

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS

Question No. 124

Senator Pratt asked the following question at the hearing on 30 May 2013:

Senator PRATT: I note your office made a decision not to prosecute former Liberal Party minister Peter Reith or his son on \$50,000 worth of private phone calls. Is that because his son thought that use of the card was innocent or within the use of entitlement?

Mr Bromwich: My knowledge of that matter is limited to what I read about it in the press. I was not with the office at the time; I was at the private bar. I would have to take it on notice to look into that. But the prosecution policy of the Commonwealth has, amongst other things, at its core, two questions: sufficiency of evidence and whether or not a prosecution is in the public interest. All cases are assessed against those two criteria. Whether that was a case of sufficiency of evidence or whether there was a public interest test, I could not say in the abstract.

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

On 12 October, 2000 the then Director of Public Prosecutions, Mr Damian Bugg QC, issued a media release stating:

"It is not the usual practice of my Office to publicise its reasons for not prosecuting matters. There are, however, on this occasion, good reasons for doing so.

It must also be understood that my consideration of this matter concerned the question of prosecution for criminal offences and not questions of civil liability or compliance with conditions or guidelines governing the use of Telecards by members of Parliament.

The investigation of this matter disclosed that Mr Reith MP provided his son with the Telecard access code and PIN prior to his son's interstate trip in early 1994 to enable his son to contact him in the event of an emergency if he (Mr Reith) was away from home (reverse charge facilities were available for home contact).

I am satisfied that, on the evidential material provided to my Office, the investigation has disclosed that Mr Reith's son is not criminally liable for his subsequent personal use of the facility which he has told police he thought would be debited to the personal component of his father's telephone account. The estimated cost of these calls has been repaid.

Mr Reith did not authorise the non 'emergency' use of the facility by his son. He is not criminally liable on that basis. I also concluded that the authorisation did not offend section 64A of the Audit Act, which provides:

"A person who uses a Commonwealth credit card with the intention of obtaining cash, goods or services otherwise than for the Commonwealth ... is guilty of an offence".

Ignoring technical issues such as whether the card itself was used, Mr Reith's authorisation to his son was for contact in emergencies when he, Mr Reith, was away from home. I was not satisfied

that if public duties took Mr Reith away from his home, facilitating emergency contact with his family could be said to be "obtaining a service" otherwise than for the Commonwealth.

As I have said, my consideration of this matter concerned the possible commission of offences and not issues of civil liability or compliance with Guidelines."