

MINUTES OF THE MEETING OF THE COMMITTEE OF SUBORDINATE
LEGISLATION HELD AT 12.30 PM ON THURSDAY, 30 AUGUST 1990, IN
ROOM 5.04 PARLIAMENTARY ANNEXE.

PRESENT: Mr R.D. Barber, MLA (Chairman)
Mr A.A. FitzGerald, MLA
Mr R.J. Quinn, MLA
Mr J.H. Sullivan, MLA
Ms S. Munro (Legal Counsel)
Miss J. Dingwell (Secretary)

APOLOGIES: Mr G.B. Fenlon, MLA
Mr R.K. Hollis, MLA
Mr L.W. Stephan, MLA

MINUTES OF PREVIOUS MEETING: The minutes of the previous meeting, having been circulated to members, were taken as read and confirmed on the motion of Mr Sullivan, seconded by Mr FitzGerald.

CARRIED

BUSINESS ARISING FROM MINUTES: No.1/89 Credit Regulations 1988

Letter of 28.8.1990 to the Minister in accordance with resolution of previous meeting, endorsed.

No.9/89 Regulations - Firearms and Offensive Weapons Act

Letter of 28.8.1990 to the Minister, in accordance with resolution of previous meeting, endorsed.

It was noted that the new Weapons Bill provided for the repeal of the Firearms and Offensive Weapons Act and that this could have some bearing on the point raised by the Committee regarding section 10.

No.18A/89 Regulations - State Housing Act

Letter of 28.8.1990 to the Minister in accordance with resolution of previous meeting, endorsed.

No.21A/89 Order in Council - State Housing Act

The meeting considered the Minister's advice of 23.8.1990 that validating legislation would be introduced in the near future. It was noted, however, that the void Order in Council had not been repealed nor advice received that the Government Printer had been requested to withdraw the void Order in Council from sale.

Resolved: That the outstanding matters be referred to the Minister for attention.

No.2/90 Regulations - Criminal Code

Letter of 28.8.1990 to the Minister in accordance with resolution of previous meeting, endorsed.

No.3/90 Regulations - Mental Health Services Act

The Chairman drew attention to the Crown Solicitor's Office comments on the eight points raised by the Committee and after discussion it was resolved to write to the Minister offering the following comments:-

(1) although it is arguable that inclusion of "security" in the Act could give rise to the claim that previous regulations have been beyond power, the Committee still suggests that the issue be raised when next the Act is reviewed; (2) accepted; (3) accepted; (4) will action be taken in line with the Crown Solicitor's Office advice to amend the regulation dealing with body searches? (5) accepted; (6) consideration should be given to amending the Act in due course to include a power to create an offence in relation to the carrying of articles into a hospital, as well as a power to seize such articles; (7) accepted; (8) accepted.

No.9/90 By-laws -Queensland Performing Arts Trust Act

Letter of 28.8.1990 to the Premier in accordance with resolution of previous meeting, endorsed.

OTHER BUSINESS:

Nos 19/88, 19A/88, 22/88 By-laws - Harbours Act

The meeting noted that the promised amendments to the Townsville Port Authority By-laws 1988, Cairns Port Authority By-laws 1988 and Mackay Port Authority By-laws 1988 had not yet been made.

After discussion it was resolved that the Minister be requested to advise when the amendments will proceed.

No 10/89 Regulations - Second-hand Dealers and Collectors Act

The meeting noted that the Minister had not replied to the Committee's letter of 15.3.1990 reiterating its concerns regarding the form of warrant. However, in view of the Minister's response in the Firearms and Offensive Weapons Regulations that the Crown Solicitor's Office considered the form of warrant to be lawful, the meeting considered that this matter would receive a similar response. It was therefore resolved to defer to the Crown Solicitor's Office advice and take no further action in the matter.

No 11/89 Regulations - Pawnbrokers Act

The meeting noted that as in the Firearms and Offensive Weapons Regulations and the Second-hand Dealers and Collectors Regulations it was clear that no action would be taken with respect to the form of warrant. However, the Minister had not replied to the Committee's enquiry regarding the increase in fees for applications for renewal of licences. It appeared that the fee was intended to be \$267.00 but the fee prescribed by the regulation gazetted on 24.6.1989 was \$67.00.

After further discussion it was resolved to write to the Minister advising that if fees of \$267.00 were collected between 1.7.1989 and 31.12.1989, validating legislation will be necessary.

No 1B/90 Regulations - Valuation of Land Act

The meeting noted the Minister's acknowledgment of 24.8.1990 and resolved to await his further advices.

Amendment of Acts by subordinate legislation

The meeting discussed letter of 22.8.1990 from the Honourable T Mackenroth as Chairman of the Parliamentary Business and Legislation Committee of Cabinet regarding bodies included in the definitions of "unit of public administration" and "unit of the State public sector" in certain legislation.

The discussion paper that accompanied the letter outlined the problems associated with the definitions and considered methods for dealing with them. The preferred option would allow Acts to be varied by Order in Council, to which section 28A of the Acts Interpretation Act would apply. That would be administratively convenient but would be a continuation of the practice of amending Acts of Parliament by subordinate legislation (Henry VIII clauses), a practice opposed by the Committee since its inception in 1975.

The Minister sought the Committee's views on the proposed approach to the problem and before replying the meeting requested the Chairman and Counsel to consult on the matter.

It was then resolved that further discussion be deferred until next meeting.

NEXT MEETING:

The next meeting of the Committee will be held at 12.30 pm on Thursday, 4 October 1990, in Room 5.04, Parliamentary Annexe.

There being no further business the Chairman declared the meeting closed at 1.10 p.m.

CONFIRMED this 4th day of October 1990.

R. Ball
Chairman