



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

Reference: Administration of Air Services Australia

TUESDAY, 18 JUNE 2002

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE

Tuesday, 18 June 2002

Members: Senator Crane (*Chair*), Senator Buckland (*Deputy Chair*), Senators Cherry, Colbeck, Ferris and O'Brien

Participating members: Senators Abetz, Boswell, Brown, Calvert, Carr, Chapman, Coonan, Eggleston, Chris Evans, Faulkner, Ferguson, Harradine, Harris, Hutchins, Knowles, Lightfoot, Sandy Macdonald, Mason, Murphy, Payne, Ray, Tchen, Tierney and Watson

Senators in attendance: Senators Buckland, Colbeck and O'Brien

Terms of reference for the inquiry:

To inquire into and report on:

Administration of Airservices Australia.

WITNESSES

**GRANT, Mr Tom, General Manager, Organisation Development, and Corporate Secretary,
Airservices Australia..... 1**

SMITH, Mr Bernie, Chief Executive Officer, Airservices Australia..... 1

Committee met at 6.05 p.m.**GRANT, Mr Tom, General Manager, Organisation Development, and Corporate Secretary, Airservices Australia****SMITH, Mr Bernie, Chief Executive Officer, Airservices Australia**

ACTING CHAIR (Senator Buckland)—I declare open the public hearing of the Senate Rural and Regional Affairs and Transport Legislation Committee. The committee is meeting today to consider the administration of Airservices Australia in relation to matters raised in the additional estimates hearings for 2001-02 in February 2002. Specifically, the committee is holding this hearing to consider matters raised with Airservices which Airservices considered they could not provide to the committee in public. The committee is holding this hearing to take evidence from Airservices on its administration in this regard and to ascertain whether the matters sought by the committee may need to be explored with Airservices in an in camera hearing. This matter was adopted by resolution of the committee under standing order 25(2)(b), which allows a legislation committee to inquire into and report on the performance of the departments and agencies allocated to the committee. This part of the hearing is public and open to all and a *Hansard* transcript of the proceedings is being made. The public *Hansard* will be available in hard copy from the committee secretariat early next week or via the Parliament House Internet home page. It should be noted that the committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the order of the Senate of 23 August 1990 concerning the broadcasting of committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, all its members and others necessary to discharge the functions of the parliament without obstruction and without fear of prosecution. Any act by any person which may operate to the disadvantage of a witness on account of the evidence given by him or her before the Senate or any committee of the Senate will be treated as a breach of privilege.

Mr Smith—I seek permission to make a short statement.

ACTING CHAIR—I see no difficulty with that at all.

Mr Smith—Airservices Australia is here today at the request of the committee to answer a number of questions in relation to the previous chief executive officer's termination pay. During the Senate estimates hearings earlier this year the information requested by the committee was identified as being personal information within the terms of the Privacy Act. On this basis we understand the committee has decided to conduct this hearing in camera. Airservices Australia would like to thank the committee for its consideration in making these special arrangements.

We would also like to clarify a matter which arose subsequent to the last Senate estimates hearings. A number of media reports, apparently wrongly based on evidence given at the last hearing, have alleged that Mr Pollard voted on his own contract for consultancy services prior to leaving Airservices Australia and while he was a member of the Airservices Australia board

remuneration committee. I would like to point out to the committee that neither Mr Pollard nor I were present in the remuneration committee when this consultancy retainer was discussed and played no role in the board's decision on this matter. As I was not an employee of Airservices Australia prior to November 1998, I will have to rely on Mr Grant for much of the detail involved. Thank you for the opportunity to make this statement.

ACTING CHAIR—Are there any questions?

Senator O'BRIEN—In relation to the latter matter that you referred to, it is my recollection, Mr Grant, that you indicated that Mr Pollard had been present at that meeting.

Mr Grant—You asked me what the membership of the committee was and I certainly included Mr Pollard. He was a member of that committee. You did not actually ask me for that meeting. The committee was a standing committee of the board. So I think that is where the misunderstanding came up. He left the room at the same time I did at that committee meeting.

Senator O'BRIEN—The *Hansard* will reveal it. I recall you saying that you were not there. I thought I asked who was, or that was my intention. Whether it came out that way, I am not sure.

Mr Grant—I have checked the record. I can see how the misinterpretation has occurred. I think my answer was correct but the context was not fully understood.

Senator O'BRIEN—So he left the room because that matter was being discussed?

Mr Grant—That is correct.

Senator O'BRIEN—So the matter was raised and you left the room at the same time for the same reason?

Mr Grant—That is correct. It was under a general heading. If I could just clarify, the heading was not 'retainer'. The heading was 'Succession arrangements for the CEO' and it was under that broad heading that the retainer came up. We did not know that at the time because we were only told after the meeting that that was a matter that was discussed. And it was then discussed the next day in the board.

Senator O'BRIEN—So who was there?

Mr Grant—The chairman, Mr Forsyth, and Mr Ron Entsch were the other members of the committee.

Senator O'BRIEN—So there were two people there?

Mr Grant—That is correct, Senator. At the last Senate estimates, I said that my recollection was that the meeting occurred in April. It actually occurred in November 1999. I have checked the record since.

Senator O'BRIEN—Okay, nearly 12 months before.

Mr Grant—No, six months before; it was not April 2000.

Senator O'BRIEN—No, nearly 12 months before he left.

Mr Grant—That is correct. And the context that I explained in the last estimates committee about why the board was considering it—that is, he had submitted his intention to leave the organisation—was correct. It is just that I was six months out as to when that happened.

Senator O'BRIEN—I thought you said that he was required to do it six months before, and he did. Now you are saying that he did it nearly 12 months before; the contract required him to do it six months before?

Mr Grant—The contract has a clause that says he must give six months notice and he gave six months notice in November because he wanted to leave in April of 2000. The board then considered these matters and talked him into staying for a further six months until the end of October 2000.

Senator O'BRIEN—I take it that Airservices has formal advice on the information we are asking for, falling within the terms of the Privacy Act?

Mr Grant—It was oral advice, but I did talk to the Privacy Commission and I talked to our lawyers who believed that it was personal information under the definition.

Senator O'BRIEN—That is the basis on which you are seeking not to provide it. If the committee were to accede to that request, it could only be on that basis, if indeed that is correct. And Airservices accepts that?

Mr Grant—Yes.

Mr Smith—Yes.

Senator O'BRIEN—I take it that, if we are going to go in camera on that basis, so be it.

ACTING CHAIR—Senator Colbeck, do you have any questions?

Senator COLBECK—The only thing I want to clarify is whether the trigger for your leaving the meeting was the agenda item and not the issues that were discussed within the agenda item. Is that right?

Mr Grant—I think that is correct, Senator. It is quite common that, when the board wants to talk about remuneration or arrangements for my boss, the CEO, I might leave the room whilst they have a frank discussion about that. That has happened a number of times. And the heading was 'Succession for the CEO'.

Senator COLBECK—And so when that issue came up, you and—

Mr Grant—I was invited to leave and Mr Pollard said that he had a potential conflict and so he left the room at the same time. We actually sat outside the room together for a couple of hours.

Senator O'BRIEN—Are the minutes of the meeting available?

Mr Grant—We normally regard the minutes of the board and its committees as confidential, but that is a matter I could take up with the board itself.

Senator O'BRIEN—I guess there are two questions: whether they are available and whether they can be revealed in camera, for the same reasons. I am thinking ahead.

Mr Smith—We would need to go to the board, Senator.

Senator O'BRIEN—Just remind me: the contract itself with Mr Pollard is a letter rather than a contract as such?

Mr Smith—There are two issues. His contract of employment is a full and proper contract. The one for the specific retainer—

Senator O'BRIEN—Which is what I am talking about.

Mr Smith—is a letter of agreement.

Senator O'BRIEN—Can the committee be supplied with that?

Mr Smith—We have brought that document along to supply to the committee in camera.

Senator O'BRIEN—I thought the numbers were all out on the table. Why would that be in camera?

Mr Smith—I thought there were numbers in there.

Mr Grant—It is not the numbers so much, but we are asking him to undertake tasks on our behalf and if the world was to know that he was gathering intelligence, if you like, on our behalf it might reduce his effectiveness.

Senator O'BRIEN—They will know that now, won't they?

Mr Grant—I am not sure that everybody in the US reads the *Hansard* here.

Senator O'BRIEN—If they want to know that they will know that now.

Mr Grant—We are in your hands, Chair.

Mr Smith—Could I suggest that if we are going in camera we table the document, you have a look at it in camera and if you want us to proceed further after that then—

Senator O'BRIEN—Yes, let's do that.

ACTING CHAIR—As there is nothing else, we will adjourn the public hearing.

Evidence was then taken in camera—

Committee adjourned at 6.44 p.m.