

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 94

THURSDAY, JUNE 27 2002

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

2. Ministerial Statement - New Director General for the Department for Planning and Infrastructure

The Parliamentary Secretary to the Minister for Planning and Infrastructure made a Ministerial Statement with respect to the appointment of a new Director General for the Department for Planning and Infrastructure.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

3. Ministerial Statement - John Curtin's House, Cottesloe

The Parliamentary Secretary to the Minister for Planning and Infrastructure made a Ministerial Statement with respect to John Curtin's House in Cottesloe.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

4. Paper

The following Paper was laid on the Table by -

Minister for Racing and Gaming

Reports -

Western Australian Treasury Corporation - Statement of Corporate Intent 2002/03..... 1547

5. Vote of Thanks - Deputy Clerk and Usher of the Black Rod - Ian Allnutt

The Leader of the House moved, without notice -

That this House -

Takes this opportunity, his last day as an officer at the Table, to place on record its sincere appreciation and thanks to Ian Allnutt, the Deputy Clerk of the Legislative Council, for the dedicated and highly professional service he has rendered to this Parliament for the last 35 years, the unfailing personal integrity he has maintained in the discharge of the duties of

office, and expresses the wish that he will experience good health and enjoyment of life in the years ahead.

Debate ensued.

Question - put and passed, by acclamation with Members standing in their places.

6. Estimates of Revenue and Expenditure - Consolidated Fund Estimates 2002-2003

The Order of the Day having been read for the adjourned debate on the motion of the Minister for Racing and Gaming, That the Consolidated Fund Estimates 2002-2003 be noted.

Debate resumed.

Extension of Speaking Time

Hon Derrick Tomlinson sought leave of the House for Hon Peter Foss to extend his speaking time.

Leave denied.

On the motion of Hon Bruce Donaldson the debate was adjourned to the next sitting.

7. Mining Amendment Bill 2001

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Parliamentary Secretary to the Minister for State Development moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

8. Mines Safety and Inspection Amendment Bill 2001

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Parliamentary Secretary to the Minister for State Development moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

9. Hospitals and Health Services Amendment Bill 2002

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Want of Quorum

There not being a quorum present, the President gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Parliamentary Secretary to the Minister for Health moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

10. Appropriation (Consolidated Fund) Bill (No. 1) 2002

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

On the motion of Hon Norman Moore the debate was adjourned to a later stage of this day's sitting.

11. Order of Business

Ordered - That Order of the Day No. 140, *Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001* be taken forthwith. (Leader of the House).

12. Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001

The Order of the Day for the consideration of this Bill, in Committee, having been read.

The Deputy President left the Chair.

In Committee

(Hon Kate Doust in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Hon Peter Foss moved -

Page 3, lines 5 to 7 - To delete the lines and insert instead -

“

(b) an offence of wilful murder which appears to be part of a series of connected wilful murders.

”.

Debate ensued.

Question - That the words be deleted be deleted - put.

The Committee divided.

Ayes (21)

Hon Alan Cadby
Hon George Cash
Hon Robin Chapple
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough
Hon Barry House
Hon Robyn McSweeney

Hon Dee Margetts
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Jim Scott
Hon Christine Sharp
Hon W N Stretch
Hon Derrick Tomlinson
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Noes (12)

Hon Kim Chance
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford
 Hon Graham Giffard

Hon Nick Griffiths
 Hon Louise Pratt
 Hon Ljiljanna Ravlich
 Hon Tom Stephens
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Question thus passed.

Question - That the words be inserted be inserted - put.

The Committee divided.

Ayes (15)

Hon Alan Cadby
 Hon George Cash
 Hon Murray Criddle
 Hon John Fischer
 Hon Peter Foss
 Hon Ray Halligan
 Hon Frank Hough
 Hon Barry House

Hon Robyn McSweeney
 Hon N F Moore
 Hon Simon O'Brien
 Hon Barbara Scott
 Hon W N Stretch
 Hon Derrick Tomlinson
 Hon Bruce Donaldson (*Teller*)

Noes (17)

Hon Kim Chance
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford
 Hon Graham Giffard
 Hon Nick Griffiths
 Hon Dee Margetts

Hon Louise Pratt
 Hon Ljiljanna Ravlich
 Hon Jim Scott
 Hon Christine Sharp
 Hon Tom Stephens
 Hon Ken Travers
 Hon Giz Watson
 Hon Ed Dermer (*Teller*)

Amendment thus negatived.

Clause, as amended, agreed to.

Clause 5 agreed to.

Clause 6.

The Minister for Racing and Gaming moved -

Page 4, lines 5 to 7 - To delete the lines and insert instead -

“

- (2) The person appointed must be a person who has held office as a Judge of the Supreme Court or the District Court or has held another equivalent judicial office prescribed by regulations.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 7 agreed to.

Clause 8 put and negatived.

Debate ensued.

The Minister for Racing and Gaming moved -

That consideration of Clause 9 be postponed until after consideration of New Clause 8A, 8B and 8C.

Question - put and passed.

New Clause 8A, 8B and 8C.

The Minister for Racing and Gaming moved -

Page 4, line 20 - To insert the following new Clause -

“

Part 2A — Basis for, and control of, use of powers

8A. Finding as to grounds for exercising Part 3 or 4 powers

- (1) On the application of the Commissioner of Police, a special commissioner may find whether or not the special commissioner is satisfied that —
 - (a) there are reasonable grounds for suspecting that a section 4 offence has been, or is being, committed;
 - (b) there are reasonable grounds for suspecting that there might be evidence or other information relevant to the investigation of the offence that can be obtained under Part 3 or 4; and
 - (c) there are reasonable grounds for believing that the use of powers given by Part 3 or 4 would be in the public interest having regard to —
 - (i) whether or not the suspected offence could be effectively investigated without using the powers;
 - (ii) the extent to which the evidence or other information that it is suspected might be obtained would assist in the investigation, and the likelihood of obtaining it; and
 - (iii) the circumstances in which the information or evidence that it is suspected might be obtained is suspected to have come into the possession of any person from whom it might be obtained.
- (2) If the special commissioner is satisfied that the grounds described in subsection (1) exist, the finding is to be reduced to writing and a copy of it is to be given to the Commissioner of Police.

8B. Special commissioner may limit exercise of powers

- (1) A special commissioner finding under section 8A that the special commissioner is satisfied that the grounds described in section 8A(1) exist may give directions limiting the exercise of powers under Part 3 or 4.
- (2) A special commissioner may revoke or vary directions under this section or give further directions limiting the exercise of powers under Part 3 or 4.

- (3) Limitations may be expressed however the special commissioner considers appropriate and, without limiting other ways in which they may be expressed, they may operate by reference to —
- (a) particular powers;
 - (b) particular circumstances;
 - (c) particular persons;
 - (d) particular places;
 - (e) particular articles; or
 - (f) particular times or periods of time.
- (4) A special commissioner giving, revoking, or varying a direction under this section is to do so in writing a copy of which is to be given to the Commissioner of Police.

8C. Overseeing exercise of certain powers

- (1) A special commissioner may require the Commissioner of Police or any other person to give the special commissioner details of any exercise of a power under Part 3 or 4, including the identity of any person who has exercised the power.
- (2) The Commissioner of Police or any other person to whom a requirement under subsection (1) is made is to comply with the requirement and is to cause any person under the control of the Commissioner of Police to provide the special commissioner with any details sought by the special commissioner.

”.

Debate ensued.

New Clause - put and passed.

Postponed Clause 9.

The Minister for Racing and Gaming moved -

Page 5, lines 7 to 28 - To delete the lines and insert instead -

“

- (3) The powers of a special commissioner under this Part cannot be exercised unless the Commissioner of Police has satisfied a special commissioner that the grounds described in section 8A(1) exist in respect of the section 4 offence concerned.
- (4) A power under this Part cannot be exercised contrary to a direction under section 8B.

”.

Debate ensued.

Amendment - put and passed.

Clauses 10 and 15 agreed to.

Clause 16.

The Minister for Racing and Gaming moved -

Page 9, lines 19 to 24 - To delete the lines and insert instead -

“

(3) If the special commissioner considers that in the circumstances it would not be in the public interest to postpone a person's examination to enable the person's legal representative to be present, a special commissioner may —

(a) despite subsection (2), allow the examination of the person to proceed without the person having legal representation; or

(b) arrange for the person to be legally represented at the examination.

(4) A person may decline to be legally represented as arranged under subsection (3)(b) by the special commissioner, but the special commissioner is not obliged to arrange any other legal representation for the person.

”.

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 9, line 26 - To insert before “commissioner” -

“ special ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 17 and 21 agreed to.

Clause 22.

Debate ensued.

The Minister for Racing and Gaming moved -

Page 11, after line 23 - To insert -

“

(2) A special commissioner may make an order about what is to be done with any document or other thing produced before the special commissioner, and it may be dealt with in accordance with that order.

”.

to which Hon Peter Foss moved -

To insert at the end of proposed subclause (2) and after the word “order” the following words -

“

but may not order to be destroyed except in accordance with the *State Records Act 2000*

”.

Hon Peter Foss, by leave, withdrew the amendment standing in his name.

Debate ensued.

13. Questions Without Notice

Questions without notice were asked by Hon Norman Moore, Hon Peter Foss, Hon Barry House, Hon Robin Chapple, Hon Dee Margetts, Hon Murray Criddle, Hon Jim Scott, Hon Bill Stretch, Hon Derrick Tomlinson, Hon Barbara Scott and Hon Christine Sharp.

The Parliamentary Secretary to the Minister for State Development tabled documents in relation to the Minister for State Development press statement outlining plans for clean fuel and gas projects in the Burrup Industrial Estate in response to a question without notice asked by Hon Robin Chapple. (Tabled paper 1548).

The Leader of the House tabled documents in relation to the charge per cubic metre and per tonne paid by buyers of native forest logs for the construction and maintenance of logging roads in state forests and timber reserves, and roading charge in response to question on notice No. 665 asked by Hon Christine Sharp. (Tabled paper 1549).

The Parliamentary Secretary to the Minister for State Development tabled documents in relation to the Department of Mineral and Petroleum Resources media response concerning an electrical arcing incident in response to question on notice No. 709 asked by Hon Robin Chapple. (Tabled paper 1551).

The Parliamentary Secretary to the Minister for Planning and Infrastructure tabled documents in relation to a copy of Main Roads drawings 9905-5017 and 9905-5018 detailing the intersection of the Prospectors and Miners Hall of Fame with Goldfields Highway, Kalgoorlie in response to question on notice No. 710 asked by Hon Robin Chapple. (Tabled paper 1552).

The Parliamentary Secretary to the Minister for Planning and Infrastructure tabled documents in relation to a list of expenditure allocated as grants, loans and other transfers to Non-Government schools as per Division 62 Education Services of the 2002-03 State Budget in response to question on notice No. 789 asked by Hon Christine Sharp. (Tabled paper 1553).

The Leader of the House tabled documents in relation to Western Power - Statement of Corporate Intent 2002-2003 Report. (Tabled paper 1550).

14. Criminal Investigation (Exceptional Powers) and Fortification Removal Bill 2001

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 22.

Debate resumed on the amendment moved by the Minister for Racing and Gaming as follows -

Page 11, after line 23 - To insert -

“

- (2) A special commissioner may make an order about what is to be done with any document or other thing produced before the special commissioner, and it may be dealt with in accordance with that order.

”.

Debate ensued.

Amendment - put and passed.

Hon Peter Foss moved -

Page 11, after line 23 - To insert -

“

- (3) A special commissioner may not order a document to be destroyed except in accord with the *State Records Act 2000*.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 23.

The Minister for Racing and Gaming moved -

Page 11, lines 25 and 26 - To delete “the investigation” and insert instead -

“ proceedings under this Part ”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (12)

Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard

Hon Nick Griffiths
Hon Louise Pratt
Hon Ljiljana Ravlich
Hon Tom Stephens
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (21)

Hon Alan Cadby
Hon George Cash
Hon Robin Chapple
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough
Hon Barry House
Hon Robyn McSweeney

Hon Dee Margetts
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Jim Scott
Hon Christine Sharp
Hon W N Stretch
Hon Derrick Tomlinson
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

The Minister for Racing and Gaming moved -

Page 11, lines 29 and 30 - To delete the lines and insert instead -

“

appropriate as to —

- (a) who can have a copy of any of the records and on what conditions;
- (b) how the records are to be dealt with when the investigation is complete.

”.

Debate ensued.

The Minister for Racing and Gaming, by leave, amended his amendment by inserting after the word “appropriate” and inserting “, in accordance with the *State Records Act 2000*,”.

Amendment, as amended, put and passed.

Hon Peter Foss moved -

Page 12, lines 3 to 5 - To delete the words after “the” and insert -

“

State Records Commission which may order that any record be dealt with as the State Records Commission considers appropriate in accordance with the *State Records Act 2000*.

”.

Debate ensued.

Amendment - put and passed.

Hon Peter Foss moved -

Page 12, lines 6 to 9 - To delete the lines and insert -

“

- (4) For the purpose of the *State Records Act 2000* any records that are transferred to the custody of the Director of State Records as State archives, shall be treated by the Director as restricted access archives unless the Attorney General requests otherwise.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 24 agreed to.

Clause 25.

Hon Peter Foss moved -

Page 12, after line 17 - To insert -

“

- (2) Where in this Part an offence is created, then in the absence of any other specific penalty the penalty shall be imprisonment for 20 years and a fine of \$1 000 000.
- (3) Despite subclause (2) the Supreme Court shall be entitled to imprison a contemnor until a contempt is purged in addition to any specific penalty for the offence.
- (4) In imposing a penalty under this Part the Court shall take into account whether the act or omission leading to an offence is such that had the act or omission not occurred evidence could have been given so that some person known or unknown is likely to have been convicted of a specific offence (the “offence under investigation”) and if so satisfied as to that matter on the balance of probability the Court shall impose a penalty upon the defendant which the Court considers would be appropriate to impose on a person found guilty of the offence under investigation.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (16)

Hon Alan Cadby
Hon George Cash
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough

Hon Barry House
Hon Robyn McSweeney
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon W N Stretch
Hon Derrick Tomlinson
Hon Bruce Donaldson (*Teller*)

Noes (17)

Hon Kim Chance
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard
Hon Nick Griffiths
Hon Dee Margetts

Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Jim Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clause 26.

Hon Giz Watson moved -

Page 12, after line 26 - To insert -

“

- (1a) It is a complete defence to a charge of contempt arising from failure to comply with a requirement under subsection (1)(b) for the person to prove that the document or other thing was obtained in the course of that person's occupation or employment as a journalist.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (5)

Hon Dee Margetts
Hon Jim Scott
Hon Christine Sharp

Hon Giz Watson
Hon Robin Chapple (*Teller*)

Noes (27)

Hon Alan Cadby
 Hon George Cash
 Hon Kim Chance
 Hon Murray Criddle
 Hon Bruce Donaldson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Paddy Embry
 Hon Adele Farina
 Hon John Fischer
 Hon Jon Ford
 Hon Peter Foss
 Hon Graham Giffard
 Hon Nick Griffiths

Hon Ray Halligan
 Hon Frank Hough
 Hon Barry House
 Hon Robyn McSweeney
 Hon N F Moore
 Hon Simon O'Brien
 Hon Louise Pratt
 Hon Ljiljanna Ravlich
 Hon Barbara Scott
 Hon Tom Stephens
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clause 27.

Hon Giz Watson moved -

Page 13, after line 30 - To insert -

“

- (1a) It is a complete defence to a charge of contempt arising from failure to answer any question under subsection (1)(b) for the person to prove that the information to which the question relates was obtained in the course of that person's occupation or employment as a journalist.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (5)

Hon Dee Margetts
 Hon Jim Scott
 Hon Christine Sharp

Hon Giz Watson
 Hon Robin Chapple (*Teller*)

Noes (28)

Hon Alan Cadby
 Hon George Cash
 Hon Kim Chance
 Hon Murray Criddle
 Hon Bruce Donaldson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Paddy Embry
 Hon Adele Farina
 Hon John Fischer
 Hon Jon Ford
 Hon Peter Foss
 Hon Graham Giffard
 Hon Nick Griffiths

Hon Ray Halligan
 Hon Frank Hough
 Hon Barry House
 Hon Robyn McSweeney
 Hon N F Moore
 Hon Simon O'Brien
 Hon Louise Pratt
 Hon Ljiljanna Ravlich
 Hon Barbara Scott
 Hon Tom Stephens
 Hon W N Stretch
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clauses 28 to 36 agreed to.

Clause 37.

The Minister for Racing and Gaming moved -

Page 19, after line 10 - To insert -

“

- (2) Subsection (1) does not apply after the completion of the investigation that it was being sought to facilitate by performing the function.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 38.

Hon Peter Foss moved -

Page 19, lines 12 to 16 - To delete the lines and insert -

“

- (1) Legal professional privilege does not prevent a summons under section 11 from requiring a person to produce a document that would otherwise be subject to that privilege.
- (2) Unless it is claimed and allowed in accordance with this section legal professional privilege does not provide a reasonable excuse for failure to produce a document as required by a summons under section 11.
- (3) A person who wishes to claim that a document is subject to legal professional privilege (which claim is permitted by subsection (4)) shall:
- (a) attend and produce that document in accordance with the summons, sealed up and identified as subject to a claim of legal professional privilege; and

- (b) at the same time provide to the special commissioner a statement detailing the name and address of the person entitled to waive the privilege with regard to each document.
 - (4) A claim of legal professional privilege may only be made in relation to the following:
 - (a) proofs of evidence taken from clients and possible witnesses;
 - (b) notes of instruction taken from clients or possible witnesses with regard to events that have already occurred;
 - (c) documents created for the purposes of preparing:
 - (i) a defence to any existing or possible charges; or
 - (ii) for an appearance or reasonably anticipated appearance before a special commissioner,
 arising out of events which have already occurred such as but not limited to:
 - (i) notes, letters and opinions which set out legal advice to a client;
 - (ii) internal memoranda or letters;
 - (iii) a solicitor's letter to a private investigator; or
 - (iv) a solicitor's letter to potential expert witnesses;
 - (d) correspondence between a solicitor and prosecuting authorities or police written in order to negotiate the possibility of a client giving a statement or testimony; and
 - (e) correspondence between a solicitor and prosecuting authorities or police written in order to negotiate a plea of guilty.
 - (5) Legal professional privilege is not to attach to any document by reason of this section unless that privilege would attached by law.
 - (6) The special commissioner shall determine with respect to each document for which a claim of legal professional privilege has been made whether that claim is valid.
 - (7) The special commissioner shall return any document, which the special commissioner has determined is subject to a valid claim of legal professional privilege, to the person who produced it without allowing the Commissioner of Police access.
 - (8) Until such time as a special commissioner has determined that a document is not subject to a valid claim of legal professional privilege a person other than the special commissioner may not unseal the document or have access to it.
- Penalty: Imprisonment for 3 years and a fine of \$60 000.
- (9) In this section "document" includes any other thing.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 39 to 43 agreed to.

Clause 44.

The Minister for Racing and Gaming moved -

Page 22, lines 4 and 5 - To delete "section 9(3) exist." and insert instead -

“

section 8A(1) exist in respect of the section 4 offence concerned but a power under this Part cannot be exercised contrary to a direction under section 8B.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 45 to 67 agreed to.

New Clause 4A.

The Minister for Racing and Gaming moved -

Page 3, after line 7 - To insert the following new Clause -

“

4A. Act not applicable to juveniles

(1) None of the powers given by this Act can be exercised in respect of a juvenile.

(2) In this section —

“**juvenile**” means a person who has not reached 18 years of age.

”.

Debate ensued.

New Clause - put and passed.

New Clause 23A.

The Minister for Racing and Gaming moved -

Page 12, after line 9 - To insert the following new Clause -

“

23A. Witness protection arrangements

If it appears to a special commissioner that, because a person —

(a) is to attend, is attending, or has attended, before a special commissioner to give evidence or to produce a document or thing;
or

(b) proposes to produce, or has produced, a document or thing to a special commissioner,

the safety of any person may be prejudiced or any person may be subjected to intimidation or harassment, the special commissioner may make any arrangements (including arrangements with the Minister or with members of the Police Force of the State) to avoid prejudice to the safety of any person, or to protect any person from intimidation or harassment.

”.

Debate ensued.

New Clause - put and passed.

New Clause 50A.

The Minister for Racing and Gaming moved -

Page 25, after line 24 - To insert the following new Clause -

“

50A. Report on use of powers under this Part

- (1) A police officer who exercises powers under this Part is required to submit to the Commissioner of Police a report in writing of each occasion on which any of those powers were exercised, giving details of —
 - (a) what was done in the exercise of those powers;
 - (b) the time and place at which the powers were exercised; and
 - (c) any person or property affected by the exercise of the powers.
- (2) The report is to be submitted within 3 days after the powers are exercised.
- (3) The obligation of a police officer to submit a report under this section about a particular exercise of power within a particular time is sufficiently complied with if the police officer ensures that a report by another police officer who was present when the powers were exercised is made within that time dealing with all of the details about which a report is required.

”.

Debate ensued.

New Clause - put and passed.

New Clause 65A.

The Minister for Racing and Gaming moved -

Page 35, after line 18 - To insert the following new Clause -

“

65A. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made affecting how a special commissioner may decide for the purposes of section 16 that it would not be in the public interest to postpone a person's examination to enable the person's legal representative to be present.
- (3) Regulations under this Act are made on the recommendation of the Attorney General whether or not the Attorney General is the Minister to whom responsibility for the administration of this Act has been allocated by the Governor.

”.

Debate ensued.

New Clause - put and passed.

New Clause 68.

Hon Peter Foss moved -

Page 36, line 19 - To insert the following new Clause -

“

68. Parliamentary Supervisory Committee

- (1) Despite anything contained in this Act a special commissioner may report to a Standing Committee on any matter which has come before the special commissioner and shall where the special commissioner forms the view that to do so would assist the Standing Committee in understanding the operation of this Act.
- (2) Nothing in this section requires a special commissioner to provide detailed operational information in a report under subsection (1).
- (3) Information disclosed in a report under this section is to be treated as information received by the Standing Committee in closed session but may be released by order of the Standing Committee.
- (4) If either House orders, the public disclosure of facts disclosed in a report is permitted whether by publication in any medium or otherwise.
- (5) In this section, the word “Standing Committee” means a Standing Committee of either House or a Joint Standing Committee of both Houses of Parliament appointed to monitor or review the performance of the functions of special commissioners and may be that committee appointed for a similar purpose under the *Anti-Corruption Commission Act 1988*.

”.

Debate ensued.

The Minister for Racing and Gaming moved -

That consideration of New Clause 68 be postponed until after consideration of Schedule 1.

Question - put and passed.

Schedule 1.

The Minister for Racing and Gaming moved -

Page 37, after line 4 - To insert -

“

s. 145

s. 147

”.

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 37, lines 19 and 20 - To delete the lines.

Debate ensued.

Amendment - put and passed.

Hon Peter Foss moved -

Page 37, after line 22 - To insert -

“ s. 409 ”.

Debate ensued.

Amendment - put and negatived.

The Minister for Racing and Gaming moved -

Page 37, line 23 - To delete the line.

Debate ensued.

Amendment - put and passed.

Schedule 1, as amended, agreed to.

Postponed New Clause 68.

Hon Peter Foss, by leave, amended proposed New Clause by deleting paragraph (3) and inserting instead -

“

- (3) A report made by a special commissioner to a Standing Committee is not to be disclosed or published, in whole or in part, without prior order of the Standing Committee in accordance with the rules and orders of the House that govern its proceedings.

”.

New Clause, as amended - put and passed.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

The Minister for Racing and Gaming sought leave of the House to proceed to the consideration of the report.

Leave denied.

Ordered - That consideration of the Committee's Report be made an Order of the Day for the next sitting.

15. Order of Business

Ordered - That Order of the Day No. 208, *Appropriation (Consolidated Fund) Bill (No. 1) 2002* be taken forthwith. (Minister for Racing and Gaming).

16. Appropriation (Consolidated Fund) Bill (No. 1) 2002

Pursuant to the Order of the House.

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Minister for Racing and Gaming moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

17. Appropriation (Consolidated Fund) Bill (No. 2) 2002

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Minister for Racing and Gaming moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

The Deputy President left the Chair at 9.10pm

The Deputy President resumed the Chair at 9.36pm

18. Labour Relations Reform Bill 2002

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Racing and Gaming moved, That the report be adopted.

Question - put.

The House divided.

Ayes (17)

Hon Kim Chance
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard
Hon Nick Griffiths
Hon Dee Margetts

Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Jim Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (16)

Hon Alan Cadby
Hon George Cash
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough

Hon Barry House
Hon Robyn McSweeney
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon W N Stretch
Hon Derrick Tomlinson
Hon Bruce Donaldson (*Teller*)

Question thus passed.

Report adopted.

The Minister for Racing and Gaming, by leave, moved, That the Bill be now read a third time.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Debate ensued.

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

19. Extension of Sitting Time

The Leader of the House moved, That the House continue to sit beyond 11.00pm.

Question - put and passed.

20. Order of Business

Ordered - That Order of the Day No. 171, *Labour Relations Reform Bill 2002* be taken forthwith. (Leader of the House).

21. Labour Relations Reform Bill 2002

Pursuant to the Order of the House.

The Order of the Day having been read for the third reading of this Bill.

Debate resumed.

The House having continued to sit until 12 midnight

Friday, June 28 2002

Debate continued.

Question - put.

The House divided.

Ayes (17)

Hon Kim Chance
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford
Hon Graham Giffard
Hon Nick Griffiths
Hon Dee Margetts

Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Jim Scott
Hon Christine Sharp
Hon Tom Stephens
Hon Ken Travers
Hon Giz Watson
Hon Ed Dermer (*Teller*)

Noes (16)

Hon Alan Cadby
Hon George Cash
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough

Hon Barry House
Hon Robyn McSweeney
Hon N F Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon W N Stretch
Hon Derrick Tomlinson
Hon Bruce Donaldson (*Teller*)

Question thus passed.

Bill read a third time and passed.

22. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Friday, June 28 2002 at 12.50am.

Question - put and passed.

23. Adjournment

The Leader of the House moved, That the House do now adjourn.

Question - put and passed.

The House adjourned at 12.40am until Friday, June 28 2002 at 12.50am.

Members present during the day's proceedings

Attendance: Present all Members.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council