

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Additional Estimates 2016 - 2017

Outcome 2 - Workplace Relations and Economic Strategy

Department of Employment Question No. EMSQ17-001959

Senator Cameron asked on 30 March 2017 on proof Hansard page 15

Question

Correspondence regarding Superannuation Arrangements for Fair Work Commission Members

Senator CAMERON: It is not uncommon then, as you indicate in 10, that presidential members reach a position where former Vice President Watson can retire on \$272,544 per annum. It is not uncommon for those presidential members then to retire. Minister, clause 10—

Senator Cash: Of the president's statement about early departures by presidential members?

Senator CAMERON: Yes, of Justice Ross's tabled document. It indicates there that a former vice president wrote to the minister in 2015 regarding concerns with taxation issues relating to the judges' pension payable to members which could affect consideration as to the timing of their retirement. Are you aware of that correspondence, Minister?

Senator Cash: Can I take that on notice? Unfortunately I do not have any information in relation to me in relation to that correspondence.

Senator CAMERON: Secretary, are you aware of that correspondence?

Ms Leon: I recall that the minister received the correspondence but I cannot recall if it was when Senator Abetz or Senator Cash was the minister.

Senator Cash: Hence why we will need to take it on notice.

Senator CAMERON: Minister, when were you appointed minister?

Senator Cash: September-October 2015. I am not quite sure when the letter was.

Ms Leon: It may have been when Senator Abetz was minister.

Senator CAMERON: Ms Leon, was this correspondence that went directly to the minister?

Senator Cash: Unfortunately it was in 2015. We would have to take that on notice to have a look at it.

Ms Leon: I think it was but I would have to take it on notice.

Senator CAMERON: I am not asking if you gave any advice on this, but were you asked for any advice, whether it was by Minister Abetz or Minister Cash? Were you asked for any advice on this?

Ms Leon: When correspondence comes to the minister—unless it is party political correspondence, in another capacity—any correspondence that comes to the minister is usually referred to the department, and then we ordinarily would prepare a brief and a draft reply for the minister to consider. I believe that normal practice was followed in relation to that letter. My recollection about it—and I stand to be corrected on notice, because it is a couple of years ago now—is that it concerned matters to do with the way the superannuation surcharge applies to people who are going to receive the judges' pension. There were some complexities about that, and we would have had to advise the minister what those were. But it is now a couple of years ago, so my memory is not strong.

Senator CAMERON: On notice, can you provide details of not only the letter but also the draft correspondence. Did a letter go back?

Ms Leon: If my advice is correct, the letter would have gone to the Treasurer, saying, 'Can you please respond to this.' Ordinarily, in those circumstances—although I do not attest from

memory as to whether this occurred—we would write to the person who wrote and say, 'Thank you for your letter, but the matter concerns a taxation issue, and so I have referred it to the Treasurer for reply to you direct.'

Senator CAMERON: Could you provide all correspondence in relation to this letter between you, whatever minister it was and the Treasurer?

Ms Leon: Yes, I will take that on notice.

Answer

On 23 November 2015 former Vice President Graeme Watson and former Senior Deputy President Ian Watson of the Fair Work Commission wrote to the Minister for Employment, Senator the Hon Michaelia Cash, on behalf of former presidential members of the Australian Industrial Relations Commission in relation to the taxation of their interests in the Judges' Pensions Scheme under Division 293 of the *Income Tax Assessment Act 1997*.

The Minister referred this correspondence to the Treasurer, the Hon Scott Morrison MP, on 9 February 2016 and notified former Vice President Graeme Watson and former Senior Deputy President Ian Watson that she had done so.

Former Vice President Watson wrote to the Treasurer about this matter (enclosing his earlier letter to Minister Cash) on 25 July 2016. The Department of the Treasury replied to this correspondence on 6 January 2017.

The correspondence is attached.