

MINUTES OF THE MEETING OF THE COMMITTEE OF SUBORDINATE LEGISLATION  
HELD AT 12.30 PM ON THURSDAY, 22 NOVEMBER 1990,  
IN ROOM 5.04 PARLIAMENTARY ANNEXE

PRESENT:

Mr R.D. Barber, MLA (Chairman)  
Mr A.A. FitzGerald, MLA  
Mr R.K. Hollis, MLA  
Mr R.J. Quinn, MLA  
Mr L.W. Stephan, MLA  
Mr J.H. Sullivan, MLA  
Mrs S. Munro (Legal Counsel)  
Miss J. Dingwell (Secretary)

APOLOGIES:

Mr G.B. Fenlon, 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 Stephan.

CARRIED

BUSINESS ARISING  
FROM MINUTES:

Perth Conference

The meeting discussed Counsel's and Secretary's attendance at the conference and resolved that (1) approval be sought from the Attorney-General for Counsel to attend and that in accordance with past practice the costs involved be met by the department; (2) a submission be made to the Parliamentary Service Commission regarding the Secretary's attendance.

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

Letter of 8.11.1990 to the Minister in accordance with resolution of previous meeting, endorsed.

No 17/89 Order in Council (Rule) - Jury Act

The meeting endorsed letter of 8.11.1990 to the Minister as resolved by previous meeting.

No 18C/89 Regulations - Primary Producers' Organisation and Marketing Act

Letter of 8.11.1990 to the Minister in terms of resolution of previous meeting, endorsed.

No 21B/89 Regulations - Public Service Management and Employment Act

Letter of 8.11.1990 to the Premier in accordance with resolution of previous meeting, endorsed.

OTHER BUSINESS:

No 32/87 Order in Council - Workers' Compensation Act

The meeting noted earlier correspondence between the Committee and the then Minister regarding provisions in the Act enabling amendment of the schedule by Order in Council. The Minister had advised that it was proposed to undertake a complete redrafting of the Act, incorporating the amendments recommended by the Committee.

It was further noted that the Workers' Compensation Bill introduced on 8.11.1990 did not contain a schedule capable of amendment by Order in Council and that the matters previously set out in the schedule were now included in the Act proper.

The meeting agreed that once the Act was passed the Committee's action in the matter would be finalised.

No 6/89 By-laws - Education (Teacher Registration) Act

Consideration was given to the Minister's letter of 12.11.1990 advising that clarification had been sought twice from the Crown Solicitor and the Board and that consistent with their advice he was not prepared to insist on the Board changing by-law 2.8.

It was noted, however, that the Board had made a determination that 14 days from the date of service of the notice was the proper period within which to respond to a notice. That was the period recommended by the Committee and the meeting discussed whether a typographical error had occurred.

After further consideration the meeting resolved to write to the Minister noting that no action would be taken to amend the by-law and expressing appreciation of the Board's determination that 14 days from the date of service was the proper period.

No 3/90 Regulations - Mental Health Services Act

The meeting discussed the Minister's letter of 8.11.1990 advising that (1) serious consideration would be given to the Committee's suggestions when the Act was reviewed; (2) the regulations dealing with body searches would be amended in due course.

Resolved: That review of the Act and amendment of the regulations be awaited.

COUNSEL'S REPORT:

No 19/90 Proclamation - Police Service Administration Act

Counsel reported that (1) paragraph (b) of the Proclamation prescribes the date to be "the appointed day" for the purposes of sections 11.2 and 11.3 of the Act. Such date, however, should be appointed by Order in Council, not Proclamation.

Counsel then outlined the effect using the wrong instrument could have on the appointment and powers of police officers; (2) the Proclamation is stated to be in pursuance of section 1.2 of the Act; however, only paragraph (a) is able to be made under that section. Paragraph (b) must be made in pursuance of sections 11.2 and 11.3.

After discussion it was resolved to bring the matter to the Minister's attention and suggest that he seek advice from the Crown Solicitor as to whether validating legislation will be necessary.

NEXT MEETING:

The next meeting of the Committee will be held at 12.30 pm on Thursday, 29 November 1990, in Room 5.04, Parliamentary Annexe.

MEETING IN RECESS:

Members discussed the possibility of meeting before Parliament resumed in February 1991 to avoid the accumulation of work that occurred during a long recess. The last week in January appeared to be suitable and it was agreed to meet then.

There being no further business the Chairman declared the meeting closed at 12.55 pm.

CONFIRMED this 29 day of Nov 1990.

*R. B. L.*  
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Chairman