



Bronwyn Bishop MP

Chairman

House of Representatives Standing Committee on
Legal and Constitutional Affairs

MEDIA RELEASE

BB040531

31 May 2004

Bishop tables Committee Report on Inquiry into Averment Provisions in Customs Law and Recommends Compensation and Reform

Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs, the Hon Bronwyn Bishop MP, today tabled the Committee's report entitled *Modern-day usage of averments in customs prosecutions* in the House of Representatives today. Averments allow statements of fact made by the prosecution in Customs prosecutions to be taken as *prima facie* evidence of the matter(s) stated.

In the course of the Inquiry the Committee took evidence about the case of *Comptroller-General of Customs v Tomson and Keomalavong*, where it became clear to the Committee that the Australian Customs Service culture that produced the Midford Paramount matter investigated by the Joint Committee of Public Accounts in the early 1990s also produced the *Tomson* case.

The Committee accepts that the Australian Customs Service has undergone significant organisational and cultural change over the past decade, but the *Tomson* case is unfinished business from the Midford period and must be dealt with on a similar basis.

The Committee considered Customs' handling of the *Tomson* case reprehensible, both in the length of time it took – 11 years – and the decision to prosecute in 1992 after the Director of Public Prosecutions had advised in 1990 that the evidence gathered by Customs was not sufficient to meet the criminal standard of proof, which was required.

Customs officers had travelled overseas in February and December 1989 at public expense to gain evidence in order to prosecute Mr Tomson. This was the evidence found wanting but which was still used, together with averments, to attempt to gain a conviction – an attempt which failed.

The Committee has recommended that compensation be paid to Mr Tomson.

In the broader context, the Committee has not recommended that the averment provisions in the *Customs Act* be abolished, but has recommended legislative changes including guidelines on the appropriate use of averments.

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For further information, contact the Committee secretariat on (02) 6277 2358, or visit the
inquiry website at www.aph.gov.au/house/committee/laca