

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**THE SENATE**

**COMMITTEE OF PRIVILEGES**

**PERSON REFERRED TO IN THE SENATE**

**MR TONY KEVIN**

**109<sup>TH</sup> REPORT**

**OCTOBER 2002**

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## REPORT

1.1 On 8 October 2002 the President of the Senate, Senator the Honourable Paul Calvert, received a submission from Mr Tony Kevin, seeking redress under the resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate (Privilege Resolution 5).

1.2 The submission referred to remarks made by Senators Mason, Brandis and Ferguson in the Senate on 26 September 2002. On 14 October 2002, the President, having accepted Mr Kevin's submission for the purposes of the resolution, referred the submission to the Committee of Privileges.

1.3 The committee met in private session on 17 October 2002 and, pursuant to paragraph (3) of Privilege Resolution 5, decided to consider the submission. The response, which the committee now recommends for incorporation in *Hansard*, has been agreed to by Mr Kevin and the committee in accordance with Resolution 5(7)(b). In considering the submission, the committee did not find it necessary to consult Senators Mason, Brandis and Ferguson on the matter.

1.4 The committee draws attention to paragraph 5(6) of the resolution which requires that, in considering a submission under this resolution and reporting to the Senate, the committee shall not consider or judge the truth of any statements made in the Senate or of the submission.

1.5 The committee **recommends:**

**That a response by Mr Tony Kevin, in the terms specified at Appendix One, and agreed to by Mr Kevin and the committee, be incorporated in *Hansard*.**

Robert Ray  
Chair



## APPENDIX ONE

### **RESPONSE BY MR TONY KEVIN AGREED TO BY MR KEVIN AND THE COMMITTEE OF PRIVILEGES PURSUANT TO RESOLUTION 5(7)(B) OF THE SENATE OF 25 FEBRUARY 1988**

I make a submission under Privilege Resolution 5. In proceedings in the Senate Chamber on Thursday 26 September 2002, repeated references were made to me by name by Senators Mason, Brandis and Ferguson that have adversely affected me in my reputation or in respect of my dealings or associations with others, and have injured me in my occupation as a writer on public policy matters, and have unreasonably invaded my privacy.

Issue no 1: Incorrect references to my previous career as an Australian ambassador. (Senator Brandis, *Hansard*, p. 4738)

I retired from DFAT at age 55 on 2 March 1998, after a meritorious thirty-year career involving important and challenging overseas postings, all of which ran their full term. The attached unsolicited signed certificate of appreciation sent to me by the then Secretary of the Department of Foreign Affairs and Trade, Philip Flood A.O., dated 2 March 1998, reads: "In recognition of your loyal and dedicated service over thirty years to the Department of Foreign Affairs and Trade". Philip Flood publicly conveyed his appreciation of my work at a farewell reception that he hosted for me in the Department of Foreign Affairs and Trade, which was attended by around 100 DFAT officers and other guests including members of my family and friends. I submit that if such public acts of recognition of public service have any value at all, Senator Brandis' statement about my posting to Cambodia is reprehensible.

My posting to Cambodia 1994-97 involved complex challenges including the 1994 kidnapping and murder by the Khmer Rouge of Australian backpacker David Wilson. In 1996 the Senate Foreign Affairs Committee Enquiry into Consular Services examined this tragedy exhaustively. It concluded (paras 7.48 and 7.49):

" ... all the Australians involved ... were fully committed to the case and gave their utmost ... The embassy staff in Phnom Penh and in Kampot, in our experience, worked tirelessly and devotedly in very difficult conditions ... the Committee finds that the officers concerned acted with integrity and commitment in very trying circumstances".

The second half of my posting in Cambodia was under Foreign Minister Downer. He thanked me personally by phone for my management of the civil war emergency in Cambodia in July 1997 and the associated successful RAAF-assisted air evacuation of Australians from Phnom Penh soon after the fighting ended.

Issue no 2: Incorrect references to my temporary relief employment with Kevin Rudd M.P. (Senator Ferguson, *Hansard*, p. 4740)

I made written submissions to the Senate Committee on a Certain Maritime Incident in March and April 2002. I was invited to give oral testimony on 1 May. Two and a half months later in mid-July, and to my surprise, Kevin Rudd invited me to work for an initially unspecified period in his Parliament House office on a temporary relief placement. In the event, I worked in this position for four weeks during July and August. There was no expectation of permanency on either side. I have great respect for Mr Rudd as he has for me. Senator Ferguson has misrepresented the facts of my temporary employment with Mr Rudd in ways that could damage my future prospects of short-term or long-term employment in public policy areas.

Issue no 3: Numerous *ad hominem* disparaging statements about my evidence to the Senate Select Committee which affect my reputation. (Senators Mason, *Hansard*, p. 4737, Brandis, p. 4738 and Ferguson p. 4740)

I was adversely affected and injured by the comments about me by Senators Mason, Brandis and Ferguson – in particular the two last-named Senators. These were not the kinds of comments I would have expected of the Government's appointed members of the Senate Select Committee into a Certain Maritime Incident, who might be expected by the Australian public to take seriously the mandate of this committee (as expanded at the request of Senator Brandis), in terms of the investigation of SIEV X.

It was in the public interest that I raised in my two written submissions in March and April and my oral testimony before the Senate Committee on 1 May important questions of public accountability, in respect of the sinking of SIEV X and the failure by Australian border protection authorities to help its passengers. The questions I asked – which properly could be no more than questions at that time, when the government was still withholding a great deal of subsequently divulged official information about SIEV X - have been entirely validated by subsequent official testimony and by continuing gaps and silences in official testimony. There was no cowardice on my part in asking these public questions in the period March–May 2002.

It is not for me to say whether there was cowardice in the sustained personal attacks on me by Government Senators under privilege in the Senate on 26 September 2002. While I am in no way intimidated by such attacks, they might discourage other citizens from coming forward with submissions to Senate enquiries in the future.

Tony Kevin





## *Certificate of Appreciation*

*Presented*

*to*

*Anthony Charles Kevin*

*In recognition of your loyal and dedicated service over  
thirty years  
to the Department of Foreign Affairs and Trade*

A handwritten signature in black ink, reading 'Philip Flood.' with a horizontal line at the end.

*Philip Flood, AO  
Secretary  
Department of Foreign Affairs and Trade  
Canberra, A.C.T.*

*Dated this second day of March,  
Nineteen Hundred and Ninety Eight*