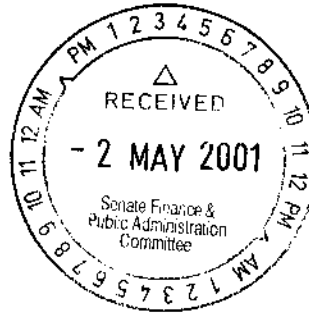




AEC

Electoral Commissioner



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Ms Helen Donaldson
Secretary
Senate Finance and
Public Administration Legislation Committee
SG60
Parliament House
CANBERRA ACT 2600

Dear Ms Donaldson

Senate Estimates Hearing 19 and 20 February 2001 – matters arising

AEC officers have identified several issues that may require clarification following the AEC's appearance before the Committee on 19 and 20 February. Accordingly, I ask that you draw the following matters to the attention of members of the Committee.

Issue 1: At page 114, in response to a question from Senator Ray concerning the investigation of allegations concerning the Member for Lilley, Mr Swan, the Electoral Commissioner advised the Committee that 'It was recommended [by the DPP] that we put it in the hands of the AFP, yes'.

The DPP's letter is not in fact framed in a form that clearly recommends any particular course. The DPP advised about the relevant offence in the *Commonwealth Electoral Act 1918* (CEA) and what must be established for it to be breached. The DPP advised that it could not provide concluded advice on the limited factual material provided. The DPP concluded that the material did not enable the DPP to rule out the possibility of offences having been committed and they would need to see a brief of evidence following an investigation to be able to provide more definitive advice.

It was the AEC's assessment that it had no real option except to refer the matter to the AFP. This course would ensure that if the evidence called for further consideration by the DPP, that further consideration would be based on a complete brief of evidence.

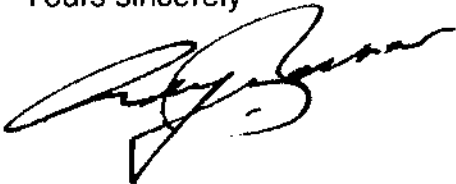
Issue 2: At page 115 of the transcript of 19 February, in reply to a question from Senator Ray, Mr Cunliffe advised the Committee that 'nothing more' was sent to the DPP except the Courier-Mail article and the ABC Brisbane local radio transcript excerpt. The AEC files confirm that those were the only materials referred to the DPP with the request for preliminary advice. Further material was subsequently referred to the DPP, however. In particular, later on 27 November 2000 (the date of the referral of the matter to the DPP) the AEC sent the DPP copies of a Candidate Return from the 1996 election and papers relating to the 1975/1976 prosecutions of Branson and Garland.

Issue 3: At several parts of the transcript for 19 February, questions were asked by Senators Ray and Faulkner about the referral to the AEC by the Office of the former Special Minister of State, of material concerning the allegations relating to Mr Swan. In particular, Senator Ray referred to the matter at pages 113 & 114 of the Hansard, and both Senators Ray and Faulkner raised aspects of the referral at pages 119 & 120 of the Handard.

As noted in the AEC media releases of 30 November and 1 December 2000, the office of the former Special Minister asked the AEC for comment on the 2 items (the newspaper article and the radio transcript). A request was also made for the preparation of a Question Time Brief on the issue. While it is probably obvious that the request for a Question Time Brief had such a context, the clarification in this letter is intended to ensure that members of the Committee are not left in any doubt.

I hope this letter assists to clarify these issues for members of the Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andy Becker', with a stylized flourish extending to the right.

Andy Becker
Electoral Commissioner

30 April 2001