



AUSTRALIAN SENATE

PARLIAMENT HOUSE  
CANBERRA ACT 2600  
TEL: (02) 6277 3398  
FAX: (02) 6277 3199  
E-mail: [blackrod.sen@aph.gov.au](mailto:blackrod.sen@aph.gov.au)

USHER OF THE BLACK ROD

14 February 2012

Ms Christine McDonald  
Secretary  
Finance and Public Administration Legislation Committee  
Parliament House  
Canberra ACT 2600

Dear Ms McDonald

I refer to the evidence given by the President of the Senate and the acting Secretary of the Department of Parliamentary Services at the consideration of additional estimates yesterday in relation to a protest held on the forecourt of Parliament House on Friday 27 January 2012.

For the assistance of the committee, I provide the following account of the events that afternoon.

At the time of the protest, neither the President nor the Speaker were at Parliament House. Under a protocol approved by the Presiding Officers in November 2009, when the Presiding Officers are unavailable, they have delegated authority to the Usher of the Black Rod and the Serjeant-at-Arms to provide decisions to the Australian Federal Police (AFP) regarding persons who come to the attention of the AFP on the Parliamentary Precincts.

At 2.25pm on Friday 27 January, the AFP commander at Parliament House telephoned me to say that approximately 100-150 protestors from the Aboriginal Tent Embassy were marching towards Parliament House.

She said that her understanding was that the group wished to present a petition and that she had also been asked if a small number in traditional dress could bring a ceremonial fire onto the Forecourt. She said that the rest of the protestors would be asked to remain on the Authorised Assembly Area.

On the basis of this information about a situation that was developing quickly and in view of the tension associated with previous day's events, I agreed to the request for a small group in traditional dress to come onto the Forecourt with a ceremonial fire to present a petition. I saw this as an action that was in accordance with previous practice and that would help diffuse a difficult situation.

I contacted the President's Office and the Serjeant to advise this.

Shortly after this, I proceeded to the Marble Foyer where I was joined by the Serjeant to find that the protestors had already arrived on the Forecourt. The Serjeant and I stood by the Ceremonial Entrance behind the police line and were ready to accept a petition if presented. Due to the police standing in front of us, it was difficult to see what was happening. However, after approximately 20 minutes the protestors dispersed and I saw an AFP officer throw a bucket of sand on a small fire. I was not aware at the time that a flag had been burned.

Later advice from the AFP was that with the available numbers of police, it was impossible to prevent the protestors proceeding onto the Forecourt. The AFP have advised that their priorities are the safety of people and the protection of property (in that order). At the time the protestors arrived, there were visitors in both the Marble Foyer and the Forecourt, including a group of overseas tourists who were between the police line and the main entrance.

On 3 February the AFP approached the Serjeant and me with a request to seek the views of the Presiding Officers in relation to a potential offence that may have been committed during the burning of the Australian flag outside the entrance to Parliament House, namely the lighting an unauthorised fire, contrary to section 125 (1)(a)(i) of the ACT Emergencies Act 2004.

On 10 February, the Presiding Officers directed the Serjeant and me to advise the AFP that they did not require the matter to be further investigated by the AFP, but if the AFP wished to pursue the matter, it was a matter for the AFP. This decision was in line with a decision by the then Presiding Officers not to pursue charges in relation to the burning of an Australian flag on the precincts in March 1989.

It is not a criminal offence to burn an Australian flag. While such an action may offend many people, it should also be noted that a difficult situation was resolved quickly and with no risk to public safety or the fabric of the building.

I hope that these remarks assist the Committee.

(Brien Hallett)