

MINUTES OF THE MEETING OF THE COMMITTEE OF SUBORDINATE LEGISLATION
HELD AT 12.30 P.M. ON THURSDAY, 8 MARCH 1990
IN ROOM 5.04 PARLIAMENTARY ANNEXE.

PRESENT:

Mr R.D. Barber, M.L.A.
Mr G.B. Fenlon, M.L.A.
Mr A.A. FitzGerald, M.L.A.
Mr R.K. Hollis, M.L.A.
Mr R.J. Quinn, M.L.A.
Mr L.W. Stephan, M.L.A.
Mr J.H. Sullivan, M.L.A.

Miss E. Hall (Legal Counsel)
Miss J. Dingwell (Secretary)

ELECTION OF CHAIRMAN:

Miss Hall took the Chair as Temporary Chairman and called for nominations for the position of Chairman. Mr Sullivan nominated Mr Barber, seconded by Mr Hollis, and as there were no further nominations Mr Barber was declared elected as Chairman of the Committee.

ELECTION OF DEPUTY
CHAIRMAN:

The Chairman called for nominations for the position of Deputy Chairman. Mr Sullivan nominated Mr Fenlon and as there were no further nominations Mr Fenlon was declared elected as Deputy Chairman of the Committee.

BUSINESS:

Outstanding Matters -

No. 6/88 By-laws - Queensland Art Gallery Act -
The meeting discussed the former Minister's letter of 7 November 1989 advising that the Board of Trustees was considering further advice offered by the Solicitor-General.

Resolved: That the matter be brought to the attention of the present Minister suggesting that the amendments proceed and enquiring as to the present position.

Nos. 33/88, 1/89 Regulations - Credit Act -
Counsel pointed out that the regulations approved by the Governor in Council on 15.12.1988 had never been gazetted.

The regulations gazetted on 17.12.1988 had contained errors made by the Government Printer, which he had sought to cure by gazettal of an errata notice, and these regulations were tabled on 9.3.1989. The regulations as approved by the Governor in Council had then been tabled on 19.4.1989, but had never been gazetted.

After discussion it was resolved to bring the matter to the attention of the present Minister, suggesting that (1) the regulations approved by the Governor in Council on 15.12.1980 be gazetted and tabled; (2) a concomitant or prospective commencement date be provided; (3) any errors in those approved regulations be amended by further regulations; (4) validating legislation may be necessary.

No. 34/88 Regulations - Tobacco Products (Licensing) Act - Consideration was given to the former Minister's letter of 22.11.1989 advising that certain amendments would be made to the regulations but rejecting the suggested amendments to the form of warrant. Counsel commented on the reasons given and after discussion it was resolved to write to the present Minister (1) citing the cases relied upon; (2) restating the view that the nature of the enquiry should be outlined in the warrant and "relevant material" fully described; (3) disputing the statement re seizure of material.

No. 7/89 Regulations - Queensland Treasury Corporation Act - The meeting considered the former Minister's letter of 2.11.1989 responding to the previous Committee's enquiry regarding the ability of persons to hold stock as tenants-in-common and it was agreed that that advice be accepted. Discussion then centred on the sub-delegation appearing in reg. 6(2) and it was resolved to seek a response on that matter from the present Minister.

No. 8/89 Regulations - Agricultural Standards Act - The meeting discussed the former Minister's letter of 27.11.1989 advising that no fees were collected during 1 and 2 June except under the authority of the old regulations, and resolved that no further action be taken in the matter.

No. 11/89 Regulations - Pawnbrokers Act - The meeting discussed letter of 14.2.1990 from the Minister advising that amendment of the Second Schedule was the only matter the Crown Solicitor considered required attention. The previous Committee's suggestion concerning the form of warrant was disregarded. It was noted that while some fees in the Second Schedule were increased

by only \$1.35 and \$1.45, fees for renewal of licence were increased by \$220, which seemed punitive.

The meeting resolved to write to the Minister drawing attention to the fee increase, reiterating the Committee's view regarding the form of warrant and citing the cases relied upon.

No. 12/89 Regulations - Local Government Act - Consideration was given to the former Minister's advice of 19.10.1989 that the anomaly would be corrected during a review of the regulations and the meeting resolved to await gazettal of the new regulations.

No. 13/89 Regulations - Intellectually Disabled Citizens Act - The meeting considered the former Minister's letter of 24.10.1989 stating that advice was being sought from the Solicitor-General and it was resolved to write to the present Minister asking what action is proposed in the matter.

No. 14/89 Regulations - Primary Producers' Organisation and Marketing Act - The meeting discussed the former Minister's advice of 30.10.1989 that new regulations, to be titled the Queensland Pork Producers' State Council Regulations, would be made and it was resolved to await gazettal of the new regulations.

No. 15/89 Regulations - Primary Producers' Organisation and Marketing Act - The former Minister's letter of 3.11.1989 regarding the Queensland Dairyfarmers' State Council was considered and it was agreed that the matter of the reprint of the regulations would have to be pursued by the Parliamentary Counsel's Office. Resolved: That the Committee take no further action in the matter.

No. 16/89 Order in Council (Rule) - Magistrates Courts Act - Counsel advised that as promised in the former Minister's letter of 15.11.1989 a further amendment to the rules was gazetted on 2.12.1989. The Editorial Staff of the Parliamentary Counsel's Office, however, advised that there continue to be problems that would affect any reprint of the rules.

After discussion it was resolved to write to the present Minister suggesting that the rules be further amended to overcome the problems that still exist.

No. 17/89 Orders in Council (Rules) - Jury Act -
As a reply had not been received to the previous Committee's letter of 5.10.1989, the meeting resolved that the matter be brought to the present Minister's attention with a view to having the matter corrected by validating legislation.

No. 18/89 Regulation - Rural Fires Act - As the previous Committee's letter of 18 October 1989 had not been answered, it was resolved to request the present Minister to effect the desired amendment to the regulation.

Statute Law (Miscellaneous Provisions) Bill - The meeting considered letters of 20.11.1989, 27.11.1989 and 4.1.1990 from the relevant Ministers regarding the inclusion in a future Statute Law (Miscellaneous Provisions) Bill of amendments to the City of Brisbane Act, the Grammar Schools Act and the Rural Training Schools Act and resolved that the present Ministers be requested to advise the present position in the matters.

Outstanding Replies -

The Secretary pointed out that several matters initiated by the previous Committee had not been finalised. The meeting resolved that follow-up letters be forwarded to the respective Ministers and the matters considered in detail as replies were received.

Discussion then centred on the question of whether Ministers were always personally aware of the matters raised by the Committee and it was resolved that in future the outside of envelopes be marked "For the Ministers Personal Attention".

New Matters -

No. 18A/89 Regulations - State Housing Act -
Secretary reported that regulations gazetted on 17.6.1989 had not been tabled in Parliament and consequently had been rendered void.

After discussion it was resolved to write to the Minister suggesting that (1) the regulations be resubmitted to the Governor in Council for approval and regazetted; (2) the void regulations be repealed and withdrawn from sale by the Government Printer; (3) validating legislation may be necessary if fees were collected pursuant to the void regulations after the expiry of the time for tabling and before regazettal.

No. 18B/89 Regulations - Libraries and Archives Act - Secretary reported that the Libraries and Archives Regulations 1989 gazetted on 24.6.1989 had not been tabled and as a result were void.

Following discussion it was resolved to write to the Premier suggesting the usual corrective action, namely, resubmission to the Governor in Council, regazettal, repeal of the void regulations, withdrawal from sale, and possible validating legislation.

No. 18C/89 Egg Marketing Board (Administrative Levy) Regulations - Primary Producers' Organisation and Marketing Act - Secretary reported that regulations gazetted on 1.7.1989 had not been tabled and as a consequence had been rendered void.

Discussed and resolved that a letter be sent to the Minister suggesting the usual corrective action.

Third Conference of Australian Delegated Legislation Committees - The meeting considered letter of 25.1.1990 from the Clerk of the Legislative Council, Western Australia, to the Clerk of the Parliament, and his B/C of 30.1.1990, regarding Queensland representation at the above conference.

It was agreed that any time in the second half of 1991, except August and early September, would be the most convenient time for members to attend and it was resolved that the Clerk be advised accordingly.

COUNSEL'S REPORTS:

No. 19/89 Proclamations and Order in Council - Rental Bond Act - Counsel reported that (1) the Act was proclaimed into force by four Proclamations, but two different commencement dates were appointed for sections 42 to 46; (2) section 6 of the Act commenced on 1.3.1990, but an Order in Council, purporting to be in pursuance of section 6 was gazetted on 25.11.1989. The Order in Council, however, cannot issue before the operative date of the empowering section; (3) the wording of the Order in Council should follow the words of section 6.

Discussed and resolved that although the instruments did not come within the ambit of the Committee's scrutiny, the Committee bring the matter to the Minister's attention suggesting that the Order in Council be regazetted.

No. 20/89 Regulations - Securities Industry (Application of Laws) Act; Regulations - Companies (Application of Laws) Act - Counsel reported that regulations gazetted on 4.11.1989 purported to come into operation on 1.11.1989. Under section 28A(1)(c) of the Acts Interpretation Act, however, regulations take effect from the date of publication in the Gazette, or from a later date. They cannot act retrospectively.

Following discussion it was resolved to bring the matter to the Minister's attention, pointing out that if any action was taken pursuant to the regulations prior to their coming into effect, validating legislation will be necessary.

No. 21/89 Regulations - Local Government (Chinatown Mall) Act; Regulations - Local Government (Queen Street Mall) Act - Counsel reported that regulations gazetted on 23.12.1989 purported to act retrospectively from 1.12.1989; however, the regulations take effect from the date of publication in the Gazette, or from a later date. Therefore, any moneys collected in reliance on the regulations prior to their coming into effect have been collected unlawfully and validating legislation will be necessary.

Discussed and resolved that the matters be brought to the Minister's attention for appropriate action.

SERVICES OF LEGAL
COUNSEL:

The likelihood of the Committee's future legal counsel being an officer of the Solicitor-General's Office was discussed. Although the Committee had for some years been advised by a legal officer attached to the Parliamentary Counsel's Office, it was considered that it would be more appropriate for the Committee's legal counsel to be independent of the executive. This would be achieved if legal counsel were an officer of the Parliamentary Service.

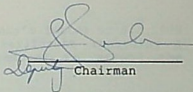
It was resolved that a submission be made to the Parliamentary Service Commission requesting that a position of Legal Counsel to the Committee be created and filled by an officer of the Parliamentary Service.

NEXT MEETING:

The next meeting of the Committee will be held at 12.30 pm on Thursday, 22 March 1990 in Room 5.04, Parliamentary Annexe.

There being no further business the Chairman declared the meeting closed at 2.15 pm.

CONFIRMED this 22nd day of March 1990.


Chairman