

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

Question No. 42

Senator Brandis asked the following question at the hearing on 16 October 2012:

Mr Jolliffe: Senator, I can indicate that there was evidentiary material filed by several people in support of Mr Hicks' case.

Senator BRANDIS: But did that go to any issue other than the renunciation by Hicks of his admission?

Mr Jolliffe: It went to issues that were covered by section 84—the circumstances—

Senator BRANDIS: That begs the question, with respect, because you have said that you made your decision because you were not satisfied, that you thought section 84 might have presented a hurdle to you that was too great. But what I want to know is the process of reasoning by which you arrived at that conclusion. Respecting the undertaking that you have mentioned, I want to know—it does not matter how many different witnesses there were, and I am not going to ask you who they were—if there was any proposition upon which you relied, other than the bare fact that Hicks had withdrawn or renounced his admission of guilt.

Mr Jolliffe: Essentially what you are asking me is: was it nothing more than just a mere denial.

Senator BRANDIS: Effectively, yes.

Mr Jolliffe: I appreciate your issue on that, Senator. I am concerned about the implied undertaking. Can I take that on notice?

Senator BRANDIS: I do not really see why you would need to, because nothing in my question could—I would submit to you, with respect—be reasonably interpreted as asking you to go beyond your implied undertaking. If the answer to your question would be yes, there were other grounds, there was other evidence beyond the mere renunciation of the admission, I have told you, respecting the undertaking, that I will not pursue that. I would just be satisfied that it was not the bare renunciation of the admission. If you told me that no, there was no other evidence; it was merely the renunciation of the admission, then I would have a problem.

Mr Jolliffe: Can I just indicate that I would like to take that on notice so that I can consider the propositions that you put.

Senator BRANDIS: All right.

The answer to the honourable senator's question is as follows:

Yes. The evidentiary material presented to the CDPP went beyond a mere denial by Mr Hicks.