



AUSTRALIAN SENATE

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hc/let/13590

15 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

**LETTER DATED 8 APRIL 2002 FROM THE CLERK OF THE HOUSE OF REPRESENTATIVES**

Contrary to the letter dated 8 April 2002 from the Clerk of the House of Representatives, Mr Ian Harris, I have not criticised him personally, or anyone else. I have criticised his arguments for a new doctrine of immunity from parliamentary accountability of former ministers and ministerial staff, arguments which, unfortunately, are confused.

Considering that those arguments provide two significant categories of public office-holders with a reference point for avoiding in part parliamentary accountability for their official actions, the arguments deserve the most robust scrutiny.

Nothing referred to by Mr Harris establishes that there is any such immunity, either as a matter of law or of parliamentary practice.

In relation to the suggestion that the committee seek advice from a constitutional lawyer, legal advice properly so called cannot be given on this question. There is no law on the subject; there are no court judgments which remotely bear on this question of the powers of the legislature, and no certainty that the question would even be justiciable. The advice received by the committee would be likely to depend on whether the adviser is favourable to executive government prerogatives and secrecy or favourable to maximum parliamentary scrutiny and accountability.

In view of the publicity given to Mr Harris' accusations, I ask that this letter be published.

Yours sincerely

(Harry Evans)