

# **POWERS AND FUNCTIONS OF THE AUSTRALIAN LAW REFORM COMMISSION**

## **FINAL REPORT**

In 1997, a dispute arose between the Australian Law Reform Commission (ALRC), the Attorney-General and his Department about the power of the ALRC to act without authorisation from the Attorney-General. The 73<sup>rd</sup> report of the Senate Privileges Committee recounts the details of this dispute.

The Privileges Committee investigated aspects of the matter, but found no breach of privilege. Nonetheless, that Committee considered that there might be some utility in the further examination of the question in the abstract; and on the Privileges Committee's recommendation, the Senate referred the matter to this Committee.<sup>1</sup>

This Committee invited submissions from various organisations and individuals in June 1999, receiving a total of eight submissions. These are listed at Appendix 1. The Committee also held a hearing in Sydney on 18 August 1999. A list of the witnesses at the hearing is at Appendix 2.

The inquiry demonstrated the need for clarity in relation to the limits to the powers and functions of statutory authorities and the nature of the relationship with Government. However, while this general observation is still relevant, it should be noted that this inquiry had its origins in events that took place five years ago.

Other priorities, in particular a high volume of legislative reports imposed by the Senate in the intervening period, have resulted in the considerable passage of time since the initial reference, which did not apply a reporting date for the Committee.

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1 On 1 December 1998; see *Senate Hansard, Volume S 193*, pp. 972-3

It is probable that with the passage of time, circumstances have changed; and the evidence taken by the Committee at that time may be dated. As such, proceeding to a full final report now in respect of events that took place half a decade ago is of doubtful value.

Further, of the six Senators who were members when the Senate originally referred the matter, only one is still a member of the Committee. Other members were not involved with the inquiry and are reluctant to present a report on a matter about which they have little personal knowledge or involvement.

Accordingly, the Committee recommends that the Senate agree that the reference not proceed further.

Senator Marise Payne

Chair

## **APPENDIX 1**

### **ORGANISATIONS AND PERSONS WHO PROVIDED THE COMMITTEE WITH SUBMISSIONS**

<b><u>Organisation</u></b>	<b><u>Submission No</u></b>
Australian Law Reform Commission	6,6A
The Hon Mr Lionel Bowen	1
Commonwealth Attorney-General's Department	7
The Hon Mr Peter Durack	5
The Hon Ms Elizabeth Evatt	3
Mr Stephen Mason	2
Queensland Law Reform Commission	4

## **APPENDIX 2**

### **WITNESSES WHO APPEARED BEFORE THE COMMITTEE**

**Public Hearing**

**Wednesday 18 August 1999**

**Sydney**

The Hon Ms Elizabeth Evatt – Private capacity

#### **Australian Law Reform Commission**

Mr Jeremy Campbell, Secretary

Dr Kathryn Cronin, Commissioner

Professor David Weisbrot, President

#### **Commonwealth Attorney-General's Department**

Ms Kathy Leigh, Acting First Assistant Secretary, Civil Law Division

Mr Richard Moss, Deputy Secretary

The Hon Mr Lionel Bowen – Private capacity