

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Budget Estimates 2017 - 2018

Prime Minister and Cabinet Portfolio

Department/Agency: Department of the Prime Minister and Cabinet
Outcome/Program: Outcome 1: Prime Minister and Cabinet
Topic: The Hon Dr David Gillespie MP

Senator: Wong

Question reference number: 44

Type of question: FPA Tuesday 23 May 2017, pages 62 & 63

Date set by the committee for the return of answer: 7 July 2017

Number of pages: 2

Question:

Senator WONG: Can you, Minister, on behalf the Prime Minister assure the parliament that Dr Gillespie is in fact not disentitled to sit in the House by virtue of section 44?

Senator Brandis: I can tell you this. Dr Gillespie has sought advice from a very senior member of the New South Wales bar. I am at liberty to say that that was Mr Guy Reynolds SC, who you and those who are familiar with the legal profession would know is a very senior Sydney silk. Mr Reynolds's opinion is that Dr Gillespie does not have a section 44 problem. I have not written any advice in relation to the matter, but I can tell you that I discussed the matter with Dr Gillespie and I formed the preliminary view that his arrangements were nowhere near a section 44 problem because of the indirectness of the interest.

Senator WONG: You also previously thought that payment of salary was required for the section 44 issue to arise. That was a comment you made in relation to Mr Ruddock. The Day decision demonstrably indicates that that is not the correct reading of the law.

Senator Brandis: In fact, the Day decision was made on the basis of the adoption of submissions that were put to the High Court on my instructions.

Senator WONG: But I am making the point: did the advice from the so-called senior silk—

Senator Brandis: It is not a so-called senior silk. Mr Reynolds is one of the most respected barristers in Sydney.

Senator WONG: Fine. I notice you have not given the assurance on behalf the Prime Minister that I have asked.

Senator Brandis: I can only tell you what the legal advice is.

Senator WONG: I am asking you as the representative of the Prime Minister. Can the Prime Minister assure the parliament that he is of the view that Dr Gillespie is entitled to sit in the parliament?

Senator Brandis: I can tell you that that is the Prime Minister's view, and it is my view.

Senator WONG: On what basis does the Prime Minister have that view?

Senator Brandis: On the basis of the legal advice that Dr Gillespie has received and, in my own case, on the basis of my own judgement of law.

Senator WONG: So Dr Gillespie provided that advice to the Prime Minister?

Senator Brandis: I believe so.

Senator WONG: When was that provided?

Senator Brandis: I do not know.

Senator WONG: Perhaps you can—

Senator Brandis: When we say, 'Provided the advice to the Prime Minister,' I know Dr Gillespie has advised the Prime Minister of the advice. Whether it has been physically provided, I do not know.

Senator WONG: Perhaps you could find that out.

Senator Brandis: I will take that on notice.

Senator WONG: Was the advice prepared before or after the Day decision?

Senator Brandis: I do not know. I will take that on notice.

Senator WONG: Were you aware of the advice before or after the Day decision?

Senator Brandis: I do not recall the date on which I became aware of the advice.

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Senator WONG: I want to understand, apart from your opinion and your views, what steps the Prime Minister has taken in order to assure himself of Mr Gillespie's eligibility.

Senator Brandis: I will take that on notice. If there are particular steps leading to that conclusion that are appropriate to put before the committee, I will inquire and take the matter on notice.

Senator WONG: You have given evidence that he has had a chat to him, he has spoken to him.

Senator Brandis: I have taken that question on notice.

Senator WONG: But you have already given evidence that the Prime Minister has discussed it with Dr Gillespie and you have given evidence that he is of the view that he is eligible. Are you aware of any other steps that the Prime Minister has taken?

Senator Brandis: I will take that question on notice.

Senator WONG: Has advice been sought by the Prime Minister independently of the advice sought and paid for by Dr Gillespie?

Senator Brandis: Not that I am aware, but I will take that on notice as well.

Answer:

Yes.