

**STATEMENT BY THE PRESIDENT**

**MATTER OF PRIVILEGE RAISED BY SENATOR CONROY**

---

By letter dated 30 August 2016, Senator Conroy has raised as a matter of privilege aspects of the execution of search warrants by the Australian Federal Police (AFP) on his Melbourne office and the home of an Opposition staff member on 19-20 May 2016, and on the Department of Parliamentary Services at Parliament House, Canberra, on 24 August 2016, and related actions allegedly undertaken by the AFP and NBN Co Limited.

Senator Conroy claims that various actions of the AFP and NBN Co staff may have constituted an improper interference with his capacity as a senator to carry out his functions. These include:

- the possibility that the AFP intercepted and made use of his telecommunications and associated data or those of Opposition staff members;
- the alleged capture and dissemination by an NBN Co officer accompanying the AFP on 19-20 May 2016 of images of material over which Senator Conroy had claimed parliamentary privilege, contrary to the Memorandum of Understanding on the Execution of Search Warrants in the Premises of Members of Parliament, and associated AFP Guideline;
- the possibility that NBN Co may have acted on information obtained during the execution of the warrants, over which parliamentary privilege had been claimed, to penalise NBN CO staff alleged to have been connected to the provision of information to enable him to carry out his functions as a senator.

Additionally, the alleged penalisation of NBN CO staff alleged to have been connected to the provision of information to enable Senator Conroy to carry out his functions as a senator is raised as a separate potential contempt.

In determining whether to give precedence to a motion to refer a matter to the Privileges Committee I am required to have regard only to the criteria listed in Privilege Resolution 4 (Criteria to be taken into account by the President in determining whether a motion arising from a matter of privilege should be given precedence of other business). These are as follows:

- (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 purpose of these criteria is to ensure that a matter which meets them is given an appropriate opportunity to be dealt with as an item of business so that the Senate may then make a decision on the merits of the case. The decision by the President to grant precedence is not a recommendation that the matter *should* be referred to the Privileges Committee for inquiry, simply that the Senate should be given the earliest opportunity to make that decision for itself.

In this case, the Senate has declared in Privilege Resolution 6 (1) that:

A person shall not improperly interfere with ... the free performance by a senator of the senator's duties as a senator.

The Senate has also in the past regarded the penalisation of persons who provide information to senators as warranting the contempt jurisdiction of the Senate, although the protection of persons who provide information to members of parliament to assist them in carrying out their functions is not absolute. Parliamentary privilege will only protect such transactions when there is a clear connection to the use of the information by senators in the course of proceedings in parliament

I am satisfied, therefore, that the matters raised by Senator Conroy fall into that category of matters to which precedence has been granted in the past. I therefore grant precedence to a motion to refer the matters to the Privileges Committee. I table the correspondence and now invite Senator Conroy to give notice of such a motion.