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Ex-ICAC chief miffed at claims

The Australian, Australia by **Chris Merritt**

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The former head of the NSW Independent Commission Against Corruption has accused the agency's inspector of giving credence to old arguments that he had engaged in improper communications with the state government about the "preferred outcome" of an unfinished inquiry.

Former ICAC commissioner David Ipp said he found it hard to understand how inspector David Levine could include the accusation in a report issued last week when it had already been dealt with by the courts.

"Mr Levine's report is extraordinary in that, firstly, he has given enough credence to these complaints to report them," Mr Ipp said.

Mr Levine's report said he had not yet explored several communications "that are concerned with what is said to be improper communications between a commissioner and a premier".

"On their face, such communications might be said to raise a very serious matter; one point being that the communications, if they took place, took place prior to the conclusion of the inquiry and as far as I understand it, were concerned with preferred outcomes," Mr Levine's report says.

Mr Ipp said he had talked to former planning minister Brad Hazzard and the chief of staff of former premier Barry O'Farrell while inquiring into the allocation of coal-exploration licences.

Those inquiries, codenamed Operation Jasper and Acacia, led to the NSW government cancelling coal-exploration licences worth millions of dollars without paying compensation to innocent parties whose investments were rendered worthless.

Two of the companies affected, NuCoal Resources and Nippon Gas, have argued that they were denied procedural fairness by ICAC and had no knowledge of any corruption.

Mr Ipp, who is now retired, said he had disclosed to the inquiry that he had talked to government representatives.

"The allegations that have been recorded by the inspector, Mr Levine, have all been made before and have been unanimously dismissed by the chief judge at common law, three judges of the Court of Appeal, including (NSW Supreme Court) Chief Justice (Tom) Bathurst, and three judges of the High Court, including Chief Justice (Robert) French," he said.

Mr Ipp said the material in the inspector's report had been included "without reference to the decisions of the three courts which have resolved the issue, and indeed without reference to me".

"Seven judges ... have held that my communications with the government did not give rise to any apprehension of bias," he said. "For others to make the same allegations again, this time to the inspector, after they have been judged and found to be without foundation, is nothing less than scurrilous.

"For the inspector to repeat them in his report, with comments he has made, is very difficult to understand." LEGAL AFFAIRS P29



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