, shutting up, sitting down and getting on with the business, if that is what we want to get to. But that ignores a really important point, and that is that in that situation the amendments that will be moved to the **Marriage Amendment Bill 2004**—there are nine of them—will not be debated, because the speakers list is stacked with speeches on the second reading which will consume the 3½ hours dedicated to the **Marriage Amendment Bill 2004** under the guillotine motion.

Where the parties stand on these amendments—not just how they vote on them but how they speak to them—is very important to me and my party and very important to lesbian and gay people following this debate. That will not be shown, and I believe that is a part of the hidden agenda here. Some of these amendments which we have drafted and others have put forward call on the parties to articulate where they really stand on this stuff.

I have been invited to speak on this issue at a rally in Sydney tomorrow. Initially, I was disinclined to go as I really want to get home and get on with the business of campaigning back in WA, as I think we all do—if not in WA, in our home electorates. When the gay marriage debate was first raised, I was intrigued by it because in my 16 years of being involved with the gay and lesbian community and advocating on their behalf I have never found any particular interest or desire for marriage. It is very low on the list of the community's expectations and aspirations. I am not suggesting that some lesbian and gay people do not want it—they do. It is not a priority but—my God!—how offended they were when the government came along and kicked them in the head and said, 'Too bad, you can't have it anyway.' How much more offended they were when Labor said, 'Me too.'

There was some concession made to that by Labor when they said, 'We have committed to this. We will be snuffing out civil marriage to lesbian and gay couples. But as a concession we will agree to have a committee inquiry into this bill so we can explore some of the broader areas.' Point 5 of the terms of reference of that committee stated:

the consequences of the Bill becoming law—  
that is, if the bill is passed and agreed to—

... and those remaining avenues available to the Commonwealth for legally recognising inter-personal relationships including same-sex relationships ...

So there was an olive branch, if you like, handed out by the Labor Party, and called on and initiated by the Democrats so that there could be an inquiry into some other forms of partnership recognition that the Commonwealth could extend in the event that civil marriage was denied. For reasons that still bewilder me, shadow Attorney-General Nicola Roxon, when standing before a huge antigay rally in this place last week, suddenly announced, apparently unilaterally, that that was now being withdrawn.

**Senator Boswell**—That was not an antigay rally; that was a pro marriage rally.

**Senator GREIG**—Senator Boswell interjects that it was not an antigay rally. I heard speakers say at that rally that homosexual people were shameful, vile moral terrorists and that their relationships and that their relationships were unnatural, harmful to children, inherently promiscuous and eternally unstable. Had those speakers said that about Jewish people they would have been condemned. Had they said that about Aborigines they would have been condemned. But you can say it in this place and suddenly it is acceptable because you have the cloak of religion. You say, ‘That’s my religious viewpoint. It’s not vilification. It’s hatred but it’s not vilification.’ I heard speakers say that children being raised by same-sex couples suffer from shame and guilt. Imagine saying that about children being raised by people with disabilities. It is disgraceful that Senator Boswell so eagerly perched himself in the front row of that rally so that he could get on the television supporting traditional marriage.

The bill is not about supporting traditional marriage; it is about supporting traditional prejudice. That is why we need a comprehensive and sensible debate about it. That is why I am so keen to get on the public record the very real hatreds that lie behind these front groups which claim to speak on behalf of families. One of these groups—the key group which organised the rally last Wednesday, the Australian Family Association—is a front group for the National Civic Council. But, more importantly, that group’s Western Australian branch was found guilty of vilification in Western Australia by the Advertising Standards Board when it distributed leaflets and displayed billboards around Perth saying that gay men were paedophiles.

One of the speakers at the rally last Wednesday was Digger James. I did not hear his speech. I have not seen a transcript of that speech. But I have seen a transcript of a speech he gave in Perth in December 2001 in which he argued that gay and lesbian people were mentally ill, molested children and spread disease. Imagine

if anybody had been invited into this place to say that of Jews. You cannot underestimate the very real anger in the gay and lesbian community, not because gay marriage is being banned but because hate groups are being accepted and embraced by the government and the opposition and are being legitimised and endorsed, and because, for no explicable reason, the government and the opposition have now gone out of their way to kick these people in the guts. Not the hate groups but lesbian and gay people.

All that the lesbian and gay community are asking for is that these issues be dealt with properly and sensitively. They want to give voice to their concerns, fears and their aspirations. I will be going to the rally in Sydney tomorrow, part of which will be held outside the Labor offices in Surry Hills. I invite Senator Ludwig and yourself, Acting Deputy President McCullucas, to be there if you can make it, not to explain your position on gay marriage—I do not think many people in the lesbian and gay community really care—but to explain why you are now sucking up to these appalling evangelical Christians who claim to speak for families. They do not speak for mine. My parents are mortified by the hatred they hear coming from these groups. So are all parents of lesbian and gay children.

It is utterly ridiculous for the Labor Party and the government to now say that the marriage bill is urgent and must be guillotined and that there must be censorship on the debate on it when only a few months ago the position of the Labor Party was that it could wait until 7 October because there ought to be a full and thorough committee inquiry. There is no excuse for this haste. I know that antigay groups and fundamentalist Christian groups are running around in their state of moral panic saying that parliament must precede the court. I understand there are two court cases in Victoria where same-sex couples who have lawfully married in Canada are seeking recognition for their partnerships here in Australia. There is this myth, this rumour, this lie running around that, unless parliament acts now to extinguish that, if the courts should decide in the next few weeks or months that same-sex marriages are to be accepted, there is nothing the parliament can do. That is utterly untrue.

I believe that the courts are not going to find in favour of same-sex marriages. I think there is enough common law that suggests that that is highly unlikely. But I really want that human rights case to have its day. I really want those citizens to have their day in court. I would really like our parliament to sit back and say, ‘We’ll look at the transcripts of the court proceedings and look at the rulings that the judges make, but, whatever the outcome—whether it is positive or negative—parliament will still decide on that at the end of the day.’ To rush ahead with this now is appalling.

I agree with Senator Vanstone when she says that the marriage bill before us is not vilification. I have never suggested that. I do not think any of my colleagues have. But scratch the surface and look at the hidden meanings. What are we saying to the broader community when we say that lesbian and gay relationships are lesser and second class and not the same? In the same breath, we sometimes hear—only from the Labor Party, not from the coalition—that there might be some alternative form of partnership recognition. But they have advanced none. They have suggested none. I understand their caucus has stomped on the prospect of civil unions and registered partnerships, despite labour parties in other countries having happily gone down that path. I note with supreme irony that the Conservative Party in Britain is calling for civil unions for same-sex couples, yet in Australia the best we can do is allow hate groups to spew out their hate speeches in our parliament, say that it is traditional values, excuse it as a religion and then rush through a bill to extinguish the opportunity for solemnisation of same-sex relationships in this country.

I will never stand in this place and argue for haste on that kind of human rights legislation. Ironically, I probably would have supported a guillotine on the free trade agreement, not because I wanted to rush into that debate but because a lot of that debate was unnecessary and a lot of it was filibustering because the government and opposition had not got their act together. Their time could have been far better managed. I cannot and will not support this guillotine but I call on Labor members in this place to address the rally in Sydney tomorrow and tell the gay and lesbian people not only why their rights are being extinguished but also why Labor believe it has to be done in such appalling haste.

**Senator LUDWIG (Queensland) (1.21 p.m.)**—The Labor opposition will be supporting the motion on balance. We think that the allotment of time, given the time pressures that exist, are reasonable. We are clearly ready to proceed with the debate in relation to the bills that have been listed in the motion today.

**Senator STOTT DESPOJA (South Australia) (1.22 p.m.)**—One of my constituents has just sent me a text message suggesting that the Democrats and others on the crossbench should simply walk out as a sign of protest against or boycott of this absolute thwarting of the democratic process, but I recognise that that would suit the purposes of this chamber. If we were to leave, the two major parties, who have colluded not only on this guillotine motion but also on other regressive pieces of legislation, would be too thrilled as a consequence. I see our responsibility in this place today as standing up—even if we are only seven Democrats and two Greens—for what we consider important democratic principles and, indeed, standing up for the role of the Senate. In case we have forgotten, in the Westminster

tradition—or the ‘Washminster’ tradition, if we are to be more correct about our democratic inheritance—the Senate is a house of review which has a responsibility to scrutinise legislation in an accountable and transparent manner. That is our responsibility and that responsibility is being abrogated today.

Ministers may say it is democratic because a majority of the Senate has decided or is about to express its majority will so that we do decide to impose this particular time constraint—‘a TMM’, as Senator Ian Campbell described it, a time management motion. It sounds almost Orwellian but that does not surprise me in the context of this week. This has been a shocker of a week—an embarrassing, shameful, disgraceful week. In fact it is one of the most embarrassing weeks in this parliament and I feel embarrassed and shamed being here today.

Friday, 13 August: what a bummer this has been. This week started on a regressive, shameful note. We started our week as legislators recognising a High Court decision that said we could detain innocent people for life—refugees, asylum seekers, who have come to our country and who are, effectively stateless. Despite the fact that they were not going to be deported in the foreseeable future, we have a ruling which says that it is now legal to put those people in jail for life. That is how the week started and it did not get any better.

Today we have exposed not only this government but also the opposition for their lack of truth in parliament, in government and in representative democracy. My leader, Senator Bartlett, referred to the 43 eminent Australians who, last weekend, signed that invaluable note expressing their desire for real truth in government and expressing their concerns about the lack of commitment to that important transparent process which we are supposed to value. And what happened? By Wednesday, the debates in this place were all about how we could be incredibly derogatory to those people—43 people with whom I have not always shared the same political opinions, who are, nonetheless, eminent and distinguished Australians. Yes, some of them are older, and some of the derogatory references made to age in this place during the week were appalling. What a disgrace those comments were.

As I said during the week, what other comparable democratic nation would spend its hours in the Senate—we spent at least half an hour taking note—condemning, trivialising, patronising, ridiculing and mocking 43 eminent Australians who helped make this nation what it is today; who made it good, who made it great? Today I do not feel that my nation is so great. I certainly do not feel that the representative pinnacle of our nation, the Australian parliament, is acting in a great fashion.

Senator Ludwig has just said that the Labor Party will support the guillotine—not that we doubted it be-

cause the votes preceding this debate have made the Labor Party's intention quite clear. And the only justification he offered in a very brief explanation to the Senate was that the guillotine is 'reasonable'. Reasonable? What a joke! Half an hour for an electoral bill which deals with a number of issues! Voting rights of prisoners may be part of it—it is not my portfolio. Half an hour: that is one and a half speeches on the second reading. That is a joke and everyone in this place knows it. Of course it is a joke. And 3½ hours on the marriage bill? Don't give me reasonableness! That is not even attacking the substantive nature of the policy with which we are dealing.

We have 19 members on the speakers list. I have not put my name down yet and I wish to speak on that bill. Do the math, people: that is 6½ hours, or more. That does not allow time for debate on any of the amendments. Senator Greig, who has carriage of that portfolio, has spoken on these issues twice in the Senate today in, I might say, a brilliant manner—having clapped your last contribution, Brian, and being called disorderly I will minimise my enthusiasm on this occasion. In his last contribution, Senator Greig outlined quite appropriately the fact that there are a number of amendments that will never be debated, that will never be dealt with. At best, dealing with those amendments would let us see a voting record of politicians in this place. We are not going to hear the rationale as to why politicians may have voted a certain way. This is made all the more offensive because of the nature of the legislation with which we are dealing. I have no doubt that it is discriminatory in the sense that it has an implicit impact. It makes very clear how this parliament feels about gay and lesbian unions and I am embarrassed by that.

Senator Greig and Senator Cherry talked about the concern and disappointment that gays and lesbians in our community may have. Well, I am married and my union satisfies the definition with which we will be dealing, but how dare anyone suggest that my union, my partnership, is any more valuable than that of a same-sex partnership! I do not suggest for a moment that, because I happen to be in a heterosexual relationship which meets legal requirements, somehow my union is more valuable. How dare we suggest that! How patronising we are! If only we were simply patronising. We are not: we are offensive if we pass legislation that has that implied criticism, that illusion.

Ministers cannot stand in this place and pretend that this bill is not discriminatory, and Labor Party spokespersons cannot either. I know there has been outspokenness from some members of the Labor Party, but for once in this place I would like to see a vote that is not on party lines—a vote about passionate, principled policy issues that we believe in. Cross the floor, for goodness sake. Senators in my home state have ex-

pressed concerns about the bill and the message it sends but they should not just talk about it; they should vote that way, for goodness sake. I am embarrassed to be on record today as the only South Australian senator who not only voted against the FTA but also will vote against this guillotine. I will vote and make clear my views on the [Marriage Amendment Bill 2004](#). I am embarrassed that I am the only South Australian to do so, out of 12. It is appalling, and I hope South Australians remember it.

As Senator Cherry has made clear, it suits us politically; it suits us pragmatically, but surely these issues are broader than simply the electoral cycle with which we are confronted? Surely these issues are more important to us as legislators, as upholders of democracy and as parliamentarians—parliamentarians, my foot: members of parliament. I am yet to see a few parliamentarians in this place stand up for the real things that they believe in. So I commend my colleagues on their contributions.

Again I put on record that the Australian Democrats are pretty upset and angry today. This government has misrepresented its position today and in recent times when we have been told what the forward agenda is yet it has been changed. Change is fine. Consultation is better. But informing the Senate of one thing and doing another is misleading and misrepresenting the parliament. It comes back to the original concern that many of us had this week—the concern articulated by 43 eminent Australians that there is a lack of truth in government and a lack of truth in parliament. Bob Brown is right: Friday, August 13 is Friday the 13th in this place. It has been a black day for parliament and democracy. The Democrats are not going to give up without a fight. We may not have the numbers but we certainly have sought to uphold the morality—for lack of a better word—and the democratic intentions of this place.

**Senator BOSWELL** (Queensland—Leader of The Nationals in the Senate) (1.32 p.m.)—I was not going to get into this debate; I was going to save my comments for the substantive debate on the [Marriage Amendment Bill 2004](#). But I am forced to come into this debate because I believe the 1,200 people who came from all parts of Australia, representing many other Australians who believe that marriage is the cornerstone of Australia, have been vilified. Senator Greig, you are quite open about your relationship, and I do not condemn you for it. That is your choice. As we pass in the corridors, I always say g'day to you. I do not condemn you for your choice of lifestyle, and you do not condemn me for being on the other side of the issue. We exchange pleasantries and say g'day to each other as we pass.

**The ACTING DEPUTY PRESIDENT**—Direct your remarks through the chair please, Senator Boswell.

**Senator BOSWELL**—What I find difficult is when Senator Greig gets up here and vilifies these people in the same terms that he believes the gay and lesbian community have been vilified. He is turning the whole debate around. He vilified the 1,200 people who came from as far as Western Australia and Queensland, with three or four days notice, to express their concerns. Do they not have rights also? They have the right to come here and represent views, which I know are the views of the majority of Australians. They have every right to come here and express those views. If Senator Greig were going to address a gay and lesbian rights rally in Sydney tomorrow and if I suggested to him that all those people were anti-Christian, did not like churches and were against families, that would be wrong. But he is doing exactly what he accuses those 1,200 people of doing.

I know the passion that the Democrats have. I know how strongly they feel. I know they do not like being rolled. I was in exactly the same position during the native title debate. I thought it was absolutely wrong that native title be brought in and for there to be two titles over a property. I fought it hard. I did not believe in it. I was passionate about it but I did not have the numbers, and native title became a fact of life. I had to accept it. I made a speech on the third reading, if senators recall. I knew that we were done and I knew we had the numbers against us, but I did congratulate the Aboriginal people and the people who supported them in this place on a well-run campaign.

**Senator Ridgeway**—You still didn't give us much.

**Senator BOSWELL**—I say to Senator Ridgeway, the Aboriginal representative in this chamber, that I fought against it and I was rolled, but I congratulated the Aboriginal people on their campaign and the way they ran it. Democracy is numbers. The Democrats do not represent the majority of people. They have that narrow vote of around six or seven per cent. That is fair enough. They come in here and they represent them. But we represent the majority of people, and the overwhelming majority of people want marriage preserved between a man and a woman. Are we wrong to get up and defend the position of the majority? Of course we are not wrong.

We have been elected by people with different points of view. The people who elected me feel very strongly about this issue. Many of them are the people whom Senator Greig, I believe, has criticised and vilified. Look, in the excitement of giving speeches perhaps some of those things should not have been said. I do not know. As Senator Greig said, I sat near the front, although it was not to get my photo in the paper; it was to support those people because they turned up

and made a huge contribution in coming here. It cost them a heap of money to get here, and they deserved support.

I sat in the second front row—not to get my photo in the paper, because I did not believe that would happen and, even if it did, that was not the reason I went there—to support those who back the majority of people. They came in here to express not an anti-gay or anti-lesbian position, or to vilify the gays and the lesbians, but to support marriage which they believe is the cornerstone of society.

Let us get on with the debate. I know how strongly you feel, Senator Greig. I can gauge that by the passion with which you are delivering your message. I shared that anxiety and passion in the native title debate. You might remember—I do not think you were here, Senator Greig—that I stood up and everyone in the gallery booed me. I was putting forward a position which I believed was the position of the people who elected me and which they asked me to support, and I agreed with their position. That is what representation is all about.

Unless you can get the majority of people to believe in gay and lesbian marriages, you are never going to override the parliament because the parliament is expressing the majority views. That is what it is all about. Everyone on this side of the parliament, and probably those on the other side, knows that. If Senator Greig were to go out there and express his view, he would be annihilated because it would not be the majority view of the people of Australia. You need only six or seven per cent of the vote to get elected, and then you pick up a bit of a spill here and cross-preference with the Greens and the Democrats and pick up a bit of the spill from Labor. You are not going for the majority vote; you are going for the minority vote. You always have and you always will. You do not represent the majority views of the two major parties.

The two major parties have to reflect what is required in the mainstream electorate. The mainstream electorate do not support marriage between same-sex couples. But that is not to say that they are vilified or that they are second-class citizens. That is their choice of life and, if that is their lifestyle, I do not condemn or condone it. It does not represent what I believe is a family. Let us not debate this any longer. Let us get on with the substantive debate and put our positions forward on what we believe and the people of Australia want us to vote for.

**Senator RIDGEWAY (New South Wales) (1.40 p.m.)**—I was not going to enter this debate but after that pathetic performance from Senator Boswell—

**The ACTING DEPUTY PRESIDENT (Senator McLucas)**—Senator Ridgeway, you only have one minute, just by way of information.

**Senator RIDGEWAY**—I want to make it clear that, in the context of this notion of democracy being about a majority vote, I thought a democracy was about the values in society, about equality, fairness, understanding and compassion. When the Leader of the National Party in the Senate, Senator Boswell, was here for the native title debate, the Prime Minister held up a map showing how much land was going to be taken by Aboriginal people. What we are doing wrong in this particular case, aided and abetted by the opposition, is institutionalising bias and prejudice against particular people. The opposition should stand up and be counted and should not assist the government. People are entitled to their views in society, but I will not countenance putting them into law so that we can actively discriminate against people, which is what is happening in this place. This has happened with Indigenous people, disabled people and other people in this country because governments have allowed it to happen and oppositions have supported it. (*Time expired*)

Question put:

That the motion (**Senator Ian Campbell's**) be agreed to.

The Senate divided. [1.45 p.m.]

(The Acting Deputy President—Senator J.E. McLucas)

Ayes.....	36
Noes.....	8
Majority.....	28

#### AYES

BARNETT, G.	Boswell, R.L.D.
Campbell, G.	Campbell, I.G.
Carr, K.J.	Chapman, H.G.P.
Conroy, S.M.	Coonan, H.L.
Evans, C.V.	Faulkner, J.P.
Ferguson, A.B.	Ferris, J.M. *
Fifield, M.P.	Forshaw, M.G.
Harris, L.	Hogg, J.J.
Humphries, G.	Johnston, D.
Knowles, S.C.	Lightfoot, P.R.
Lundy, K.A.	Macdonald, I.
Macdonald, J.A.L.	Mackay, S.M.
Marshall, G.	Mason, B.J.
McLucas, J.E.	Moore, C.
Patterson, K.C.	Payne, M.A.
Scullion, N.G.	Troeth, J.M.
Vanstone, A.E.	Watson, J.O.W.
Webber, R.	Wong, P.

#### NOES

BARTLETT, A.J.J.	Brown, B.J.
Cherry, J.C.	Greig, B.
Murray, A.J.M.	Nettle, K. *

Ridgeway, A.D.

Stott Despoja, N.

\* denotes teller

Question agreed to.

#### ANTI-TERRORISM BILL (No. 3) 2004

##### In Committee

Consideration resumed.

**Senator GREIG** (Western Australia) (1.49 p.m.)—The Australian Democrats oppose schedule 1 in the following terms:

(1) Schedule 1, page 3 (line 2) to page 17 (line 16), **to be opposed.**

Democrat amendment (1) seeks to oppose schedule 1 and therefore remove it from the bill. With this amendment, the Democrats are not saying that there is no need for the Passports Act to be updated. We agree that the time for legislative changes has probably come; however, we have some concerns with the provisions in schedule 1, which we believe need to be worked through carefully. We agree with the shadow minister for homeland security that there is a compelling reason to expedite the passage of schedule 3 to this bill and we are willing to support the passage of that schedule. However, the government has made it difficult for us to do so by coupling it with schedules 1 and 2, which the Democrats are not prepared to pass in their current form. What we are saying to the government with respect to schedule 1 is: 'Go back and start again.'

In its current form, the schedule raises a number of issues. As I said in my speech during the second reading debate, the Democrats have a number of concerns with the changes proposed in schedule 1, and these concerns were confirmed by evidence in the Senate committee. We are persuaded by the argument of the Castan Centre for Human Rights Law which argues that an order for the surrender of foreign documents should be made only where a foreign arrest warrant, court order, bail or parole condition relates to a matter which is also a serious offence under Australian law. The Democrats do not believe that the minister's power should be predicated on the existence of an arrest warrant issued by a foreign court without any consideration of the nature of the laws of the legal system of the foreign country or the reasons for the issue of the warrant. You may recall that the example I gave during my speech on the second reading debate was in relation to adultery and sharia law and whatnot from a Middle Eastern country.

One of the primary concerns that the Democrats have with schedule 1 is the potential impact on refugees and asylum seekers. We are disturbed by the evidence that the new provisions may be inconsistent with the convention relating to the status of refugees. The Democrats believe that there is a need for a defence of reasonable excuse in relation to foreign travel docu-