

## Mr Ben Davies

### Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988

#### Reply to comments in the 2018-19 Supplementary Budget Estimates hearings of the Senate Legislation Committee on Education and Employment (24 October 2018) and the 2018-19 Additional Estimates Hearings of the Committee (20 February 2019)

##### Comments of 24 October 2018

1. On 24 October 2018 in the 2018-19 Supplementary Budget Estimates hearings of the Senate Education and Employment Legislation Committee, I was mentioned adversely by name in the course of the Committee's public deliberations.
2. During the course of this hearing, the following exchanges took place:

*Senator CAMERON: Minister, award-winning journalist Alice Workman from BuzzFeed reported yesterday that the AWU has had to hire a private investigator to track down your former employee Ben Davis. Are you aware of that?*

*Senator Cash: I think the word 'former'—*

*CHAIR: I think you're straying outside estimates.*

*Senator Cash: indicated—my understanding is, Chair, that there is a convention in this place that you do not discuss former employees who are private citizens.*

....

*CHAIR: I'm not sure that the minister can comment on media speculation anyway.*

*Senator CAMERON: That's not speculation; that's a fact. The AWU have had to hire a private investigator to try and track down witnesses—*

*Senator PATERSON: The AWU has chosen to—*

*Senator CAMERON: in relation to—if you could just let me finish, if you don't mind. They have had to hire a private investigator—*

*Senator MOLAN: To investigate Bill Shorten.*

*Senator CAMERON: Sorry? You're at it again, are you? Let me just finish. So, they've had to hire a private investigator. Minister, are you aware of where your former employee Ben Davis is and where he can be located? Have you had any engagement with him since he left your office?*

*CHAIR: Minister, I'm not going to instruct you not to answer the question, but I feel it's in your right—*

*Senator Cash: I'm assuming you're doing the bidding of the AWU and I think that is quite frankly disgraceful, but I will uphold the precedent in relation to former staff members are private citizens. Their names should not be raised in Senate estimates.*

3. The comments made in the Committee referred to false and misleading public statements being made by the National Secretary of the Australia Workers Union, Mr Daniel Walton in an article on the 'BuzzFeed Australia' web site published in the evening of 23 October 2018 by Ms Alice Workman entitled "*Private Investigators Have Been Hired By The Australian Workers' Union To Find Michaelia Cash's Former Staff*". I understand that Ms Workman's employment has since been terminated by BuzzFeed Australia.
4. This article published false statements made by Mr Walton imputing that I had sought to evade "investigators" who had been hired by the AWU to determine my location in order to serve a court subpoena relating to a civil proceeding involving the AWU. These comments by Mr Walton included false assertions that the AWU had been "forced" to hire such "investigators" to "track down" my whereabouts.
5. Any allegation or imputation that I evaded anyone, or have in any way concealed my whereabouts, is completely false, defamatory and without foundation.
6. I am not a party to the AWU's court proceeding. I was not aware that any subpoena relating to me had been sought or issued, nor was I aware of any attempts to locate or serve me. I have never sought to conceal my whereabouts.
7. Neither Ms Workman nor BuzzFeed Australia attempted to contact me for a response to Mr Walton's false statements before publication, which would have been reasonable journalistic practice.
8. The statements by Senator Cameron were not only false, but demonstrably false. It is not the case that the AWU "*had to hire a private investigator*" in order for me to be "*tracked down*". At all relevant times I have resided at my home address at which I have resided for a number of years and where, amongst other things, my name is registered on the title and I am registered on the publicly accessible electoral roll. I have never had any contact with any "private investigators", let alone been "tracked down" by them.
9. On other occasions where such allegations were made in the mainstream media they have been retracted or corrected. I also note for the record that the allegations referred to by Senator Cameron were made without the cover of privilege and are now the subject of defamation proceedings currently on foot in the Federal Court, in which Mr Walton, Ms Workman and BuzzFeed Australia are respondents (*Ben Davies v Australian Workers' Union & Ors* NSD178/2019).
10. It is a serious matter to evade a court process, which could amount to a contempt of court. It is equally serious to falsely allege that a person has sought to do so.
11. Given that the comments made by Senator Cameron on 24 October 2018 directly led to injury to my reputation, and were demonstrably false, I seek this opportunity to provide the ascertainable facts and correct the Senate record.

## Comments of 20 February 2019

12. On 20 February 2019 in the 2018-19 Additional Estimates hearings of the Senate Education and Employment Legislation Committee, I was mentioned adversely in a manner which would identify me in the course of the Committee's public deliberations.
13. During the course of this hearing, the following exchange took place in which Senator Cameron made a false and defamatory assertion in relation to me:

*Senator CAMERON: Maybe we can come back to some relevancy to the questions. When did your two staff members leave; the two staff members who have basically confessed to criminal activity by leaking the Federal Police raid on the AWU?*

*Senator Cash: Again—*

*CHAIR: Feel free to ignore the commentary.*

*Senator Cash: there has been so much placed into that question. I do note that the CDPP has not proceeded with the case and has closed the file. That is, I understand, the evidence that it gave. So I'll put aside Senator Cameron's political commentary. As I stated at Senate estimates back in, I believe, October or November 2017—some time ago now—my former media adviser provided his resignation to me on or about—I'd have to go and check the records—24 or 25 October, and my former chief of staff left, I believe, at the end of January 2018. I'd have to go and confirm that.*

*Senator CAMERON: So they left after it became public knowledge that they had committed an offence by leaking the Federal Police raid on the AWU; is that correct?*

14. Subsequent to this comment by Senator Cameron, the following exchange took place in which Senator Cameron again repeated the false and defamatory assertion:

*Senator CAMERON: I'm putting it to you because it's about your senior advisers, your chief of staff, your media officer and a prospective employee of your office—that's what it's about—all who have engaged in criminal activity.*

*CHAIR: Senator Cameron!*

*Senator Cash: Chair!*

*CHAIR: Senator Cameron, it's an absolutely baseless statement.*

15. The suggestion that I engaged in criminal activity, committed an offence, or breached any criminal law is completely false, defamatory and without foundation. I completely repudiate that I have engaged in any criminal activity of any kind.

16. It is an extremely serious matter to engage in criminal conduct. It is equally serious to falsely allege that a person has done so, or to falsely assert that they have confessed to doing so. I am not aware of such allegations having been made by anyone other than Senator Cameron under the cover of privilege.

17. Subsequent to this exchange, a separate allegation was made by Senator Cameron:

*Senator CAMERON: Before your former chief of staff left, did he confess, as he has recently, that he was the source of the leak?*

18. The assertion by Senator Cameron that I was ‘the source of the leak’ is false. I have not engaged in any such leak, whether authorised or otherwise, to any member of the media. The imputation that I have is completely false, defamatory and without foundation. Other than the allegation by Senator Cameron and in a separate forum of the Senate by Senator Wong, each under cover of privilege, I am not aware of any suggestion by any other person that I have done so.

19. Given that the comments made in the Senate Legislation Committee on Education and Employment on 24 October 2018 and 20 February 2019 by Senator Cameron directly led to injury to my reputation, were highly defamatory and demonstrably false, I seek this opportunity to provide the ascertainable facts and correct the Senate record.

Ben Davies  
19 March 2019