

MINUTES OF THE MEETING OF THE COMMITTEE OF SUBORDINATE LEGISLATION
HELD AT 12.30 PM ON THURSDAY, 6 DECEMBER 1990,
IN ROOM 5.04 PARLIAMENTARY ANNEXE

PRESENT:

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

APOLOGIES:

Mr G.B. Fenlon, MLA
Mr A.A. FitzGerald, MLA
Mr R.J. Quinn, 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 Hollis.

CARRIED

BUSINESS ARISING
FROM MINUTES:

Attorney-General's proposal re definition of
"unit of the public sector"

The Chairman opened discussion of the proposal put forward by Mr Wells. The Government was seeking to have a definition that would be variable from one statute to the next, the desired mechanism being to empower the Governor in Council by regulation to exclude from or include within the definition a particular body.

The Committee agreed that that procedure would not be classified as a Henry VIII clause but considered that the effect would be similar in that subordinate legislation would be limiting or extending the application of an Act passed by the Parliament.

At that point reference was made to the Committee's role in preserving the sovereignty of Parliament as law maker.

Mention was then made of the risk that acceptance by the Committee of the procedure on this occasion could be taken as acceptance of such procedure in any future matter.

After further discussion it was resolved to inform the Attorney-General that the proposed procedure is unacceptable to the Committee.

Perth Conference

Letters of 29.11.1990 to the Western Australian Committee and the Attorney-General in accordance with resolution of previous meeting, endorsed.

OTHER BUSINESS:

No 1/89 Regulations - Credit Act

The meeting discussed the Minister's advice of 4.12.1990 that amending regulations had been prepared and he planned to place them before Executive Council at its meeting on 20.12.1990.

Resolved: That gazettal of the amending regulations be awaited.

No 11/89 Regulations - Pawnbrokers Act

Consideration was given to the Minister's letter of 3.12.1990 stating that the wording of the form of warrant had been referred to the Crown Solicitor for further advice.

It was noted that the Minister had not responded to the Committee's concern about the fees collected with respect to applications for renewal of licences between 1.7.1989 and 31.12.1989.

After further discussion the meeting resolved to forward a copy of the Committee's letter of 4.9.1990 in the matter to the Minister and request his advices.

No 15/90 Rules - Golden Casket Art Union Act

The meeting considered the Treasurer's letter of 3.12.1990 stating that the Crown Solicitor had been requested to provide advice on the issues raised and resolved to await the Treasurer's further advices.

COUNSEL'S REPORT:

No 20/90 Regulations - Partnership (Limited Liability) Act

Counsel reported that regulations gazetted on 17.11.1990 purported to take effect from 15.11.1990. By reason of section 28A of the Act Interpretation Act, however, the regulations take effect from the date of publication in the Gazette.

The regulations are therefore invalid insofar as they purport to specify a commencement date earlier than the date of gazettal.

Discussed and resolved that the Minister be informed that the Committee considers that the regulations should be redrafted in correct form, resubmitted to the Governor in Council and regazetted.

NEXT MEETING:

The next meeting of the Committee will be held at 12.30 pm on Thursday, 31 January 1991, in Room 5.04, Parliamentary Annexe.

There being no further business the Chairman declared the meeting closed at 12.58 pm.

CONFIRMED this 31st day of January, 1991.

R. Bell

Chairman