

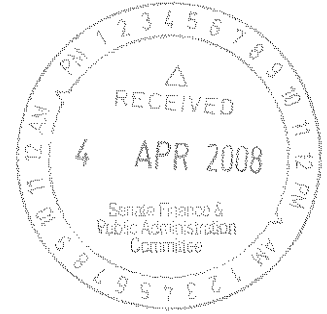
Senate Standing Committee on Finance and Public Administration

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department of the Prime Minister and Cabinet

Additional Estimates Hearings 18 February 2008



Question: PM31

Outcome 1, Output 4

Topic: Tabling of legal advice by government

Hansard Page: F&PA 92

Senator Ray asked: Senator ROBERT RAY - ...I had a more general question on the tabling of legal advice by government. I think I have already heard some coalition members ask you, Senator Evans, to table legal advice, but is there any thought being given to making it compulsory to table legal advice by government as to the constitutionality of an act of government as opposed to all the other categories? This actually affects the entire parliament. Constitutionality of legislation or constitutionality of an executive act seems to me to go beyond the normal bounds of confidentiality and privacy...

Senator Chris Evans - I am happy to seek some advice from PM&C and perhaps from the Attorney-General on that question. Of course, as with all legal advice, it is then disputed by another lawyer, and one seems to be able to commission whatever advice one needs. But, as you say, it might be appropriate on occasions to have the actual government's formal advice available to settle or at least reassure. We will take that on notice.

Answer: It is a long-standing practice, observed by successive Governments, that legal advice is not disclosed unless there is a compelling reason to do so.

While there may be circumstances where the Government may wish to make certain advice available, any such decisions are matters for the Government of the day to make having regard to the facts of the particular case.