



Clerk of the Senate's advice

Extract from Office of the Clerk of the Senate, Advisory Note 59, 31 July 2008

“On several occasions in recent times motions have been passed for references to committees which indicate that they are to report "on" or "not before" particular dates. These words were included in the motions with the apparent intention of ensuring that the committees would not present their reports earlier than the dates specified. Such language in motions for references, however, cannot negate the power explicitly conferred on the committees to report when they choose to do so by standing order 25(18):

A committee may report from time to time its proceedings and evidence taken and any recommendations, and shall make regular reports on the progress of its proceedings.

The rationale of this provision is that, in order properly to carry out their function of informing the Senate, committees should be able to make reports whenever they consider that their advice may be helpful, without being restricted by reporting dates which may be overtaken by events or by information that committees discover.

If a committee chooses to report its substantive conclusions on a matter referred to it by means of a report under this explicit authorisation in the standing order, there is nothing to prevent it doing so. Its report on the specified date could then simply refer to the earlier report.

Some motions for references have also specified that committees should hold hearings in specific places. These provisions in references do not prevent committees deciding not to hear evidence in the specified places if the committees believe that there is no evidence to be heard there. For example, if a committee has received no submissions from a specified place, it may

choose not to hold hearings there on the basis that there is no evidence to be heard.

Also, the inclusion of these kinds of provisions in references do not negate the explicit authorisation of committees to hear evidence by electronic means contained in standing order 30(3). By holding a hearing under that standing order where the witnesses are in a specified place, a committee would be fulfilling the requirement to hear evidence in that specified place.”