



OFFICE OF THE CLERK OF THE HOUSE

22 April 2002

Senator the Hon P Cook  
Chair  
Select Committee on a Certain Maritime Incident  
The Senate  
Parliament House  
CANBERRA ACT 2600

Dear Senator Cook

**Further additional representation from the Clerk of the Senate**

This morning I received from the secretariat to the Senate Select Committee into a Certain Maritime Incident a copy of a further additional representation, dated 15 April 2002, from the Clerk of the Senate concerning an earlier letter I had sent you. I will only refer to the suggestion in the second-last paragraph of Mr Evans' letter that advice to the committee by an independent person well versed in Australian Constitutional law would be likely to depend on the adviser's position on executive government prerogatives and secrecy as opposed to maximum parliamentary scrutiny and accountability.

It has been my experience that advice from Australia's leading thinkers is not marked by prejudice of this kind. I invariably find that it is beneficial to seek the opinions of those not necessarily similar to my own to test my preliminary and emerging views. Moreover, Members of the committee have probably already been able to separate bias unsustainable by rational analysis in advice proffered to them in the course of this inquiry.

I would welcome the testing by an independent adviser of the points I suggested to the committee on 3 and 8 April. Should the committee be considering relevant action, I would particularly welcome independent review of the existence I identified of something closely akin to a legal immunity for current Members of Parliament from being compelled to submit to examination by the House of which they are not a Member, or its committees. I would also welcome independent examination of the legal basis of this immunity, and its probable extension to former Members of Parliament.



If the committee wishes to pursue further advice on these matters, I can provide a suggestion of a highly regarded professional (subject to that individual's agreement) whose writings are certainly not supportive of what has been called executive privilege, and who is a staunch supporter of full parliamentary accountability and scrutiny. However, I am confident that the committee could identify such a person if it wished to seek independent advice.

Yours sincerely

A handwritten signature in black ink, appearing to read "I C Harris". The signature is written in a cursive style with a large initial "I" and "H".

I C HARRIS  
Clerk of the House