



AUSTRALIAN SENATE

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6 December 2005

Senator M. Forshaw  
Chair  
Finance and Public Administration  
References Committee  
The Senate  
Parliament House  
CANBERRA ACT 2600



Dear Senator Forshaw

**REPORT ON GOVERNMENT ADVERTISING AND ACCOUNTABILITY —  
GOVERNMENT SENATORS' MINORITY REPORT**

I refer to the minority report attached by the two government senators to the report of the committee on government advertising and accountability.

The minority report contains several misrepresentations and misunderstandings of the submissions which I made to the committee. I wish to respond to only one, which is particularly remarkable.

The government senators state:

The Clerk provided his own constitutional advice as to whether monies for the WorkChoices campaign were legally appropriated. The High Court has subsequently rejected, by a 5-2 majority, the Clerk's interpretation.

Nowhere in any of my submissions did I offer any "constitutional advice as to whether monies for the WorkChoices campaign were legally appropriated." The submissions referred to by the government senators in their footnotes to the quoted sentences do not contain any such "constitutional advice". I did not offer any "interpretation" which was subsequently rejected by the High Court.

In my submission of 5 August 2005 I did say that the expenditure on the government's advertising campaign was in violation of section 54 of the Constitution. As I carefully explained, however, the application of that *non-justiciable* section is not determined as a matter of law but as a matter of interaction between the Senate and the government, governed by the Compact of 1965. As this is a non-justiciable provision, the interpretation of which is a matter of parliamentary practice, there could be no question of the High Court rejecting my "interpretation".

I would be grateful if the committee would add this letter to the published documents associated with its inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Harry Evans', with a stylized flourish at the end.

(Harry Evans)