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STANDING ORDERS COMMITTEE

REPORT ON

PROPOSED AMENDMENTS TO STANDING ORDERS RECOMMENDED BY A SELECT COMMITTEE ON THE COMMITTEE SYSTEM

Order of Reference

By order (the "order") made on Tuesday November 25 1997, [*Minutes* 1997/56/619] the House referred certain matters to the Standing Orders Committee, viz, a requirement to bring up standing orders relating to the matters set out in this report, and to review the continued operation of the sessional orders made on April 10 1997 and report whether some or all of their provisions might be incorporated in Standing Orders.

This report deals with the first of the matters referred.

1. Participation in committee deliberations

The order requires the committee to propose standing orders to:

- (a) *enable a Member who is not a member of a particular committee to participate in that committee's deliberations in relation to a specified matter, by leave of the committee.*

To give effect to paragraph (a), the committee **recommends** the following amendments:

" SO 326 amended

SO 326 is amended by:

- (a) inserting after " proceedings " the words-
" ,and by leave of a committee, its deliberations,"
- (b) deleting the second sentence commencing " Such " and substituting-
" Leave can be given only for a specific inquiry, but a member may be given leave in relation to more than one inquiry whether or not those inquiries are contemporaneous with one another. "

2. Substitution of Members on a committee

Paragraph (b) of the order requires the committee to propose standing orders to:

- (b) *enable the substitution of a Member of a standing committee by another Member who is not a Member of that committee, by leave of the committee and on condition that:*
 - (i) *substitution be limited to a particular inquiry and that on the presentation of a report from the standing committee which finally*

disposes of that inquiry, or where the inquiry is discontinued for any reason, the substitution lapses; and

- (ii) *substitution does not prevent the original (substituted) member from participating in any other inquiry being carried on contemporaneously with that for which substitution is made;*
- (iii) *any substitution, and its purpose, be reported to the House; (Clause 8);.*

The committee **recommends** the insertion of a new standing order as follows:

“ **Substitute members**

- 326A. (1) A member of a committee may be replaced by another member (“**substitute member**”). The substitute member, subject to this order, is a member of the committee for all purposes.
- (2) Substitution is made by leave of the committee.
- (3) A substitution must be for the purpose of a specific inquiry but a substitute member, by further leave, may be a substitute member on 1 or more committees at the same time and in relation to more than 1 inquiry being conducted at the same time.
- (4) Nothing in this order alters the capacity of the member who is substituted to act as a member of the committee in relation to any inquiry or matter that is unaffected by the substitution.
- (5) Where a committee:
- (a) presents its final report on an inquiry for which a substitution was made; or
 - (b) for any reason, discontinues such an inquiry,
- the leave granted in relation to that inquiry lapses, and the substitute member, subject to paragraph (3), ceases to be a member of that committee.
- (6) When a substitution is made, the Chairman shall cause the Clerk to be notified of the names of the member being substituted, the substitute member, and the purpose for which the substitution is made and the Clerk shall publish that information in the next available Notice Paper.

3. Pecuniary interests

Paragraph (c) of the order relates to a member voting as part of a committee’s deliberations on a matter in which he or she has a pecuniary interest. The order requires the formulation of a standing order to:

- (c) *ensure that a Member shall not vote on a question before a standing committee in which*

the Member has a direct pecuniary or personal interest not held in common with the rest of the subjects of the Crown (Clause 12);.

In the following standing order, the committee has retained the expression "not held in common with the rest of the subjects of the Crown" so as to limit the operation of the preceding prohibition on voting. In other parliaments the limitation has been applied so as to exclude from the operation of the general prohibition situations where a member is one of a limited class and an issue of public policy is involved. On that basis, a farmer member would not be prevented from voting on a bill that was of benefit to a limited class - farmers - given that bills, other than private bills, involve matters of public policy.

The committee also draws attention to the fact that the prohibition does not apply to other than "direct" interests.

The committee **recommends** the insertion of the following new standing order:

" Committee Member not to vote in certain cases

326B. In relation to any matter or inquiry before a committee, a member shall not vote on a question in which the member has a direct pecuniary or personal interest not held in common with the rest of the subjects of the Crown. "

4. Necessity to give notice to present report

The order also requires the committee to present a standing order that would:

(e) delete the requirement for notice of intention to table a Report (Clause 18).

The committee has done this and also taken the opportunity to state the usage that in some cases, the obligation placed on the chairman of a committee to present the report will be carried out by another member at the committee's direction and on its behalf.

The committee **recommends** that SO 334 be repealed and the following substituted:

" Presentation of report

334. A report is presented by the chairman or other member designated by the committee for the purpose. "

5. Constitutional Affairs Committee

In its report (cl 14), the committee reviewing the committee system recommended:

" Constitutional Affairs

That the existing Constitutional Affairs and Statutes Revision Committee be reconstituted as a Constitutional Affairs Committee having power to originate its own inquiries on any matter affecting the State of Western Australia and its constitutional or legal relationship with the Commonwealth, the States and Territories;

That a bill to which the "30 day" rule applies stands referred to the Constitutional Affairs Committee after the Minister's second reading speech and the committee is to report within 30 days of that referral;

That a petition relating to the subject matter of an inquiry in progress or to be commenced stand referred to the committee undertaking that inquiry;

That a petition not so related be referred to an appropriate committee by the Business Management Committee following presentation;

That the Legislation Committee have responsibility for statute revision currently vested in the Constitutional Affairs and Statutes Revision Committee. "

Paragraph (d) of the order modified that recommendation as to the referral of petitions and requires the drafting of standing orders to:

give effect to the recommendations relating to the Constitutional Affairs and Statutes Revision Committee, with the exception that all petitions continue to be referred to that Committee which may then determine to refer any petition to another Committee for consideration and report (Clause 14);

To give effect to the order, the committee **recommends** the following amendments to the Schedule:

- (1) The Schedule to Standing Orders is amended by repealing the item entitled "*Standing Committee on Constitutional Affairs and Statutes Revision*" and substituting the following:

Standing Committee on Constitutional Affairs

1. A standing committee under the name of "*Constitutional Affairs*" is established.
2. The committee consists of 3 members.
3. The functions of the committee are to inquire into and report on:
 - (a) the constitutional law, customs and usages of Western Australia;
 - (b) the constitutional or legal relationships between Western Australia and the Commonwealth, the States and Territories,
and any related matter or issue;
 - (c) a bill to which SO 230 (c) applies but subject to SO 230 (d);
 - (d) any petition.
4. A petition stands referred after presentation. The committee may refer a petition to another standing committee where the subject matter of the petition is within the terms of reference of that standing committee. A standing committee to which a petition is referred shall report to the House as it thinks fit. "

(2) Standing order 230 is amended by adding the following paragraph:

“ (d) a bill to which paragraph (c) applies stands referred to the *Constitutional Affairs Committee* which shall report on the bill within the 30 day period prescribed in that paragraph. The policy of a bill so referred, evidenced by an explanatory memorandum or the second reading speech of the Minister having charge of the bill, is not a matter for inquiry by the committee. “

(3) The Schedule to Standing Orders is amended in the item entitled “*Standing Committee on Legislation*” by:

(a) inserting in clause 5 after the word “ on “ the expression “ (a) “; and

(b) adding the following paragraphs:

“ (b) what written laws of the State and spent or obsolete Acts of Parliament might be repealed from time to time;

(c) what amendments of a technical or drafting nature might be made to the statute book;

(d) the form and availability of written laws and their publication.“

■

GEORGE CASH MLC
President

March 10 1998

