

Coalition Senators Dissenting Report

Introduction

1.1 This inquiry has been a farcical and shambolic witch-hunt that, despite the hyperbolic majority report, has come up with nothing except findings that mirror the Labor Party's initial talking points which actually fall outside the Terms of Reference of this inquiry.

1.2 Despite Labor Senators constant changing of the goal posts in order to try and locate a smoking gun, the extensive hearings show that not only is there no smoking gun, there is in fact no gun.

1.3 The undisputed evidence provided to the Committee was very clear:

- That of the 24 subclass 600 interventions signed by Minister Dutton, only two (the already publicised Brisbane and Adelaide cases) related to au pairs;¹
- In both of these cases, the Minister accepted the Department's recommendation to grant a short-term visitor visa to the two individuals involved;²
- That neither the Minister nor his office had any contact with the Department on either the Brisbane or Adelaide cases, other than through the usual channel of the Departmental Liaison Officer;³
- That no additional costs were incurred by the Department on the two cases;⁴ and
- The Minister acted within Ministerial Intervention powers as prescribed under the *Migration Act 1958* and the Department's Guidelines for Ministerial Intervention.

1.4 The evidence has disclosed no instances of inappropriate conduct by the Minister for Home Affairs as has been so recklessly alleged by Labor and Green Senators. The findings listed in the Committee Report are unsustainable.

Process

1.5 It is long-standing practice in the Westminster System, including by convention in Australia, that the two Houses of Parliament do not seek to sit in review of each other. On that basis, it was highly strange for Labor Senators to seek to call Minister Dutton as a Member of the House of Representatives noting that Members of all persuasions have similarly followed this convention.

1.6 As a further example of the shambolic nature of this inquiry, it is noted that the Chairs Draft of the Committee Report was provided to the Committee an hour and

1 Question on Notice IEMP/003.

2 *Proof Committee Hansard*, 5 September 2018, pp. 37–38.

3 Question on Notice IEMP/011.

4 Question on Notice IEMP/013.

a half after the Senate adjourned on the 18 September 2018, the day before the Report was scheduled to be tabled.

1.7 Further, it is of deep concern that material provided to the Committee constantly found its way to the media ahead of it being provided to Committee Members. This included correspondence from Mr Roman Quaedvlieg which was seemingly published in Fairfax media well ahead of even the Secretariat receiving a copy. Much material was also sent directly to the Chair of the Committee, instead of the Committee Secretariat. This behaviour tainted the whole inquiry.

1.8 It is also noted the Committee did not seek to call and cross-examine Mr Roman Quaedvlieg after he made his allegations.

Evidence

1.9 This inquiry was specifically established by Labor and Green Senators in an effort to examine the provision of visas to 'au pairs' by the Minister for Home Affairs. This follows several months of Labor Senators along with supporters, including Mr Quaedvlieg, seeking to raise suspicion and hype around the allegations now shown to be false. This has included the leaking of internal emails from the Department of Home Affairs, something that has now been referred to the Australian Federal Police for a potential criminal breach of the law.

1.10 Despite the very comprehensive trawling from Labor Senators both in the public hearing and with substantial correspondence back and forth with the Department, there was no evidence to suggest that the Minister acted inappropriately.

1.11 Indeed, contrary to media reports, it is clear that only two visas relating to 'au pairs' were considered by the Minister and in both cases the Department of Home Affairs recommended to the Minister in their brief that the Minister should intervene to provide a short-term tourist visa:

Senator ABETZ: Yes. Just so I fully understand and we can clarify this absolutely: the minister signed a document which was produced by the department which had: 'Recommendation that you agree to intervene'—

Mr Pezzullo : To grant the—

Senator ABETZ: Yes—to intervene to grant a tourist visa.

Mr Pezzullo : Yes.

Senator ABETZ: So, as you've indicated to us, your departmental officials are professional. They would never put before the minister a recommendation that was either inappropriate or illegal—

Mr Pezzullo : That's right.

Senator ABETZ: and the recommendation here was that the minister agree to intervene for the granting of a tourist visa?

Mr Pezzullo : I think I've given that evidence already.

1.12 The unsustainable assertions relied upon in the Majority Report relating to the exercise of Ministerial Discretion from third parties is interesting but a poor comparison. As was explored in the hearing, the concerns raised by these Migration

Agents mostly related to requests for Ministerial Intervention for the purposes of permanent residency or citizenship requests, not a short term visa as was the circumstance in both the Brisbane and Adelaide cases.

1.13 There is a significant material difference between a Minister intervening to allow for permanent residency in Australia and allowing someone to visit for three months, noting that in both cases there was not any previous history of over-staying.

Submissions of Roman Quaedvlieg

1.14 It was patently clear that the evidence of the disgraced former Australian Border Force Commissioner, Mr Quaedvlieg, was severely lacking in credibility particularly given it was so easily disproven.

1.15 For example, in his 5 September correspondence to the Committee, he claimed:

In mid-June 2015 I received a call from the Chief of Staff for the Minister for Immigration and Border Protection, Craig MacLachlan (sic). He told me that he was ringing me on behalf of Minister Dutton, whom he referred to as 'the boss'. He told me that the Minister's friend, whom he referred to as 'the boss's mate in Brisbane', had encountered a problem with his prospective au pair who had been detained at Brisbane Airport by immigration officials due to an anomaly with her visa.

1.16 Contrary to this, the Minister in a public statement, noted that:

Mr Maclachlan was not employed by me at that time and didn't join my staff until 7 October 2015.

Equally, it is impossible for Mr Maclachlan to have had any knowledge of the matter, at that time, because he was not even employed by the Department of Immigration and Border Protection.

1.17 This has not been disputed.

1.18 There are other false assertions in Mr Quaedvlieg's 5 September letter, including:

- the assertion he was the ABF Commissioner. Mr Queadvleig which is demonstrably false given that he was not appointed as ABF Commissioner until July 2015; and
- the assertion he returned Mr Maclachlan's phone call to advise him of the outcome of inquiries he had made through a formal command structure. There are no emails or other evidence to support Mr Quaedvlieg's version of events.

1.19 Following this objective destruction of Mr Quaedvlieg's claims, Mr Quaedvlieg further wrote to the Committee seeking to recover from his earlier patently false submission and desperately sought to create a new straw-man:

I concede that I may have been honestly mistaken in anchoring that conversation to a date in June 2015 however in light of the remarkably coincidental information I will provide to you below I contend that not only is it an understandable error, but moreover renders the only logical

conclusion that a second Brisbane ministerial intervention case may merit the Committee's further inquiry.

1.20 Following these further assertions, the Department of Home Affairs was then asked to provide all intervention briefs signed by the Minister and specifically whether the Minister or his office considered or intervened in any further cases. The Department was very clear in its response in both providing comprehensive evidence that the only two cases considered or intervened in by the Minister relating to au pairs were the Brisbane and Adelaide cases and that there were no additional cases involving a person being stopped at Brisbane Airport:

Having undertaken extensive searches of case files and manually reviewing Departmental systems, the Department has not found any evidence of another case between October 2015 and the end of 2016 involving a young female from a Western or Southern European country who had been detained at Brisbane airport due to evidence of an intention to work as an 'au pair'.⁵

1.21 Coalition Senators have faith in this undisputed evidence provided by the Secretary of the Department noting his long and distinguished career as a public servant and the fact that the Secretary and the Department are well accustomed to the requirements to be truthful with Senate Committees. As the Department's evidence disproves the already systematically discredited evidence from Mr Quaedvlieg's, not a single shred of objective evidence was proffered to support his assertion of a third case.

1.22 Coalition Senators have also noted that Mr Quaedvlieg has seemingly long-held bitterness both towards the Minister for Home Affairs and the Government more broadly following the Australian Commission for Law Enforcement Integrity investigation which resulted in his termination as the Australian Border Force Commissioner. It is noted that Mr Quaedvlieg remains under criminal investigation by ACLEI and another person related to that matter is subject to charges.

1.23 It appears that Mr Quaedvlieg may have fabricated evidence in an effort to avenge his termination from his former role. Worse still, Coalition Senators are concerned at the source of the so-called 'anonymously leaked' emails provided to Labor Senators and the media.

Brisbane Case

1.24 Contrary to the findings and comments in the Majority Report, Coalition Senators note that the individual emailed the Minister's public email account – available to all members of the public on the internet – which operates, in effect, like a switchboard and in his email made it clear that it had been some time since they were

5 Letter from the Secretary of the Department of Home Affairs to the Committee, 13 September 2018.

last in contact by starting the email with 'Long-time between calls'.⁶ Coalition Senators accept the statement by the Minister for Home Affairs that:

I tabled that email yesterday because it indicated that, as I've said all along, there is not one statement that I've made that the Labor Party can point to that is factually incorrect. That's the reality. I worked with that individual in 1998-99. I haven't spoken to him in 20 years. There were 5,500 police in the Queensland Police Force when I left in July of '99. He doesn't have my personal mobile number. He doesn't have my personal email address. He sent an email to my generic, publicly available email account. My staffer came to me and said, 'I have this email.' My response was: 'Who? Who is that?' That was my response to it.⁷

1.25 The suggestion from Labor Senators that if a Minister has ever interacted with an individual, no matter how long ago, there may be some bias or even corruption is farcical. If this view is to be followed to its fullest extent, Labor Senators should be requiring an individual examination of the 42,499 Ministerial Interventions undertaken by the former Labor Government⁸ to ensure Labor Ministers adhered to this newly created standard.

Recommendations – Coalition Senators recommend that:

1. The Minister for Home Affairs be commended for his prudent and diligent work as a Minister;
2. Mr Quaedvlieg's correspondence be referred to the Privileges Committee and be considered as to whether Privilege should apply to these documents; and
3. The Minister for Home Affairs ignore the Majority Report's findings.

Senator the Hon Ian Macdonald
Deputy Chair

Senator the Hon Eric Abetz

6 Document tabled in the House of Representatives on 10 September 2018.

7 House of Representatives Hansard, Page 26, 11 September 2018.

8 Question on Notice IEMP/025.