

The Senate

Committee of Privileges

Person referred to in the Senate

Mr Ben Davies

176th Report

April 2019

© Commonwealth of Australia 2019

ISBN 978-1-76010-961-5

This work is licensed under the Creative Commons AttributionNonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

This document was printed by the Senate Printing Unit, Parliament House, Canberra.

MEMBERS OF THE COMMITTEE

Senator Deborah O'Neill (**Chair**) (New South Wales)

Senator the Hon Ian Macdonald (**Deputy Chair**) (Queensland)

Senator the Hon Eric Abetz (Tasmania)

Senator the Hon Concetta Fierravanti-Wells (New South Wales)

Senator Kimberley Kitching (Victoria)

Senator Nick McKim (Tasmania)

Senator the Hon Lisa Singh (Tasmania)

Senator Dean Smith (Western Australia)

Former members:

Senator the Hon Jacinta Collins (Victoria) to 13 February 2019

Senator the Hon Richard Colbeck (Tasmania) to 10 September 2018

Committee contact details

Committee of Privileges
The Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Telephone: (02) 6277 3360
Facsimile: (02) 6277 3199
Email: priv.sen@aph.gov.au
Internet: www.aph.gov.au

Report

1.1 In November 2018, the President of the Senate, Senator the Honourable Scott Ryan, received a submission from Mr Ben Davies 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 comments made about him in the Senate by Senator Watt on 13 November 2018. The President accepted the submission and referred it to the Committee of Privileges.

1.3 The committee met and, pursuant to paragraph (3) of Privilege Resolution 5, decided to consider the submission. The terms of the response, which the committee now recommends for incorporation in *Hansard*, have been agreed to by Mr Davies and the committee in accordance with Resolution 5(7)(b). In his reply Mr Davies included reference to comments made by Senator Cameron on 12 and 14 February 2019 and Senator Wong on 13 February 2019 relating to the same 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 in the submission.

1.5 The committee **recommends**:

That a response prepared by Mr Ben Davies in the terms specified at Appendix 1, be incorporated in *Hansard*.

Senator Deborah O'Neill

Chair

Appendix 1

Mr Ben Davies

Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988

Reply to comments by Senator Watt (13 November 2018)

1. On 13 November 2018 during Questions Without Notice and subsequently in Questions Without Notice: Take Note of Answers, I was mentioned adversely by Senator Watt in a manner which would identify me.
2. The comments by Senator Watt were in reference to publication by several media outlets of false allegations by the National Secretary of the Australian Workers Union (AWU), Mr Daniel Walton, imputing that I had sought to evade “investigators” who had been hired by the AWU to determine my location in order to serve a court subpoena relating to a civil proceeding involving the AWU. These comments by Mr Walton included false assertions that the AWU had been “forced” to hire such “investigators” to “track down” my whereabouts.
3. Any allegation or imputation that I evaded anyone, or have in any way concealed my whereabouts, is completely false, defamatory and without foundation.
4. I am not a party to the AWU’s court proceeding. I was unaware that any subpoena relating to me had been sought or issued, nor was I aware of any attempts to locate or serve me. I have never sought to conceal my whereabouts.
5. None of the media outlets who published these allegations attempted to contact me for a response to Mr Walton’s false statements before publication, nor did anyone else mentioned in any of the various media articles.
6. During Question Time, specific reference was made by Senator Watt to a post on a news web site, ‘BuzzFeed Australia’, authored by a former journalist for this web site, Ms Alice Workman, which had appeared earlier that day, and which referred to the earlier false assertions by Mr Walton that I had been “tracked down” by private investigators hired by the AWU.
7. In the course of Questions Without Notice: Take Note of Answers, Senator Watt further falsely asserted that:

“We also learned from those media reports that it actually took private investigators being hired in order to track him down and serve him with those documents. He, of course, is not the only person who seems to have been in hiding over this entire affair...”
8. The statements by Senator Watt were not only false, but demonstrably false. It is not the case that “*it actually took private investigators being hired in order to track him down*”. The AWU was provided with an address for service by solicitors acting for me on 26 October 2018, over two weeks before any subpoena was finally served at that address. I have never had any contact with any “private investigators”, let alone been “tracked down” by them.

9. I completely repudiate that I have done anything to avoid any service of court documents, or conceal my whereabouts, or have been “in hiding”, or was “tracked down”. On other occasions where such allegations were made in the mainstream media they have been retracted and corrected. I also note for the record that the allegations referred to by Senator Watt that were made without the cover of privilege are now the subject of defamation proceedings currently on foot in the Federal Court, in which both Mr Walton and Ms Workman are respondents (*Ben Davies v Australian Workers’ Union & Ors* NSD178/2019).
10. It is a serious matter to evade a court process, which could amount to a contempt of court. It is equally serious to falsely allege that a person has sought to do so.
11. Given that the comments made by Senator Watt on 13 November 2018 directly led to injury to my reputation, and were demonstrably false, I seek this opportunity to provide the ascertainable facts and correct the Senate record.

**Reply to comments by Senator Cameron
(12 February 2019 and 14 February 2019)**

12. In Questions Without Notice: Take Note of Answers on 12 February 2019, Senator Cameron made the following statement in a manner which would identify me:

“What we've found out today is this was not about junior staff; this was about her chief of staff leaking information to the media... This is unacceptable, it's a criminal act, and it beggars belief that the DPP cannot find a way to prosecute the people who we already know were involved in this leak.”

13. In Questions Without Notice: Take Note of Answers on 14 February 2019, Senator Cameron made the following statement in a manner which would identify me:

“Here we have a minister where two of her senior staff are now clearly implicated—clearly indicating that they breached criminal law in this country... her staff are engaged in criminal activity on her watch.”

14. The suggestion that I engaged in criminal activity or breached any criminal law is completely false, defamatory and without foundation. I completely repudiate that I have engaged in any criminal activity of any kind. I am not aware of such allegations having been made by anyone other than Senator Cameron under the cover of privilege.
15. It is an extremely serious matter to engage in criminal conduct. It is equally serious to falsely allege that a person has done so.
16. Given that the comments made by Senator Cameron on 12 and 14 February 2019 directly led to injury to my reputation, and were demonstrably false, I seek this opportunity to provide the ascertainable facts and correct the Senate record.

**Reply to comments by Senator Wong
(13 February 2019)**

17. In Question Time on 13 February 2019, Senator Wong made the following statement in a manner which would identify me:

“I refer to new evidence in relation to the unauthorised leaking of a Federal Police raid on the Australian Workers' Union offices that discloses Minister Cash's then chief of staff was the source of the leak.”

18. The assertion by Senator Wong that I was ‘the source of the leak’ is false. I have not engaged in any such leak of such information, whether authorised or otherwise, to any member of the media. The imputation that I have is completely false, defamatory and without foundation. Other than the allegation by Senator Wong and in a Senate committee by Senator Cameron, each under cover of privilege, I am not aware of any suggestion by any other person that I have done so.

19. Given that the comments made by Senator Wong on 13 February 2019 directly led to injury to my reputation, and were demonstrably false, I seek this opportunity to provide the ascertainable facts and correct the Senate record.

Ben Davies
19 Mar 2019