

STATEMENT BY THE PRESIDENT

MATTER OF PRIVILEGE RAISED BY SENATOR WATERS

By letter dated 27 January 2017, the Chair of the Environment and Communications References Committee, Senator Waters, has raised a matter of privilege concerning that committee's 2015 inquiry into fin-fish aquaculture in Tasmania. In her letter, Senator Waters reports on the committee's consideration of a matter first raised with me by Senator Whish-Wilson in November last year. The catalyst was an *ABC Four Corners* program broadcast on 31 October 2016 which alleged that representatives of Tassal may have improperly interfered with the right of a witness to appear before the committee.

Background

Matters of privilege must be raised and determined in accordance with the Senate Privilege Resolutions. These require me to determine, having regard to the criteria in Privilege Resolution 4 (and only those criteria), whether a proposal to refer the matter to the Privileges Committee should have precedence in debate over other business.

When the matter was first raised by Senator Whish-Wilson I was satisfied that it met the first criterion (that is, '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...'). The Senate has always regarded the protection of witnesses as one of its highest duties, so any credible allegation that a witness has been improperly influenced in respect of their evidence is likely to satisfy this criterion.

However, I considered that the second criterion – the existence of a remedy other than the use of the contempt power – had not, at that stage, been satisfied. An alternative remedy was available, namely the investigation of the matter by the relevant committee.

I wrote to Senator Whish-Wilson, on 7 November 2016, indicating that I intended to bring the matter to the attention of the Environment and Communications References Committee, and I wrote to the chair, Senator Waters, on the same date asking the committee to make the necessary inquiries and to report to the Senate in accordance with Privilege Resolution 1(18), should the facts warrant it. Senator Waters' letter comprises a report on that investigation.

The purpose of the investigation was to enable the committee to determine whether the allegations had substance. Having taken the necessary steps, the committee has concluded that the witness may have been improperly influenced. The only remaining remedy to address those concerns is the use of the Senate's contempt powers. In that sense, the second of the criteria I am required to consider is satisfied.

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.

I therefore grant precedence to a motion to refer the matter to the Privileges Committee. I table the correspondence and now invite Senator Waters to give notice of such a motion.