

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Program 1.1**

**Question No. 59**

**Senator Barnett asked the following question at the hearing on 22 February 2011:**

**Senator BARNETT**—The Department of Immigration and Citizenship have advised that their interpretation of the code—

**Mr Wilkins**—Which code is this?

**Senator BARNETT**—The code for citizenship ceremonies. The question I want to ask you is: does that actually infringe on our Constitution—the right to free speech and the right to practise one's religion? We have freedom of religion, not freedom from religion, in this country. The example I give you is that senators, when they are introduced and formally recognised in the Senate, receive a Bible. It is signed for and on behalf of the Governor-General of Australia. I have mine here. Obviously taxpayers' funds have been used to purchase this Bible. Other members of parliament use a holy book that is relevant to them—Josh Frydenberg, for example, with his Jewish background. I commend him and accept that, and he has received an appropriate holy book recognising his background. But we have all received this and it has been paid for with taxpayers' money. Now we have the Department of Immigration and Citizenship, in their wisdom, interpreting the code to say that it is inappropriate. My question to the Attorney-

General's Department is: is that unconstitutional? Is that entirely inappropriate advice?

**Mr Wilkins**—The question would be better directed to the Department of Immigration and Citizenship. I assume you have asked them. Have you?

**Senator BARNETT**—I have, and I have asked the minister, Mr Bowen, to intervene. I have written to him twice, and he has refused to respond. I find that contemptuous. I am now asking the department, through your constitutional experts, whether it is in fact constitutional or in breach of the Constitution?

**Mr Wilkins**—If we were to advise, it would be to that department.

**Senator BARNETT**—Have you provided advice to that department?

**Mr Wilkins**—We do not provide legal advice to the Senate in these sorts of situations, particularly not off the top of my head.

**Senator BARNETT**—Could you take that on notice.

**Mr Wilkins**—I will take on notice your views, Senator, but quite frankly we are not going to put ourselves into the position where we can now be required to provide constitutional advice on a regular basis to a Senate committee.

**Senator BARNETT**—I am bringing it to your attention and perhaps, through the minister, to the Attorney-General's attention. I find this extremely concerning. It is a development that only occurred last night, and I draw it to your attention. Perhaps you could take it on notice as to whether the government can quickly—I hope immediately—intervene to set the record straight so that the current practice with respect to the provision of gifts such as holy books and Bibles, for example, at citizenship ceremonies can continue. I would ask the minister to take that on notice.

**Senator Ludwig**—I note your views and I will certainly seek the views of the Attorney-General.

**The answer to the honourable senator's question is as follows:**

The Australian Citizenship Ceremonies Code (the Code) is administered by the Department of Immigration and Citizenship (DIAC). Any questions about the Code should be directed to DIAC.