

INVESTIGATORY POWERS OF THE AUSTRALIAN SECURITIES COMMISSION

CHAPTER 1

ORIGINS OF THE INQUIRY

Reference to the Committee

1.1 On 27 May 1993 the Senate resolved to refer to the Senate Standing Committee on Legal and Constitutional Affairs for report the following matters:

- (1) The exercise of the powers of officers of the Australian Securities Commission (ASC) to interview witnesses including:
 - (a) the manner in which those interviews are conducted;
 - (b) the power to take transcripts of interview and the treatment of those transcripts; and
 - (c) the power to compel production of books and records.

- (2) The exercise of the powers of the ASC to bring applications against corporations and individuals including:
 - (a) the bringing of applications during the course of an investigation; and

(b) the process by which the applications are brought.²

Conduct of the Inquiry

1.2 Advertisements were placed in major national newspapers seeking submissions from interested persons. In addition, the Committee wrote to a wide range of persons and organisations to invite submissions.

1.3 The Committee received 147 written submissions. The list of individuals, organisations and agencies who made submissions to the Committee is attached as Appendix 1 to this report.

Public Hearings

1.4 The Committee held public hearings in Brisbane, Sydney and Melbourne. The list of witnesses who appeared at those hearings is attached as Appendix 2 to this report.

Change to the Senate Committee System

1.5 Following the report of the Senate Procedure Committee into the Senate Committee system (the First Report of 1994) the Senate agreed to amended Standing Orders implementing the Procedure Committee's recommendations. The amended Standing Orders, agreed to by the Senate on 24 August 1994, commenced operation on 10 October 1994.

1.6 One consequence of the new Standing Orders was that the

² *Journals of the Senate No 14, 27 May 1993, p 288.*

various legislative and general purpose Standing Committees were dissolved and replaced by eight pairs of committees. The Standing Committee on Legal and Constitutional Affairs was replaced by the Legal and Constitutional References Committee (having responsibility for matters referred by the Senate) and the Legal and Constitutional Legislation Committee (with responsibility for estimates of expenditure referred under Standing Order 26, for bills and draft bills and for the scrutiny of relevant annual reports).

1.7 The amended Standing Orders (SO 25(4)) provided that matters referred to the predecessor Committee, and incomplete at the commencement of the amended Standing Orders, would be completed by the relevant new Committee. As a result, the inquiry into the Investigatory Powers of the ASC was completed by the Legal and Constitutional References Committee.