

# SPEECH

<b>Date</b> Monday, 15 October 2018	<b>Source</b> Senate
<b>Page</b> 1	<b>Proof</b> Yes
<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> PRESIDENT, The	<b>Question No.</b>

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The PRESIDENT (10:01): Senators will be aware of an investigation referred to the Australian Federal Police by the Department of Home Affairs in which search warrants were executed in Canberra on 11 October and material seized. Senator Pratt has made a claim of parliamentary privilege over the seized material and, on 12 October, wrote to me to confirm her intention to seek from the Senate a ruling on that claim.

To give some background: at the Commonwealth level, the protection of parliamentary material from seizure under search warrant is governed by a settlement between the legislature and the executive which draws upon the traditional scope of parliamentary privilege in the courts. An AFP guideline made under that settlement sets out the procedures the AFP must follow in executing search warrants where parliamentary privilege may be involved. The guideline strictly applies when such warrants are executed on the premises of senators, members and their staff but also applies so far as possible in other circumstances.

The guideline provides a process by which senators and members may claim parliamentary privilege over seized material such that the material will be sealed and held by a neutral third party while the claim is determined. If the claim of privilege is upheld, the material is returned to the senator or member and withheld from the investigation. It is a matter for the senator or member concerned whether to seek a ruling on the material from a court or from the relevant house.

That guideline was tested for the first time at the beginning of this parliament in the investigation of a suspected leak from NBN Co involving the execution of search warrants at then-Senator Conroy's Melbourne office, at the home of one of his staff and at Parliament House. The Senate resolved to uphold the claim, on the recommendation of the Privileges Committee, after an inquiry into the matter. Senators can find more information about the process and its outcome in the committee's 163rd and 164th reports.

In the current matter, Senator Pratt has claimed parliamentary privilege over the seized material which was delivered last week into the custody of the Clerk of the Senate. In accordance with the guideline, Senator Pratt has notified the AFP that she is maintaining her claim of privilege over the documents and notified me of her intention to seek a ruling on the claim from the Senate. I table copies of the correspondence from Senator Pratt and, for the information of senators, the AFP guideline and covering memorandum of understanding. I understand that a notice of motion regarding the disposition of the documents will be given at an appropriate time.