
The Parliament of the Commonwealth of Australia

Report on allegations of documents
fraudulently and inaccurately written and
issued in a member's name

House of Representatives
Standing Committee of Privileges

May 2007
Canberra

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Membership of the Committee

- Chair** Mr Cameron Thompson MP
- Deputy Chair** Hon Warren Snowdon MP (Member from 10 May 2007 and Deputy Chair from 21 May 2007)
- Members** Ms Anna Burke MP (Deputy Chair till 27 March 2007)
- Mrs Trish Draper MP
- Ms Annette Ellis MP (Member from 27 March 2007 to 10 May 2007 and Deputy Chair from 28 March 2007 to 10 May 2007)
- Mrs Joanna Gash MP
- Mr Luke Hartsuyker MP
- Mr Bob McMullan MP (till 29 March 2007)
- Mr Daryl Melham MP
- Ms Tanya Plibersek MP (Representative of Deputy Leader of the Opposition)
- Mr Don Randall MP
- Hon Roger Price MP
- Mr Alex Somlyay MP (Representative of Leader of the House)

Committee Secretariat

Secretary	Mr David Elder
Research Officer	Ms Claressa Surtees
Administrative Officer	Ms Laura Gillies



Terms of reference

On 10 August 2005 the House referred to the Committee the following matter for inquiry and report:

the question of whether two incidents where alleged fraudulent and inaccurate documents purportedly from the Member for Eden-Monaro were distributed to media outlets and to a recipient of government funding in his electorate constitute contempts.

Allegations of documents fraudulently and inaccurately written and issued in a member's name

The complaint

- 1.1 On 10 August 2005, the Member for Eden-Monaro, Hon Gary Nairn MP, raised as a matter of privilege in the House two incidents where allegedly fraudulent and inaccurate documents purportedly from him were distributed to media outlets and to a recipient of government funding in his electorate. A copy of Mr Nairn's statement to the House is at Appendix A.
- 1.2 In the first incident, Mr Nairn's office was contacted in early April 2005 by media outlets in his electorate in relation to a media statement entitled 'New vision for timber industry' apparently on his letterhead and with the originating fax identification using his name and fax number. The content of the media release referred to Mr Nairn's supposed change in attitude to the timber industry. Mr Nairn indicated he had not been responsible for the press release.
- 1.3 In the second incident, Mr Nairn's office, also in early April 2005, received a call from a distressed constituent, Mr Peter Mathie who was a director of a Narooma based logging contractor, Bruce Mathie and Sons Pty Ltd. The company had received a letter apparently from Mr Nairn informing it that a grant for \$165,400 from the Australian Government under the Forest Industry Structural Adjustment Package, recently announced by Mr Nairn, was being rescinded. According to Mr Nairn, Mr Mathie was

most distressed that the grant was being rescinded. However, Mr Nairn stated that the letter was a forgery and so there was no truth in its claims. The letter was on what appeared to be Mr Nairn's green letterhead, had arrived in one of his window-faced envelopes and carried what appeared to be his signature in blue ink, although slightly distorted. The letter was postmarked at Bega. Mr Nairn noted that the letter was 'a very professional forgery with a clear and calculated intent to mislead Mr Mathie, and to misrepresent my office'.

- 1.4 Mr Nairn presented copies of the fax and the letter, both of which were dated 1 April 2005 (the documents are reproduced at Appendix B).
- 1.5 In explaining the delay between the incidents having occurred and raising the matter in the House, Mr Nairn referred to his personal circumstances in April and May with the illness and subsequent death of his wife which limited his ability to follow up the matter. He also had referred the incidents to the Australian Federal Police which was pursuing inquiries.
- 1.6 Mr Nairn stated that he believed the matter to be a serious contempt of the House and asked that it be referred to the Committee of Privileges.

The reference

- 1.7 The Speaker responded to the matter later on 10 August 2005 (see Appendix C for a copy of the Speaker's statement). The Speaker referred to a case in 1974 in which the Committee of Privileges had found that a letter that was fraudulently written in a member's name and sent to the editor of a newspaper was a serious contempt of the House, although the Committee had not been able to identify the writer.
- 1.8 In relation to the incidents referred to by Mr Nairn, the Speaker considered there was evidence of a prima facie case of breach of privilege and he was satisfied, in the circumstances, that Mr Nairn had raised it at the earliest opportunity. He allowed precedence to a motion and, on the motion of Mr Nairn, the House resolved:

That the question of whether two incidents where alleged fraudulent and inaccurate documents purportedly from the Member for Eden-Monaro were distributed to media outlets and to a recipient of government funding in his electorate constitute contempts be referred to the Committee of Privileges.

Relevant law

1.9 The Committee received a memorandum dated 2 September 2005 from the Clerk of the House outlining the law relevant to the case (see Appendix D for a copy of the Clerk's memorandum).

1.10 The Clerk referred to section 4 of the *Parliamentary Privileges Act 1987* which provides a threshold test for whether conduct would be regarded as a contempt (an offence against a House). Section 4 provides:

4. Essential element of offences

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

1.11 In this case the conduct would be that which amounts, or is intended or likely to amount, to an improper interference with Mr Nairn's free performance of his duties as a member. The Clerk referred to the 1974 case with similar circumstances that had been noted by the Speaker.

1.12 In looking to the task before the Committee, the Clerk noted that under section 4 of the Act, establishing that there was an intent to cause improper interference was not strictly necessary in determining whether a contempt has been committed; it was sufficient to establish that the conduct amounted to, or was likely to amount to, an improper interference. He also noted that even if the conduct was not proven to be illegal, it may nevertheless amount to a contempt.

1.13 He summarised the issues that the Committee could consider as:

1. the identity of the person or persons who created the documents and distributed them;
2. the intention of the person or persons in creating and distributing the documents;
3. the effect of the documents on the initial recipients; and
4. whether any of the incidents amounted to an improper interference with Mr Nairn's free performance of his duties as a member.

The Inquiry

- 1.14 The Committee invited Mr Nairn to make a written submission and he responded with the document at Appendix E.
- 1.15 The Committee also sought to take oral evidence from the Australian Federal Police (AFP) which was believed to have undertaken an investigation of the incidents referred to by Mr Nairn. The Commissioner of the AFP, Mr M Keelty, wrote to the Committee on 8 September 2005 advising that the AFP was investigating the incidents involving Mr Nairn and asked that the Committee not take evidence on its inquiry until the AFP had concluded its investigation and any subsequent prosecution action had been completed. The Committee agreed to this request so as not to prejudice any police investigation.
- 1.16 On 13 March 2006, Mr Keelty advised the Committee that the AFP had finalised its investigation and would not proceed to prosecution, subject to further evidence becoming available. He indicated that the AFP was willing to give evidence to the Committee and the Committee proceeded to recommence its inquiry.
- 1.17 Before the Committee could recommence its investigation, the Committee secretariat received a faxed letter in early April 2006 (and dated 1 April 2006) apparently on the letterhead of Mr Nairn and with his signature (copy of letter at Appendix F). The letter asked the Committee to expedite its inquiry of the reference concerning Mr Nairn. The secretary established from Mr Nairn's office that the letter had not been sent by Mr Nairn. The AFP suggested that the letter be referred to it for investigation and this was done by the secretary. The Commissioner of the AFP advised the secretary on 18 May 2006 that the AFP had accepted the matter for investigation. The Committee agreed, on the advice of the AFP, that it again should suspend its inquiry until the AFP had concluded its investigation.
- 1.18 On 5 October 2006, the Minister for Justice and Customs, Senator the Hon Chris Ellison, advised the Committee that the investigation had concluded, a suspect had been identified in the matter, a brief of evidence had been forwarded to the Commonwealth Director of Public Prosecutions (CDPP) for adjudication and that the CDPP had determined no charges could be brought against the suspect as the available evidence did not sustain a criminal prosecution. The suspect had been advised by the AFP that the activity alleged was of considerable concern and should not continue. The Minister indicated that the AFP was willing to give evidence to the Committee.

- 1.19 The Committee took evidence from Mr Nairn and representatives of the AFP at an in camera hearing on 2 November 2006. As a result of evidence given by the AFP that reflected adversely on two individuals, and in accordance with the Committee's procedures for the conduct of its inquiries, the Committee provided a summary of the evidence to the two individuals and invited them to respond. Responses were received from both individuals.
- 1.20 Following the receipt of these responses, the Committee called one of the individuals, Ms Harriett Swift, to give evidence to an in camera hearing. After an initial refusal, Ms Swift was summonsed to appear, and did so on 1 March 2007. In accordance with the Committee's procedures for the conduct of its inquiries, Ms Swift was provided with the evidence the Committee had taken on the matter.

The evidence

- 1.21 Mr Nairn's evidence focussed on the circumstances surrounding the receipt of the documents purportedly from him and their impact on his work as a member. He referred to the press release dated 1 April 2005 and also to the letter dated 1 April 2005 sent to Bruce Mathie and Sons.
- 1.22 Mr Nairn also advised the Committee of two letters dated 1 April 2006, of which it had not been previously aware, to Mr Phil Mathie of Bruce Mathie and Sons Pty Ltd and to Mr John Sparkes of South East Fibre Exports Pty Ltd. Both letters apparently were on Mr Nairn's letterhead and were signed by Mr Nairn. They were offers to nominate each of the two men for an Order of Australia honour subject to them meeting certain conditions (copies of the letters are at Appendix G). Mr Nairn said he had not been responsible for preparing and sending the letters. He described to the Committee the circumstances surrounding the receipt of these letters and their impact on his work as a member.

- 1.23 In its evidence, the AFP noted that the media release entitled 'New Vision for the timber industry' dated 1 April 2005 apparently sent by Mr Nairn, was faxed to three media outlets in Eden-Monaro. Telephone checks conducted revealed that the faxes were sent from a telephone number at Dr George Mountain Road, Tarranganda, New South Wales. Checks indicated that one of the occupants of these premises was Ms Harriett Swift. The facsimile sent to the Committee secretary on 1 April 2006 was identified as being a telephone line with Ms Harriett Swift as the subscriber.
- 1.24 Subsequently a search warrant was executed by the AFP on the Dr George Mountain Road, Tarranganda premises. During the execution of the search warrant, Ms Swift ,who was present during the search, identified a four-drawer filing cabinet at that residence containing a lever arch folder titled 'letterheads'. Inside the folder were numerous documents containing various letterheads of persons and companies. These documents ranged from partially to fully completed letterheads and minute paper. The letterhead file also contained a press release that included Mr Nairn's parliamentary letterhead and signature block. The press release was titled 'New vision for the timber industry' - that is, the same title as was on the documents sent the previous year. That document was dated 1 April 2005.
- 1.25 The letterhead file also contained a copy of the letter sent to Mr Mathie on 1 April 2005 which stated that his forestry industry package had been rescinded. The seized computer equipment underwent forensic examination at AFP computer forensics, and files and images relating to Mr Gary Nairn's parliamentary letterhead and signature block were located on that equipment. Electronic copies of letters received by Mr Mathie in 2005 and 2006 were also located in a folder, an electronic folder entitled 'Harriett'. An electronic copy of the letter sent to Mr Sparkes of Fibre Exports was also located on the computer hard drive. Also among the documents located on the hard drive were originals of the false reproductions of Mr Nairn's official parliamentary letterhead and signature block.
- 1.26 As a result of this evidence, the AFP representative advised the Committee that he considered there was 'a clear and manifest connection of Ms Harriett Swift to the activities' of preparing and sending the press release and letters purportedly from Mr Nairn. On the balance of probabilities, he believed, a determination could be made in relation to the responsibility for the activities.

1.27 A brief of evidence was collated by the AFP and forwarded to the CDP on 20 July 2006. The AFP received advice from the CDP on 10 August 2006 and, on the basis of that advice, no prosecution was initiated.

1.28 In taking evidence from Ms Swift the Committee was interested in her possible responsibility for the preparation and sending of the letters and press release that have been the subject of the inquiry. The following exchange took place between the Chair and Ms Swift:

Chair: You are aware of the documents in question. You have seen the evidence that has been collected and you have seen the various documents that are alleged to have been prepared on Mr Nairn's letterhead. Were you responsible in any way for the preparation and distribution of that correspondence or those press releases?

Ms Swift: Yes

1.29 Ms Swift outlined her motivation in taking the actions she did. She referred to wishing to use satire to make people look at the issue of logging in south-east New South Wales in another way. She also explained that it was an April Fools 'Day joke and should have been seen as such by those involved.

Conclusions

1.30 As noted earlier, the Clerk in his memorandum stated that the Committee might wish to consider:

1. the identity of the person or persons who created and distributed the documents;
2. the intentions of the person or persons;
3. the effect the receipt of the documents had on the initial recipients; and
4. whether any of the incidents amounted to an improper interference in the performance by Mr Nairn of his duties as a Member.

1.31 The Committee draws its conclusions on these issues in light of the evidence received.

The identity of the person or persons who created and distributed the documents

- 1.32 Evidence from the Australian Federal Police (AFP) established a clear and manifest connection of Ms Harriet Swift to the preparation and distribution of a press release and four letters dated variously 1 April 2005 and 1 April 2006 purportedly from the Hon Gary Nairn MP. Ms Swift did not dispute this evidence. Even more significant is Ms Swift's response to a direct question about her responsibility for the preparation and distribution of the documents in question, when Ms Swift admitted that she was responsible.

The intentions of the person or persons

- 1.33 In relation to Ms Swift's intention in preparing and sending the documents, she said it was for the purpose of satire with the documents being dated and sent on April Fools' Day. She said it was designed to make people look at the issues of logging in south-east New South Wales from a different perspective. She acknowledged that were it on any other day or in any other context, using a member of parliament's letterhead and signature in this way was:

... not something I would encourage. I think it is, in fact, a pretty bad idea.

Despite these reservations, Ms Swift considered that April Fools' Day was an open season on such misrepresentations.

The effect the receipt of the documents had on the initial recipients and Mr Nairn

- 1.34 The Committee received evidence from Mr Nairn on the impact of the sending of the documents on the recipients and on himself. In relation to the press release sent on 1 April 2005, which was the first document to come to light, Mr Nairn indicated that it was not used by the media and media representatives contacted him to find out what it was about. He indicated that he was 'a bit irritated by it, because I wondered where they [the copies of the press release] had gone to', but having contacted a number of media outlets to advise them it was not a legitimate press release, he was 'going to let it go'.¹ However, the call from Mr Phil Mathie of Bruce Mathie and Sons in relation to the letter sent on 1 April 2005
-

indicated to Mr Nairn 'the distress he [Mr Mathie] experienced when he received the letter and had no reason not to believe it to be an authentic letter from me'. According to Mr Nairn, Mr Mathie did not think it was a joke when he received the letter. When Mr Mathie received the second letter in 2006, the evidence from Mr Nairn indicated that Mr Mathie seems to have considered that the letter was a joke. The Committee did not consider it was necessary to take evidence from Mr Mathie as the nature of the impact on Mr Mathie of receipt of the letters was not material to the Committee's consideration of the issue. Mr Nairn was not aware of the letter sent to Mr Sparkes (dated 1 April 2006) until he was made aware of it by the AFP, and Mr Sparkes was deceased at the time the letter was received. Finally, Mr Nairn was only made aware of the letter dated 1 April 2006 received by the secretary of the Committee of Privileges when the secretary contacted Mr Nairn to confirm that the letter had not been sent by him. Given the earlier history of such letters, the secretariat had believed the letter was not authentic.

- 1.35 Mr Nairn summarised his reaction to the press release and letters as it being 'pretty annoying and irritating'. He did not believe his credibility had been affected but he was concerned that 'with your letterhead being bandied around the country, who knows what else has been written' and 'if it can happen to me, it can happen to any member of parliament'.

Whether any of the incidents amounted to an improper interference in the performance by Mr Nairn of his duties as a Member

- 1.36 For a matter to constitute a contempt, conduct must amount to, or be intended or likely to amount to, an improper interference with the free performance by a member of the member's duties as a member. The act of misusing the letterhead and signature of a member of parliament potentially is a criminal offence, although that would depend on the particular circumstances. In this case the matter did not proceed to prosecution. Nevertheless, Ms Swift herself considered such misuse 'a pretty bad idea' and generally it was not something she would encourage. The issue for the Committee is not whether the misuse itself was illegal or improper, but whether the misuse resulted in an improper interference in Mr Nairn performing his duties as a member.
- 1.37 Communication with constituents, including communication with the local media, is an important part of the duties of a member, and members rightly rely on this communication being seen as honest and being free from interference. In preparing and distributing the press release and letters to make it appear as though they had been sent by Mr Nairn,

Ms Swift, in her own admission, did not have the specific intention of interfering with Mr Nairn's communications with his constituents. Her intention, as she stated, was to draw attention to the issue of logging in south-east New South Wales forests by presenting it in a different way and using satire. She relied on the fact that the press release and letters were dated and sent on 1 April as an April Fools' Day joke, and therefore would be seen by anyone as just a joke.

- 1.38 However, the test as to whether a matter amounts to a contempt as provided in section 4 of the Parliamentary Privilege Act does not just go to the intention of the conduct but also whether it amounts, or is likely to amount to an improper interference with the free performance by a member of his or her duties. The evidence from Mr Nairn shows that there was interference with his communication with his constituents and such interference could be expected as a likely outcome of such misuse. In the particular circumstances there was evidence of some damage done to Mr Nairn and his constituents such as would affect Mr Nairn's relationship with his constituents. Nevertheless, the Committee considers the misuse of a member's letterhead and signature, regardless of the specific intentions, would either amount to, or be likely to amount to, an interference with a member's ability to communicate freely and honestly with his or her constituents. The Committee also considers that such interference in these circumstances, when there is a deliberate attempt to misrepresent a member by fabricating a letterhead and signature, is improper and constitutes a contempt of the House.
- 1.39 In accordance with its procedures for the conduct of its inquiry, the Committee wrote to Ms Swift to invite her to respond to the Committee's adverse finding in relation to her. Ms Swift asked that the Committee agree to her having a statement included with the Committee's report. The Committee considered a statement from Ms Swift but decided it was not appropriate for publication.

Findings

- 1.40 The Committee finds that Ms Harriett Swift, on five occasions in 2005 and 2006, deliberately misrepresented the Hon Gary Nairn MP by producing and distributing documents that fabricated Mr Nairn's letterhead and signature to make it appear that the documents were prepared and sent by Mr Nairn. The Committee finds Ms Swift guilty of a contempt of the House in that she has undertaken conduct which amounts to an improper

interference in the free performance by Mr Nairn of his duties as a member.

Punishment

- 1.41 The imposition of a punishment for a contempt of the House is a matter for the House. In his memorandum to the Committee, the Clerk noted in relation to punishment for a contempt that the penalty regime of section 7 of the Parliamentary Privileges Act would apply. Section 7 provides for the imposition of a term of imprisonment (up to six months) or a fine (up to \$5000 for an individual) for a contempt. The Clerk also noted that the House may punish people guilty of contempt by means of a public reprimand or admonishment, exclusion from the precincts or requirement for an apology.
- 1.42 The Committee considers that the contempt committed by Ms Swift is a very serious matter, although it notes that, in the circumstances, none of the incidents resulted in significant damage to Mr Nairn or any other person. In light of this, the Committee considers that an appropriate penalty would be for the House to reprimand Ms Swift for her conduct. Any further such conduct by Ms Swift could give rise to more serious consequences.

Recommendation

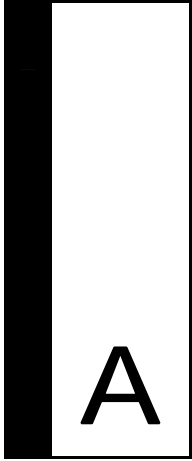
Recommendation 1

1.43 The Committee recommends that the House:

1. Find Ms Swift guilty of a contempt of the House in that she undertook conduct that amounted to an improper interference with the free performance by Mr Nairn of his duties as a member; and
2. Reprimand Ms Swift for her conduct.

Mr CP Thompson MP

Chair



Appendix A

Mr Nairn's statement to the House dated 10 August 2005

Family Law Reform

Miss JACKIE KELLY (3.01 pm)—My question is addressed to the Attorney-General. Could the Attorney-General update the House on the implementation of the most significant reforms to the family law system in 30 years? Is he aware of any alternative proposals?

Mr RUDDOCK—I thank the member for Lindsay for her question. I know of her considerable interest in these matters. I would also like to take the opportunity of thanking the members of the Legal and Constitutional Affairs Committee who are considering an exposure draft bill dealing with changes to the Family Law Act which will be complemented by the most significant changes to family law when we implement the new family relationship centres. These are the centre-piece, of course, of our initiatives and almost \$400 million is committed in the budget over time to the implementation of those centres.

I was pleased last Sunday week to attend with the member for Lindsay in Penrith an event where I was able to announce the location of the first 15 centres to be established. They are Lismore, Sutherland, Wollongong, Penrith, Mildura, Sunshine, Frankston, Ringwood, Townsville, Strathpine, Joondalup, Salisbury, Darwin, Hobart and Canberra. I did spend last week in a number of those locations in meetings discussing the implementation arrangements for this substantial initiative of the government. I have to say that the very well-attended meetings organised in so many locations reinforced in me an appreciation of the depth of feeling in our community about this issue and of the fact that we have to have a very clear focus on resolving issues in relation to family law in the best interests of children and at times their fundamental right—all other things being equal—to know both parents.

I notice the member for Gellibrand has had some comments to make about our selection of new centres. One of the observations she made that I saw in a statement she released was that any priority in the running of centres should be given to existing established services. While I think that many of those do provide very important services to the communities they serve, one should not see them as being the only groups who have the capacity to help in this area. We certainly value the work that they have undertaken and that is why we have dramatically expanded service delivery. But I think what the opposition fails to understand in relation to this matter is that we are not only about changing the system; we want to change the culture. That means you need to be prepared to be open enough to recognise that there is a range of people and organisations with skills that ought to also be drawn upon in this very difficult area. I would encourage the Labor Party to put aside its sniping from the sidelines and to support the most significant reforms to the family law system that we have seen in over a generation.

Mr Howard—Mr Speaker, I ask that further questions be placed on the *Notice Paper*.

PRIVILEGE

Mr NAIRN (Eden-Monaro—Parliamentary Secretary to the Prime Minister) (3.05 pm)—I wish to raise a matter of privilege. I refer to two incidents where fraudulent and inaccurate documents purportedly from my office were distributed to media outlets and to a recipient of government funding in my electorate in what amounts to a dirty campaign against me and the timber industry in Eden-Monaro. In early April my office was contacted by a number of media outlets in my electorate in reference to a media statement which was supposedly released by me. The statement was apparently on my letterhead and was drafted to

appear to have been faxed from my electorate office fax machine. The statement was entitled 'New vision for timber industry' with the content referring to my supposed change in attitude to the timber industry. This media statement was not issued by me, despite the fact that it appeared to be on my legitimate letterhead and the originating fax identification used my name and fax number. This was clearly a forgery.

Then a few days later my office received a phone call from a very distressed director of a Narooma based logging contractor, Bruce Mathie and Sons Pty Ltd. That company had received a letter supposedly from me informing them that a grant from the Australian government under the Forest Industry Structural Adjustment Package, FISAP, recently announced by me, was being rescinded. The grant was for a substantial amount of money, \$165,400, and Mr Mathie was most distressed that it now appeared to him that it would no longer be coming to his company. There was no truth in the statement that the grant was being rescinded and I had no knowledge of such a letter. My office requested that a copy of the letter be faxed to me. It was clearly a forgery.

The letter was printed on what appeared to be my letterhead and it had arrived by post in one of my window-faced envelopes. The letter also carried what appeared to be my signature, although very slightly distorted. The envelope was postmarked at Bega. There are well-known anti-timber activists based in Bega and I would not be surprised to learn of their involvement in this. Mr Mathie informed my office and me that the letterhead was in green—the colour of my legitimate letterhead—and the signature was in blue ink. This is a very professional forgery with a clear and calculated intent to mislead Mr Mathie and to misrepresent my office. It would appear that this is a part of a campaign against a legitimate industry, an

important industry in my electorate, and against one local company involved in that industry. It is interesting to note that a current protest taking place in the Wandella forest is also targeted against the legal operations of Mr Mathie's company and his employees.

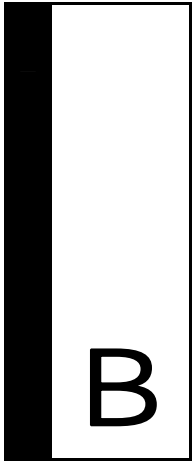
Mr Speaker, I am aware that matters of privilege should be raised at the earliest opportunity; however during April and May, you would be aware, I was somewhat constrained due to personal circumstances with the illness and subsequent passing of my wife and therefore limited in initially following this matter up. I have taken the course of contacting the Australian Federal Police, the AFP, as I believe it may be a criminal matter and I understand the AFP are still conducting their inquiries. Given the severity of the matter at hand, I subsequently followed this up with the Clerk of the House and, having done so, I believe this to be a serious contempt of the House and that privilege may have been breached. I ask that you refer this matter to the Privileges Committee. I table copies of the relevant documents.

The SPEAKER (3.09 pm)—In response to the member for Eden-Monaro, may I say that a matter of privilege, as all members would know, is a very serious matter. I will look closely at the points raised by the member for Eden-Monaro and give consideration as to whether or not to refer it to the Privileges Committee, and I will report back on that.

QUESTIONS TO THE SPEAKER

Question Time

Mr TANNER (3.09 pm)—Mr Speaker, early in question time the member for Hunter asked a question to the Leader of the National Party which you ruled out of order on the grounds that it did not cover areas relating to the Leader of the National Party's portfolio. I draw your attention to the fact



Appendix B

Fax and letter dated 1 April 2005



Gary Nairn MP

Federal Member for Eden-Monaro
Chair, House of Representatives Standing
Committee on Science and Innovation



*Building a secure
future for
Eden Monaro*

Mr Bruce Mathie
Bruce Mathie and Sons Pty Ltd
Acacia Close
DALMENY NSW 2548

Dear Bruce

FORESTRY INDUSTRY ASSISTANCE PACKAGE GRANTS

I refer to the Forestry Industry Assistance Package (FISAP) Grants announced recently, in which you were awarded \$165,400 for the purchase of new mechanical harvesting equipment.

Unfortunately I regret I must advise that this grant has been rescinded. The Government is coming under increasing scrutiny from a Parliamentary Committee as a result of some injudicious pre-election grants. Officers of the Department of Agriculture, Forestry and Fisheries have reviewed all recent decisions in the light of this and as a consequence, your grant has been cancelled.

The Department has advised that where the recipient appears to already have ample means, grants should not proceed. The Howard Government has accepted this advice as being in the public interest.

Please do not hesitate to contact me on 02 62973952 to discuss this at any time.

Yours sincerely

GARY NAIRN
1 April 2005

Shop 16 City Link Plaza, 24-36 Marisset Street
PO Box 232 Queanbeyan NSW 2620
TELEPHONE: 02 62973952 FREECALL: 1300 301 983 FAX: 02
62975768
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Atta: Sophie

Gary Nairn MP

Federal Member for Eden-Monaro
Chair, House of Representatives Standing
Committee on Science and Innovation



*Building a secure
future for
Eden Monaro*

MEDIA STATEMENT

NEW VISION FOR TIMBER INDUSTRY

The Member for Eden-Monaro, Mr Gary Nairn has unveiled his new vision for the timber industry in his electorate.

Mr Nairn, who is a strong supporter of woodchipping, wants to see the whole industry move to operating on a simulated basis.

"I am so excited by the positive response to my announcement last week of \$106,250 under the Forestry Industry Assistance Package (FISAP) for a mechanical harvester simulator, I have realised that the electorate would be much better off if the whole industry were simulated.

"This means we would see simulated logging, simulated woodchipping and simulated forest destruction," Mr Nairn said.

"I am confident that all parties, even the greenies will be happier with a simulated or virtual industry."

"The local councils will be happier with fewer potholes in roads caused by simulated trucks."

"Forests NSW, which currently pays no rates at all on its production forests, will in future pay virtual rates of approximately \$1 million a year in the Bega Valley Shire alone. Over 27% of the Bega Shire is State Forest. Other shires can expect smaller but still worthwhile virtual gains to their revenue base."

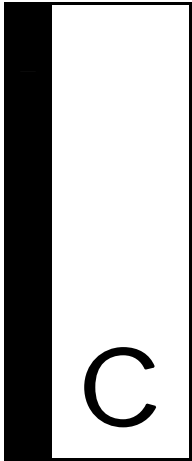
"The forest animals will be happier, only having to simulate death, starvation and homelessness."

"The Japanese paper industry will be happier as it will be able to simulate a better quality woodchip at a more reasonable price."

"I am eagerly looking forward to holding some simulated consultations with all stakeholders over the coming months," Mr Nairn said.

"There is every possibility it could even lead to a virtual increase in my campaign donations for the next election," he added.

1 April 2005



Appendix C

Speaker's statement in the House of 10 August 2005

be too much trouble. It is better to bring it in in units, take it off the barge and slide it into place. Look around at oil production in the ocean and what do you get? You get ships; you do not get platforms. And why are they ships? Because you can build them in Korea; you can build them in all parts of the world—sail them in, hook them up and produce oil.

These fellows tell us that everything they do is for the worker, but just check the jobs. In my electorate two hospitals were to be rebuilt. But a Labor government was elected, and they changed all the industrial laws and found they could afford only one. It became a scandal. People were meeting the premier of the state wherever he went from the other poor town—Moora—and giving him bricks as bricks fell out of the old hospital. Eventually they found out how much GST money they were getting from us and they decided they could afford the second hospital, but it cost them double because of the industrial problems and industrial policy they implemented.

Mr Speaker, I am very sad to have to discontinue my remarks at this stage, but it has been drawn to my attention that you have a matter of considerable importance that you would like to address before the 7.30 adjournment, and I naturally concede to you. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PRIVILEGE

The SPEAKER (7.27 pm)—Earlier today the member for Eden-Monaro raised with me a complaint of breach of privilege relating to two incidents where alleged fraudulent and inaccurate documents purportedly from his office were distributed to media outlets and to a recipient of government funding in his electorate. In a case reported on by the Committee of Privileges in 1974, the committee found that a letter that was fraudu-

lently written in a member's name and sent to the editor of a newspaper was a serious contempt of the House, although the committee had not been able to identify the writer.

I have examined the remarks made by the member and the documents that he has presented to the House. I am satisfied, on the basis of the member's remarks and the documents he has presented, that there is evidence of a prima facie case of breach of privilege. I have also considered the issue of whether the matter has been raised at the earliest opportunity. Whilst there clearly has been some delay in the member raising this matter in the House, having regard to the personal circumstances referred to by the member I consider the matter has been raised by him at the earliest possible opportunity. Accordingly, I am prepared to allow precedence to a motion on this matter to refer it to the Committee of Privileges.

Mr NAIRN (Eden-Monaro—Parliamentary Secretary to the Prime Minister) (7.29 pm)—I move:

That the question of whether two incidents where alleged fraudulent and inaccurate documents purportedly from the Member for Eden Monaro were distributed to media outlets and to a recipient of government funding in his electorate constitute contempts, be referred to the Committee of Privileges.

Question agreed to.

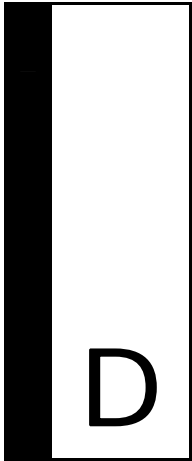
ADJOURNMENT

The SPEAKER—Order! It being almost 7.30 pm, I propose the question:

That the House do now adjourn.

Victory in the Pacific Day

Mr QUICK (Franklin) (7.30 pm)—Next Monday, 15 August, we will celebrate VP Day, the end 60 years ago of the war in the Pacific against Japan. Daily in our newspapers we read stories of individual servicemen and their life experiences during the war in the Pacific. We cannot help but be moved to



Appendix D

Clerk's Memorandum dated 2 September 2005

Inquiry concerning alleged fraudulent and inaccurate documents purportedly from the Member for Eden–Monaro and distributed to media outlets and a recipient of government funding

Memorandum by the Clerk of the House of Representatives

The reference

On 10 August 2005 the House referred, for inquiry and report, a matter in the following terms:

That the question of whether two incidents where alleged fraudulent and inaccurate documents purportedly from the Member for Eden Monaro were distributed to media outlets and to a recipient of government funding in his electorate constitute contempts, be referred to the Committee of Privileges.

This matter was first raised that same day by The Hon Gary Nairn, Parliamentary Secretary to the Prime Minister and the Member for Eden–Monaro. Mr Nairn informed the House that in early April 2005 he had received queries from a number of media outlets in his electorate about a media statement, apparently on his letterhead and having been faxed from his electorate office. Mr Nairn stated further that a logging contractor, Bruce Mathie and Sons Pty Ltd, contacted him a few days later with concerns about a letter it had received from him informing it that a grant recently awarded to it had been rescinded. The media statement reflected Mr Nairn's interest in the timber industry as the representative of his electorate, and the letter reflected Mr Nairn's responsibilities as a member of executive government. Mr Nairn described the documents as forgeries, intended to mislead Mr Mathie and misrepresent Mr Nairn's office. A copy of Mr Nairn's statement is at attachment A, and copies of the allegedly fraudulent and inaccurate documents are at attachment B.

Four months had elapsed between Mr Nairn's becoming aware of the documents and his raising of the matter in the House. The Speaker accepted Mr Nairn's explanation of the personal circumstances which constrained him from raising the matter earlier.

Legislative provisions relating to privilege and contempt

Parliamentary privilege refers to the special rights and immunities that belong to the Parliament, its members and certain other persons, and are regarded as essential for the operation of the Parliament.

Section 49 of the Constitution provides for the privileges of the Parliament:

49 Privileges etc. of Houses

The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

The Parliament has made a declaration under this head of power in the *Parliamentary Privileges Act 1987* (the Act). The Act states that, except to the extent that the Act expressly provides otherwise, the powers, privileges and immunities of each House, and of the members and the committees of each House, as in force under section 49 of the Constitution immediately before the commencement of the Act, continue in force.

The Houses have retained the power to hold certain actions or omissions as contempts. Section 4 of the Act establishes a threshold test for a finding of contempt:

4 Essential element of offences

Conduct (including the use of words) does not constitute an offence against a House unless it amounts, or is intended or likely to amount, to an improper interference with the free exercise by a House or committee of its authority or functions, or with the free performance by a member of the member's duties as a member.

A contempt, in general terms, is an act or omission which obstructs or impedes any member or officer in the discharge of his or her parliamentary duties, or which has a tendency to produce such results. An action may amount to a contempt without breaching a particular right or immunity, or indeed a law. Acts or omissions that are otherwise legal may still be held to be a contempt.

Section 7 of the Act provides some clarification of the scope of the Houses' power to punish for contempt. Penalties for an individual include, imprisonment for a period not exceeding six months, s. 7(1) and imposition of a fine of up to \$5,000, s. 7(5).

References and precedents relevant to the matter referred to the committee

The experience of the House in regard to breaches of privilege and contempt is limited, and I have considered the reported experience of the House of

Commons as a useful supplement. Nevertheless, there are few references and precedents which have direct relevance to the matter before the Committee.

Contempt

As set out above, s. 4 of the Act identifies the essential elements of contempt which need to be identified from the specific circumstances; in this case it would be conduct that '... amounts, or is intended or likely to amount, to an improper interference ... with the free performance by a member of the member's duties as a member'. The concept of contempt is of such scope that it can apply to conduct which produces the specified result, even though there is no precedent of it (Sir William McKay, *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament* 23rd edn 2004, LexisNexis UK, p. 128). Despite the Australian enactment of the law of privilege, the Act does not attempt to codify or enumerate conduct that may be held to constitute contempts (I C Harris, *House of Representatives Practice*, 5th edn 2005, Canberra, p. 727). The question of whether an action amounts to a contempt thus is dependent on the particular facts surrounding the action, any evidence of intention or motive and the impact on a member in freely performing his or her duties as a member.

Punishment

The application of ss. 3(3) of the Act means that an offence against a House includes a contempt of a House or of the members, and accordingly, the penalty regime in s. 7 will apply in relation to a contempt against a member. In addition, the House may also punish people found guilty of contempt, according to practice, by means of public reprimand or admonishment, exclusion from the precincts or requirement for an apology (I C Harris, *op. cit.*, pp. 738–742).

In 1912, the House resolved that if it accepted a complaint by a member that a newspaper had misrepresented her or him in an article which was erroneous, misleading or injurious, the newspaper would be penalised by having its representatives excluded from the parliamentary premises until it published the member's explanation (I C Harris, *op. cit.*, p. 741).

Case involving similar circumstances

The Committee might find it helpful to consider the findings of an inquiry conducted by the Committee of Privileges in 1974 into a matter characterised by similar circumstances to those of the present case.

In 1974, the Committee of Privileges reported on a matter in which letters were fraudulently written in the name of Mr C R T Mathews, the Member for Casey, and sent to *The Sun-News Pictorial* and *The Sydney Morning Herald* in

December 1973 (House of Representatives Committee of Privileges, PP 65/1974). The subject matter of the letters was political in nature and the views expressed in the letter were directly opposed to the views Mr Mathews had demonstrated in the House.

Despite making inquiries of both newspaper organisations the Committee was unable to identify the person responsible for writing the letters. Nevertheless, the Committee made three findings; that the letter to *The Sun-News Pictorial* was a forgery and appeared to constitute a criminal offence under the *Crimes Act 1914*, that the letter wilfully and fraudulently misrepresented Mr Mathews, and that the unknown writer was thereby guilty of a serious contempt of the House of Representatives.

Task before the committee

The Committee's responsibility is to consider the reference from the House, based on a complaint of contempt, and report on it to the House. The Committee will likely wish to ascertain the facts of the matter and to duly consider them. The Committee may reach conclusions, having regard to the relevant parliamentary law, precedents, practice and principles, and may also make recommendations to the House as to what action the House might take.

Under s. 4 of the Act, establishing that there was intent to cause improper interference is not strictly necessary in determining whether a contempt has been committed; it is sufficient to establish that the conduct amounted to, or was likely to amount to, improper interference. However, the Committee is likely to wish to have regard to the intention of any person committing a possible contempt, but the Committee will need to determine its approach.

The Committee is faced with an obvious difficulty in that the creator of the allegedly fraudulent and inaccurate documents appears not to be known. Presumably the Committee will seek to obtain and examine the original documents, and seek information from the persons who received them regarding the manner and circumstances of their receipt. However, it would be unexpected if such information led to the identity of the creator of the documents.

It is not certain whether the creation and distribution of the documents amounts to a criminal offence. The documents display an apparently official letterhead of Mr Nairn, but it was out of date at the time of the incidents, and one of the documents contains a personal signature purporting to be that of Mr Nairn, but which he states is not his. In view of Mr Nairn's remarks, it seems likely that the creating and distribution of the documents would fall for

consideration as possibly constituting an offence of forgery under the *Criminal Code Act 1995*. Section 144.1(5) appears to be particularly relevant:

144.1 Forgery

...

- (5) A person is guilty of an offence if:
- (a) the person makes a false document with the intention that the person or another will use it:
 - (i) to dishonestly induce a third person to accept it as genuine; and
 - (ii) if it is so accepted, to dishonestly obtain a gain, dishonestly cause a loss, or dishonestly influence the exercise of a public duty or function; and
 - (b) the false document is a false Commonwealth document.

Penalty: Imprisonment for 10 years.

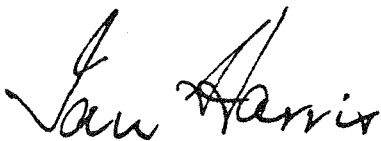
- (6) In a prosecution for an offence against subsection (5), it is not necessary to prove that the defendant knew that the false document was a false Commonwealth document.

...

It should be noted that even though conduct is not proven to be illegal, or is legal and 'proper', the conduct may nevertheless amount to a contempt.

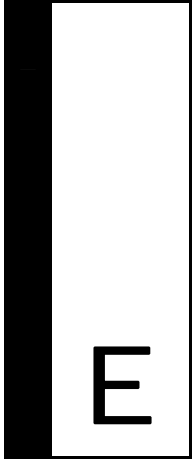
In summary, issues that the Committee might wish to consider include:

1. the identity of the person or persons who created the documents and distributed them;
2. the intention of the person or persons in creating and distributing the documents;
3. the effect of the documents on the initial recipients; and
4. whether any of the incidents amounted to an improper interference with Mr Nairn's free performance of his duties as a member.



I C HARRIS
Clerk of the House

2/9/05



Appendix E

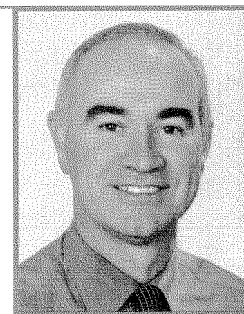
Mr Nairn's submission



The Hon. Gary Nairn MP

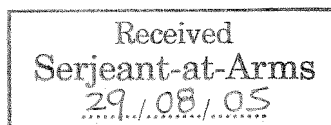
Federal Member for Eden-Monaro

Parliamentary Secretary to the Prime Minister



*Building a secure
future for
Eden-Monaro*

29 August 2005



Mr Cameron Thompson MP
Chairman
Standing Committee of Privileges
Parliament House
Canberra ACT 2600

Dear Mr Cameron *Cameron*

Thank you for your letter of 18 August 2005 regarding the matter raised by me in the House on the 10th August 2005 and subsequently referred to your Committee from the House of Representatives.

My detailed submission to you is as follows:

Late on Friday 1st April 2005 my office received phone calls from a number of journalists from various outlets in my electorate asking if a press release that had been faxed to them was authentic. They said the press release was on my letterhead and referred to my supposed change in attitude to the timber industry. As no such press release had been issued by my office, my staff requested copies be faxed to my office.

My office received three copies of the 'press release' from ABC South East (Bega), the Eden Magnet and Radio 2EC (Bega). Each one was the same and had been faxed to each of those media organisations at about the same time early on the 1st April 2005.

Although the copies I inspected were a fax of a fax, it appeared to be the letterhead I used prior to the last Federal Election but with a photo of me used on other promotional material not letterhead. Therefore I concluded it was a 'made up' letterhead by someone however without close examination most people would assume it was a legitimate press release from me.

Each of the copies provided also indicated that they had been faxed from my office fax machine. That is, the fax identification was 'FROM NAIRN 62975768 to ...'. It is well known that any fax machine can be programmed to print out whatever identifier you chose. However the format for the date and time is dependent upon individual fax machines and the format for each of the copies was month/day/year whereas my office fax's format is day/month/year.

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PO Box 232 Queanbeyan NSW 2620

TELEPHONE: 02 6297 3952 FREECALL: 1300 301 983 FAX: 02 6297 5768

EMAIL: g.nairn.mp@aph.gov.au WEBSITE: www.garynairn.com.au

While this 'press release' could have been passed off as a practical joke, the extent that someone or an organisation had gone to portray the material as having come from me was of great concern to me. During the weekend I gave consideration as to whether I should refer the matter to the Federal Police.

On Monday 4th April 2005 my office received a phone call from Mr Phil Mathie of Bruce Mathie and Sons Pty Ltd. Mr Mathie was quite distressed as he had received a letter supposedly from me informing him that the Australian Government had rescinded a grant to his company. A grant of \$165,000 had been announced about a week or so earlier to Bruce Mathie and Sons Pty Ltd under the Forest Industry Structural Adjustment Package (FISAP).

Upon request Mr Mathie faxed a copy of the letter he was referring to my office. The letter was on the same letterhead as the previous received 'press releases' and it was signed. The signature was a very good copy of my signature.

I personally phoned Mr Mathie to reassure him the letter did not come from me and that the grant had not been rescinded. I asked Mr Mathie to describe the original and he explained that the letterhead was in green and the signature was in blue ink. The letter came through the postal system and was in one of my window faced envelopes. He also emphasised to me the distress he experienced when he received the letter and had no reason not to believe it to be an authentic letter from me.

I decided that both these matters should be referred to the appropriate authorities and my office sought advice from the office of the Minister for Justice, Senator the Hon Chris Ellison. Mr Greg Mole in that office requested that copies of all of the material be forwarded to Minister Ellison's office. I wrote to the Minister on the 5th April 2005 and included copies of all documents. Minister Ellison wrote to me on the 28th April 2005 confirming that he had referred the matter to the Australian Federal Police (AFP).

On the 9th May 2005 I received a letter from the AFP informing me that an investigation would not be conducted. I was particularly concerned by this decision as it appeared it was based on someone's assessment that the 'press releases' had originated from my office fax machine. As described above, a simple examination of the format of the identifier of my office fax machine indicated that not to be the case.

I therefore contacted Mr Greg Mole in Minister Ellison's office and explained this and informed him of the letter from the AFP. He undertook to investigate further.

My office was subsequently contacted by Federal Agent Dave Turner of the AFP requesting an appointment to discuss the matter with me. That appointment took place on the 23rd June 2005 in my Parliament House office.

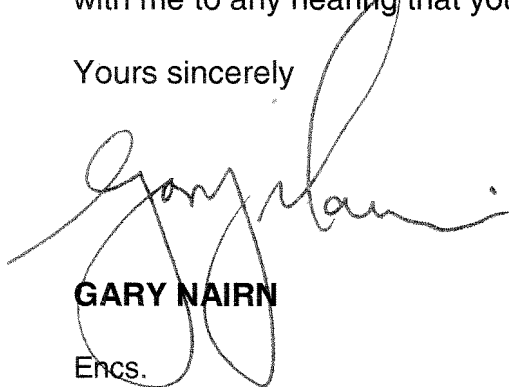
That meeting was attended by Federal Agents Dave Turner and Anita van Hilst. At that meeting Federal Agent Turner apologised for the letter dated 9th May 2005 explaining it should not have been sent as the investigations referred to in the letter had not been completed.

The AFP officers explained that further investigations would be carried out to determine the fax machine source of the 'press releases' and that if there was anything that they were able to tell me they would come back to me. They explained that even if they were able to identify the source a criminal act may not have been committed. They explained that forging a document and a signature is illegal only if a criminal intent can be proved.

In the weeks following that interview it occurred to me that if no criminal charges could be brought perhaps it is the Parliament that had been offended by these actions. After the winter adjournment of the Parliament I raised the matter with the Clerk of the House and he subsequently advised that I should raise the matter of privilege in the Parliament. This I did on the 10th August 2005. To date I have not received any further advice from the AFP.

Copies of all of the various documents referred to above are attached for the Committee's information and I will bring the original of the letter to Mr Mathie with me to any hearing that you request my attendance at.

Yours sincerely



GARY NAIRN

Encs.



Gary Nairn MP

Federal Member for Eden-Monaro
 Chair, House of Representatives Standing
 Committee on Science and Innovation



*Building a secure
 future for
 Eden Monaro*

MEDIA STATEMENT

NEW VISION FOR TIMBER INDUSTRY

The Member for Eden-Monaro, Mr Gary Nairn has unveiled his new vision for the timber industry in his electorate.

Mr Nairn, who is a strong supporter of woodchipping, wants to see the whole industry move to operating on a simulated basis.

"I am so excited by the positive response to my announcement last week of \$106,250 under the Forestry Industry Assistance Package (FISAP) for a mechanical harvester simulator, I have realised that the electorate would be much better off if the whole industry were simulated.

"This means we would see simulated logging, simulated woodchipping and simulated forest destruction," Mr Nairn said.

"I am confident that all parties, even the greensies will be happier with a simulated or virtual industry."

"The local councils will be happier with fewer potholes in roads caused by simulated trucks."

"Forests NSW, which currently pays no rates at all on its production forests, will in future pay virtual rates of approximately \$1 million a year in the Bega Valley Shire alone. Over 27% of the Bega Shire is State Forest. Other shires can expect smaller but still worthwhile virtual gains to their revenue base."

"The forest animals will be happier, only having to simulate death, starvation and homelessness."

"The Japanese paper industry will be happier as it will be able to simulate a better quality woodchip at a more reasonable price."

"I am eagerly looking forward to holding some simulated consultations with all stakeholders over the coming months," Mr Nairn said.

"There is every possibility it could even lead to a virtual increase in my campaign donations for the next election," he added.

1 April 2005

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Gary Nairn MP

Federal Member for Eden-Monaro
Crat. House of Representatives Standing
Committee on Science and Innovation



*Building a secure
future for
Eden Monaro*

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Attn: Sophie

Gary Nairn MP

Federal Member for Eden-Monaro
Chair, House of Representatives Standing
Committee on Science and Innovation



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1 April 2005



Gary Nairn MP

Federal Member for Eden-Monaro
Chair, House of Representatives Standing
Committee on Science and Innovation



*Building a secure
future for
Eden Monaro*

Mr Bruce Mathie
Bruce Mathie and Sons Pty Ltd
Acacia Close
DALMENY NSW 2548

Dear Bruce

FORESTRY INDUSTRY ASSISTANCE PACKAGE GRANTS

I refer to the Forestry Industry Assistance Package (FISAP) Grants announced recently, in which you were awarded \$185,400 for the purchase of new mechanical harvesting equipment.

Unfortunately I regret I must advise that this grant has been rescinded. The Government is coming under increasing scrutiny from a Parliamentary Committee as a result of some injudicious pre-election grants. Officers of the Department of Agriculture, Forestry and Fisheries have reviewed all recent decisions in the light of this and as a consequence, your grant has been cancelled.

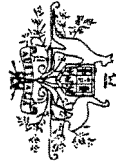
The Department has advised that where the recipient appears to already have ample means, grants should not proceed. The Howard Government has accepted this advice as being in the public interest.

Please do not hesitate to contact me on 02 62973952 to discuss this at any time.

Yours sincerely

GARY NAIRN
1 April 2005

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Gary Nairn MP

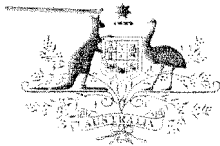
Federal Member for Eden-Monaro

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Queanbeyan NSW 2620

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Mr Bruce Mathie
Bruce Mathie and Sons Pty Ltd
Acacia Close
DALMENY NSW 2546





The Hon. Gary Nairn MP

Federal Member for Eden-Monaro
Parliamentary Secretary to the Prime Minister



*Building a secure
future for
Eden-Monaro*

5th April 2005

Senator the Hon. Chris Ellison
Minister for Justice and Customs
Parliament House
Canberra ACT 2600

Att: Greg Mole

Dear Minister

Further to my telephone conversation today with Greg Mole, please find enclosed a copy of various documents related to the unauthorised reproduction of my letterhead including a media statement purporting to have been issued by me and a letter also purporting to have been sent by me. The various documents are:

1. Copy of media statement sent by facsimile to the Eden Magnet (64961940)
2. Copy of media statement sent by facsimile to ABC South East (64916099)
3. Copy of media statement sent by facsimile to Radio 2EC (64922614)
4. Copy of letter posted to Bruce Mathie and Sons Pty Ltd
5. Copy of envelope (window faced) used for letter in 4 above.

The original of 4 and 5 above will be made available as required. It should be noted that I am informed the signature on the original of the letter is in blue ink.

As discussed, none of these documents emanated from my office and no authorisation had been given for their use. You will note the facsimiles indicate they have been sent from my office fax machine but this is not the case. Presumably the person responsible for transmitting these documents has 'set-up' their own fax machine to appear as mine.

I would be pleased if you could pass these documents onto the Australian Federal Police for investigation and please inform them that I can be contacted at my Queanbeyan office or on mobile 0429 123 692.

Yours Sincerely

GARY NAIRN
Encl.

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EMAIL: g.nairn.mp@aph.gov.au WEBSITE: www.garynairn.com.au

GARY NAIRN
MEMBER FOR EDEN-MONARO
0 5 MAY 2005



SENATOR THE HON. CHRISTOPHER ELLISON

4200

Minister for Justice and Customs
Senator for Western Australia

The Hon Gary Nairn MP
Federal Member for Eden-Monaro
Shop 16 City Link Plaza
24-36 Morisset Street
QUEANBEYAN NSW 2620

28 APR 2005

Dear Mr Nairn 

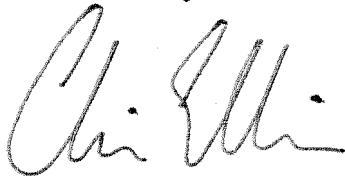
Thank you for your letter dated 5 April 2005 requesting the Australian Federal Police (AFP) investigate the unauthorised reproduction and use of your letterhead.

I have forwarded your letter and attached documents to the AFP. I am advised the AFP will assess the matter, with consideration given to your request for an investigation.

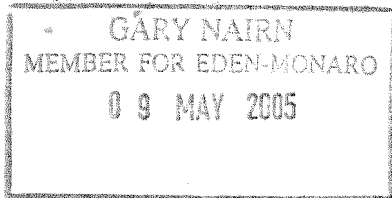
I understand the AFP will contact you regarding the outcome of the assessment and advise you whether an investigation will be conducted.

I trust this information is of assistance.

Yours sincerely



CHRIS ELLISON
Senator for Western Australia



Australian Federal Police
— To fight crime together and win —

ABN: 17 864 931 143

Our Ref: 3396176

GPO Box 401
Canberra ACT 2601
Telephone: 02 62567777
Facsimile: 02 62462253

3 May 2005

The Honourable Gary Nairn
Federal Member for Eden-Monaro

Dear Mr Nairn,

I refer to your correspondence regarding the alleged unauthorised media statements and a letter purported to be sent and signed by you.

All referrals received by the Australian Federal Police (AFP) are presented before the Operations Committee (OC) for assessment. In doing so, the OC takes into account a number of factors including the nature of the alleged crime, the gravity/sensitivity of the matter, the effect of the criminality involved, the current investigational workload and available resources.

Whilst the AFP has the primary responsibility for investigating criminal offences against the Commonwealth, the number of offences referred to the AFP exceeds our investigative capacity. The AFP is not resourced to investigate every complaint or allegation made, even when there is sufficient information to suggest that there is a breach of the law. Each case is assessed and a decision is made whether or not to allocate the required investigative resources. Each matter reported must be balanced against all other new referrals as well as ongoing investigations and commitments. This decision is made by the OC in conjunction with the AFP Case Categorisation and Prioritisation Model (CCPM), available on our website www.afp.gov.au.

Initial enquiries were made by conducting checks of records from the facsimile machine in your office. Records indicate that the media outlets involved were contacted from this line. I draw attention to the date of this correspondence, being 1 April 2005 and the potential that the correspondence related to April Fools Day.

This referral was presented to the Operations Committee on 26 April 2005 and the decision was made that this matter not be accepted for investigation due to the AFP being committed to matters of higher priority.

Should you wish to discuss this matter further please contact me on 02 62567777.

Yours faithfully

Sally Jennings
TCCC OMC

AFP Web site: www.afp.gov.au



Appendix F

Letter to Secretary dated 1 April 2006

Received
Serjeant-at-Arms
03.04.06



Gary Nairn MP

Federal Member for Eden-Monaro
Chair, House of Representatives Standing Committee
on Science and Innovation



*Building a secure
future for
Eden-Monaro*

Mr David Elder
Secretary
House of Representatives Standing Committee of Privileges
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA
Fax: (02) 6277 2006

Dear David

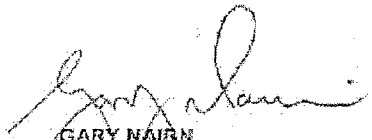
I refer to the matter of "Allegation of documents fraudulently and inaccurately written in a member's name" currently before the Committee. You will be aware that this matter was referred to the Committee in August 2005, some 8 months ago.

In my view this is simply not good enough. Justice delayed is justice denied. Moreover, I have reason to believe that something similar may have occurred again on April Fools Day this year.

How is the Parliament to safeguard the dignity of its institutions and members when scurrilous actions by members of the public can so easily hold it up to ridicule?

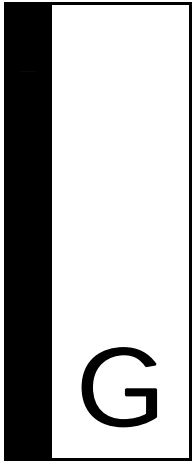
I would be grateful if you would take all necessary steps to expedite the resolution of the matter. It would also be appreciated if you would advise members of the Committee of my concern about the delay.

Yours sincerely


GARY NAIRN

Shop 16 City Link Plaza, 24-26 Morisset Street
PO Box 212 Queanbeyan NSW 2610
TELEPHONE: 02 6297 3752 FREECALL: 1300 301 983 FAX: 02 6297 3758
EMAIL: g.nairn@aph.gov.au WEBSITE: www.garynairn.com.au

1 April 2006



Appendix G

Letters to Mr Mathie and Mr Sparkes dated 1 April 2006



Gary Nairn MP

Federal Member for Eden-Monaro

Chair, House of Representatives Standing Committee
on Science and Innovation



*Building a secure
future for
Eden-Monaro*

Mr Phil Mathie
Bruce Mathie and Sons Pty Ltd
Lot 5 Acacia Close
DALMENY NSW 2546

Dear Phil

I am writing to you as Member for Eden-Monaro, but also in my recently acquired role as Special Minister of State.

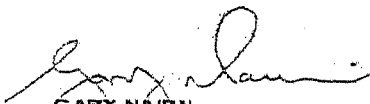
Without beating around the bush, I want to nominate you for the Australian honour, the Order of Australia.

It is usual in such cases to sound out the intended recipient before an honour is publicly awarded, and that is the purpose of this letter. It would not be appropriate for the Governor-General to announce an award if, for some reason, the intended recipient felt uncomfortable about receiving it.

I would be very disappointed to hear that you had any objection because I strongly believe you should be honoured in this way. Your patience in the face of lawless and provocative behaviour by conservationists has been nothing short of heroic and should, in my view, receive some recognition.

There is just one small condition on this proposal: it would be most embarrassing to the Government if it turned out that any member of your board of directors had been guilty of any criminal conduct and for this reason I am proposing to wait until after your brother Gil's court appearance on 6 June. In the unlikely event that he is found guilty I would have to review my support for your nomination, but in the mean time I would be grateful if you would advise me of whether or not this honour would be acceptable to you.

Yours sincerely


GARY NAIRN
1.5.06

Shop 16 City Link Plaza, 24-36 Macquarie Street
PO Box 232 Queanbeyan NSW 2620
TELEPHONE: 02 6297 3922 FREECALL: 1200 301 923 FAX: 02 6297 3766
EMAIL: g.nairn.mp@airn.gov.au WEBSITE: www.garynairn.com.au



Gary Nairn MP

Federal Member for Eden-Monaro

Chair, House of Representatives Standing Committee
on Science and Innovation



*Building a secure
future for
Eden-Monaro*

Mr John Sparkes
General Manager
South East Fibre Exports Pty Ltd
PO Box 89
EDEN NSW 2551

Dear John

I am writing to you as Member for Eden-Monaro, but also in my recently acquired role as Special Minister of State.

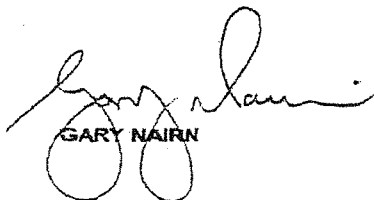
Without beating around the bush, I want to nominate you for the Australian honour, the Order of Australia.

It is usual in such cases to sound out the intended recipient before an honour is publicly awarded, and that is the purpose of this letter. It would not be appropriate for the Governor-General to announce an award if, for some reason, the intended recipient felt uncomfortable about receiving it.

I would be very disappointed to hear that you had any objection because I strongly believe you should be honoured in this way. Your patience in the face of lawless and provocative behaviour by conservationists has been remarkable and should, in my view, receive some recognition.

There is just one small condition on this proposal: the Government will need to be assured that you have never publicly criticised a Liberal Party candidate for public office. A routine investigation into this is currently under way, but in the mean time I would be grateful if you would confirm to me that you are prepared to accept this honour.

Yours sincerely


GARY NAIRN

Shop 16 City Link Plaza, 24-36 Morttset Street
PO Box 232 Queanbeyan NSW 2620

TELEPHONE: 02 6297 3952 FREECALL: 1300 301 985 FAX: 02 6297 5768

Email: g.nairn.mp@aph.gov.au Website: www.garynairn.com.au

1 April 2006