

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
AUSTRALIAN LAW REFORM COMMISSION

Question No. 9

Senator Ludlam asked the following question at the hearing on 24 May 2010:

Over the course of producing the inquiry into secrecy and open government in Australia, was the Senate Finance and Public Administration References Committee's report *Independent Arbitration of Public Interest Immunity Claims* considered?

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

The Senate Finance and Public Administration final report was published in February 2010. The ALRC's Report *Secrecy Laws and Open Government in Australia* was finalised in December 2009. Therefore the ALRC did not have the opportunity to consider the Senate Committee's final report. The ALRC did, however, consider the effect of secrecy provisions on the disclosure of information to the Australian Parliament in Chapter 16 of the ALRC's final report. The ALRC did not make any recommendations, simply noting that:

'parliamentary privilege will normally override secrecy provisions, permitting the disclosure of protected information to Parliament or a parliamentary committee. This override will be supported by the exception for disclosures in the course of an officer's duties in the recommended general secrecy offence and most specific secrecy offences. In a small number of situations, however, the disclosure of certain information to Parliament or parliamentary committees may not be the desired outcome. Here, any legislative intent to abrogate parliamentary privilege should be clearly stated in the provision and supporting documents ...'