

Dissenting report of Government Senators

1.1 Government members of the committee do not support the report of the Labor, Greens and Independent majority in the conduct of the inquiry into the payment of cash or other inducements by the Commonwealth of Australia in exchange for the turn back of asylum seeker boats ('the inquiry').

1.2 Government members of the committee are disturbed that the Senate Committee process, which for years has fulfilled its purpose of providing impartial and authoritative reporting to the Parliament, has once again been co-opted to advance the political objectives of the Opposition, the Greens political party and some crossbench senators.

1.3 The inquiry has been based entirely on speculation and was established to provide Greens political party, Independent and Labor Senators with an opportunity to publish unsupported claims of conspiracy theories regarding Operation Sovereign Borders. These claims appear unambiguously designed to deflect attention away from the resounding success of Operation Sovereign Borders.

1.4 On 1 March 2016 the committee sought an extension of the reporting date for the inquiry to 22 June 2016. The committee majority's interim report that is scheduled to be tabled in the Senate on 4 May 2016 seeks to finalise the inquiry based on the evidence taken up to that date. Government Senators note that the evidence before the committee has not been properly tested and that correspondence with the minister regarding the inquiry has not been concluded. As such the inquiry is inherently incomplete and any conclusions that are drawn, or recommendations made, are done without the benefit of the full facts and should therefore be treated with scepticism.

1.5 Government members of the committee also note that the evidence provided by Amnesty International in answers to questions on notice does not offer any certainty on the substance of the questions that were asked. The video submitted does not show any panic at all and shows calm seas, and questions about running aground were not answered with any particularity. In general the answers provided by Amnesty International are evasive and fail to provide detailed analysis which the questions sought.

1.6 The majority report places undue weight on the so-called 'evidence' of Amnesty International which, on a reading of their submission and report, is based on hearsay, assumption and the reports of others. Amnesty conducted interviews of various groups, including criminal people smugglers, and unsurprisingly the alleged conversations with illegal maritime arrivals and criminal people smugglers are self-serving. It can only be assumed that all groups, prior to Amnesty's interviews, were able to converse amongst themselves and resolve to do everything possible to advance their case to settle in Australia outside the normal rules that apply to genuine refugees. In contrast to the questionable evidence provided by illegal maritime arrivals and criminal people smugglers, the evidence given by Major-General Bottrell and other Australian officials has been tested and is far superior to that of illegal arrivals and criminal people smugglers.

1.7 The Government Senators disagree with the content and conclusions of the majority report, and consider both to be based on incomplete, untested and unverifiable speculation. No direct evidence, relevant in time, has been given to the committee by witnesses who are prepared to identify themselves.

1.8 Chapter 3 of the majority report is an exercise in pure speculation regarding the possible legal ramifications of events that have been alleged but not proven. Government Senators are concerned that the resources of the Senate—resources provided by the Australian taxpayer—are being used to pursue pointless and speculative lines of inquiry that are based on inferences, not facts. If Greens Political Party, Opposition or Independent Senators wish to engage in a public relations exercise regarding border protection policies, they should do so on their own time and with their own money.

1.9 The lack of any factual or even persuasive evidence of the events upon which the inquiry was based is highlighted by the fact that the final 'Committee view' section of the majority report quotes an Opposition Senator, not a submission, nor a transcript of evidence nor any other authoritative source.

1.10 Specifically the Government Senators reject the decision of Labor, Greens political party and some crossbench senators not to accept the government's public interest immunity claim and agree that the claim is valid and should be accepted.

1.11 Government Senators agree with the point made at paragraph 2.37 of the report that the committee, because of a lack of evidence, could not make any justifiable conclusion on the principal question referred to the committee.

1.12 The majority report's single recommendation is that, due to the incomplete nature of the inquiry, this same inquiry subject be referred to the Legal and Constitutional Affairs References Committee in the 45th Parliament. Government Senators disagree with this recommendation and instead recommend that the inquiry be abandoned completely and indefinitely. The parliamentary committee process has limited time and limited resources during each parliamentary term and the pursuit of this kind of speculative and wasteful inquiry should be considered reckless and irresponsible. The Senate Estimates process provides a more reliable and effective enquiry for any genuine concerns senators may have in relation to this and any other border protection matters.

Senator the Hon Ian Macdonald
Deputy Chair

Senator Dean Smith
Senator for Western Australia