

EDUCATION, SCIENCE AND TRAINING

SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE 2004-2005 BUDGET ESTIMATES HEARING

Outcome: 1
Output Group: ARC

DEST Question No. E309_05

Senators Carr and Harradine asked on 2 June 2004, EWRE Hansard pages 35-36.

Question:

Senator Harradine – I am aware of the relevant point. It says:

The Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.

We are dealing with a private company here, and a huge amount of money has been allocated –\$98 million or whatever is not chicken feed. Unless we are able to be provided with what I have requested, it is very difficult to know how the money is spent and with what results. I have Minister Macfarlane's statement. So far as I know, that has not been cleared, and nor would it matter because you cannot have one minister declaring commercial-in-confidence on behalf of another minister. This is ministerial responsibility.

Senator Vanstone – I understand the point you are making. I have had a longstanding interest in the use and misuse of commercial-in-confidence. I do recall it was former Labor Attorney-General Michael Lavarch who finally broke the cartel—if that is the proper work—that lawyers had been using at estimates saying that their fees could not possibly be revealed because it would be too damaging for them. Yet someone who makes a chair for parliament is apparently obliged to have the cost of the chair revealed. I might make a point of seeking whether they have snuck back into their old ways in that respect. My point here is that we have the information in relation to orders of documents. Your point, I gather, is an argument that what Minister Macfarlane has done is not satisfactory or that he is not the minister than can. I do not think that is something that these officers are equipped to answer. That is a matter for the government to answer, and I will take that on notice.

Senator Carr – I think I was the one that moved that motion that the Senate accepted. IN regard to this particular expenditure item, I have a difference of opinion with Senator Harradine on the worth of the centre. I put the view—and I would ask the minister to consider this when she is examining the question that Senator Harradine has put—that this centre is doing very good work. There should be nothing that it is frightened of in regard to revealing the nature of that work. If there are genuine commercial interests that need to be protected because the centre is in a competitive area then, under that resolution, the government is entitled to state those.

Senator Vanstone – Have you seen the copy of the letter from Mr Macfarlane?

Senator Carr – I have not seen a copy of the particular letter he is talking about but I have had considerable dealings in this matter. It strikes me that it is possible for the government to state clearly what it believes to be the commercial interests that are in question without infringing on the work of the centre, which is, as I understand, proceeding extremely well. IN fact it should be an opportunity to tell people how well it is going.

Senator Vanstone – I do not know whether it is going well or not but I suspect I have a similar view to you in relation to the research, but one that disagrees with Senator Harradine. But we all have a common interest in the proper reporting arrangements, and I will take Senator Harradine's question on notice as to the ministerial propriety of one minister versus another making that statement and your remarks, Senator Carr, as to the adequacy of the statement.

Answer:

Interpretation of Senate Commercial Confidentiality Resolution

Senator Vanstone has provided the following response:

I have taken advice to the effect that:

- one minister's claim of commercial-in-confidence can be relied on by another portfolio. The Senate Resolution refers to "a" Minister making a claim of commercial-in-confidence. It does not specify that the claim has to be made by the relevant portfolio Minister.
- the commercial confidentiality claim made by Minister Macfarlane meets the terms of the Senate Resolution by setting out the basis of the claim and providing details of commercial harm that may result from disclosure.