

**STANDING COMMITTEE ON  
SCRUTINY OF BILLS AND  
SUBORDINATE LEGISLATION**

**REPORT NO. 3 OF 1995**

**9 May 1995**



## TERMS OF REFERENCE

- (1) A Standing Committee for scrutiny of bills and subordinate legislation be appointed.
- (2) The Committee will consider whether:
  - (a) any instruments of a legislative nature which are subject to disallowance and or disapproval by the Assembly (including a regulation, rule or by-law) made under an Act:
    - (i) meet the objectives of the Act under which it is made;
    - (ii) unduly trespass on rights previously established by law;
    - (iii) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
    - (iv) contain matter which should properly be dealt with in an Act of the Legislative Assembly.
  - (b) its explanatory statement meets the technical or stylistic standards expected by the Committee.
  - (c) clauses of bills introduced in the Assembly:
    - (i) do not unduly trespass on personal rights and liberties;
    - (ii) do not make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
    - (iii) do not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
    - (iv) inappropriately delegate legislative powers; or
    - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
  - (d) its explanatory memorandum meets the technical or stylistic standards expected by the Committee.
- (3) The Committee shall consist of three members.
- (4) If the Assembly is not sitting when the Committee is ready to report on Bills and subordinate legislation, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing and circulation.
- (5) The Committee be provided with the necessary additional staff, facilities and resources.
- (6) The foregoing provisions of the resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

## **MEMBERS OF THE COMMITTEE**

**Mr Paul Osborne, MLA (Chair)**  
**Mr Andrew Whitecross, MLA (Deputy Chair)**  
**Mr Harold Hird, MLA**

**Legal Advisor: Emeritus Professor Douglas Whalan, AM**  
**Secretary: Mr Tom Duncan**  
**Deputy Secretary: Ms Beth Irvin**

## **ROLE OF THE COMMITTEE**

The Committee examines all Bills and subordinate legislation presented to the Assembly. It does not make any comments on the policy aspects of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of totally non-partisan, non-political technical scrutiny of legislation. These traditions have been adopted, without exception, by all scrutiny committees in Australia. Non-partisan, non-policy scrutiny allows the Committee to help the Assembly pass into law Acts and subordinate legislation which comply with the ideals set out in its terms of reference.

## SUBORDINATE LEGISLATION

### Subordinate Legislation - No Comment

The Committee has examined the following subordinate legislation and offers no comment:

**Subordinate Law No. 14 of 1995 made under the *Supreme Court Act 1933* sets out the levels of remuneration and allowances payable to an acting judge of the Supreme Court of the Australian Capital Territory.**

## BILLS

### Bills - No Comment

The Committee has examined the following bills and offers no comment:

#### **Bill of Rights 1995**

This bill introduces a bill of rights for the Territory.

#### **Building (Amendment) Bill 1995**

This bill amends the residential insurance, builders' licensing and penalty provisions, provides that some figures at present in the Act will be able to be changed by regulation and provides for a right of review of building fees by the Administrative Appeals Tribunal.

#### **Land (Planning and Environment) (Amendment) Bill 1995**

This bill provides that, where a lease of land authorises the use of the land for the purpose of a mobile home park, part of the land can be sublet for the siting of a mobile home.

#### **Magistrates Court (Civil Jurisdiction) (Amendment) Bill 1995**

This bill confers power on a bailiff acting on a warrant to enter and search premises where the bailiff suspects the person the subject of the warrant to be and also makes a technical amendment replacing the phrase "City Area" with "Territory" consequent upon the repeal of the *City Area Leases Act 1936*.

#### **Surveyors (Amendment) Bill 1995**

This bill increases the number of members of the Surveyors Board from 4 to 5, removes the requirement that all members of the Board must be surveyors and removes sexist language from the Act.

## **Trade Measurement (Amendment) Bill 1995**

This Bill repeals a number of provisions dealing specifically with the sale of bread, which will come under the general provisions of the trade measurement laws.

### Bills - Comment

The Committee has examined the following Bills and offers the following comments:

#### **Legislative Assembly (Broadcasting of Proceedings) Bill 1995**

This bill provides for the broadcasting or recording of proceedings of the Legislative Assembly.

#### Control of Approval of Broadcasting or Recording Conferred on Committee

Clause 4 of the bill provides that an authorisation or a variation or revocation of the broadcasting or recording of proceedings of the Legislative Assembly is to be approved by the Administration and Procedure Committee of the Assembly.

Subclause 4(5) provides that the Chairperson of the Administration and Procedure Committee is to table a copy of any authorisation, variation or revocation in the Assembly within 5 sitting days. But, even if it is not tabled, subclause 4(6) provides that the:

“validity of an authorisation, or a variation or revocation of an authorisation, is not affected by a failure to comply with subsection (5).”.

Thus the clause leaves decisions entirely to the Committee. It does not, for example, provide that the instrument is subject to the tabling and disallowance provisions of the *Subordinate Laws Act 1989* or provisions to similar effect. Such provisions would ensure that the instrument would cease to have effect if the instrument was not tabled within the allotted time or if the Assembly disallowed it. The inclusion of such provisions would mean that final control would remain with the Assembly as a whole.

#### Does Recording by *Hansard* or Other Transmission Within the Assembly Need to be Authorised?

The word “broadcast” is widely defined in clause 3 to mean:

“to transmit sound or visual images by radio, television, landline or any other electronic means.”.

The Committee is unsure how the present workings of the broadcasting of proceedings within the Assembly or the recording of debates by *Hansard* to offer a view on whether the definition in the bill would include the present arrangements.

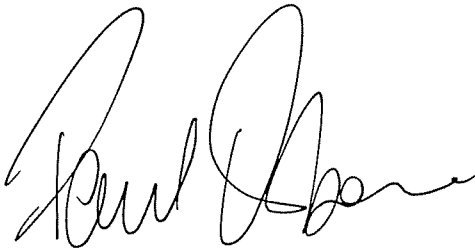
Perhaps these matters should be considered in view of the wide definition in the bill.

### **Motor Traffic (Amendment) Bill 1995**

This Bill repeals and substitutes section 112C by removing the need for there to be a "TURN LEFT AT ANY TIME WITH CARE" sign before a driver can turn left at an intersection or junction where there are traffic lights.

#### Is the Section Heading Still Appropriate?

The heading of the original section 112C that is being repealed and substituted is "**Signs permitting left turns**". As the main alteration made by the amendment is to remove the requirement for there to be a sign, perhaps this heading may no longer be appropriate.

A handwritten signature in black ink, appearing to read 'Paul Osborne', written in a cursive style.

Paul Osborne, MLA  
Chair

9 May 1995

