

CORPORATIONS (ANCILLARY PROVISIONS) BILL 2001

Committee

Resumed from 20 June. The Chairman of Committees (Hon George Cash) in the Chair; Hon N.D. Griffiths (Minister for Racing and Gaming) in charge of the Bill.

Clause 22: Power to amend certain statutory rules -

Progress was reported after Hon N.D. Griffiths had moved the following amendment -

Page 27, lines 9 to 11 - To delete “by the Parliament of the Commonwealth of the new Corporations Act or the new ASIC Act.” and insert instead -

of -

- (a) the *Corporations (Western Australia) Act 1990*;
- (b) the *Australian Securities and Investments Commission Act 1989*;
- (c) the *Corporations Act 1989*;
- (d) an Act amending an Act referred to in paragraph (b) or (c);
- (e) the new ASIC Act; or
- (f) the new Corporations Act.

Hon DERRICK TOMLINSON: The matter with which we are dealing is the power to amend the statutory rules. During the second reading debate, Hon Peter Foss pointed out the great problems that we have with a referral of a legislative power to the centre. It denies the State Parliament any power or authority to amend. Although a state authority might feel comfortable in referring a Bill, there is always uncertainty about the future when, by referring a Bill, it is de facto referring a power. Perhaps the minister will take the opportunity to explain what we are talking about.

The CHAIRMAN: I think it is fair to say that the time necessary to be wasted has been properly wasted.

Hon N.D. GRIFFITHS: It is incumbent on me to say a few things. First, I thank Hon Derrick Tomlinson for his erudite contribution to our committee debate. Secondly, I refer to the process that we commenced yesterday evening at approximately 9.35. I want the committee to be very clear that the Government very much regrets that we have these late amendments. I will address the reasons therefor in respect of clause 22, and when we deal with the other batch, I will address that matter in greater detail than I was in a position to do last night. I will not go over the circumstances of my knowledge, unless members wish me to.

Members will note that late this morning they received further explanatory memoranda relating to the amendments to this and the other Bill. I trust that, for the most part, they are suitable. Insofar as they are not, I have spoken to a number of members and requested that they leave the more humble pies for me to eat at afternoon tea, and I will do what I can to deal with that aspect.

Dealing with the amendment to clause 22 of this Bill that I moved yesterday evening, I will refer to the explanatory memorandum and to the pertinent part dealing with the parliamentary process. It states that the parliamentary counsel became aware earlier this month that a change of this kind was being considered in relation to the corresponding Victorian Bill and prepared a draft amendment in anticipation on 12 June 2001. However, it was only after a review of Western Australian statutory rules was completed that the parliamentary counsel decided that this amendment was necessary. This decision was not made until last Tuesday, 19 June 2001. Therefore, it was not possible for the Attorney General to notify the standing committee of this proposed amendment before the committee reported.

Hon DEE MARGETTS: Can the minister clarify whether that means that the Attorney General was not made aware of this draft amendment to clause 22 until Tuesday, 19 June?

Hon N.D. GRIFFITHS: I am advised that the Attorney General was made aware of the draft amendment on 19 June.

Hon PETER FOSS: The Attorney General might have been made aware of the information on 19 June, but when was that information sent?

Hon N.D. GRIFFITHS: Mr Chairman, I apologise to the Committee. I am now advised that the Attorney General was advised at 12.15 pm yesterday.

Hon DEE MARGETTS: I am indebted to the minister for that further information. If I have understood the minister correctly, the Attorney General was not advised of an amendment drafted on 12 June until lunchtime yesterday; that is, the day that the legislation was brought to the Legislative Council. Obviously, the 16 pages of other legislation that we received yesterday and that is dated 19 June took a while to draft. Therefore, the issue is not just when did the minister receive the amendment, but when was the minister made aware that further amendments were being made to this package.

Hon N.D. Griffiths: Yesterday.

Hon PETER FOSS: The Opposition is obviously not happy with this situation. The point of Standing Order No 230(c) is to try to give the House some opportunity to have input into legislation that is, generally speaking, put to the House and the Parliament as a fait accompli. One of the things we had hoped to achieve by this standing order was to create a system under which information would come forward at an earlier rather than a later date. I accept that this cannot always be achieved and that sometimes things go wrong. However, it is not very satisfactory when Standing Order No 230 is in place and a suggested amendment is not reviewed by the committee, does not have 30 days in which to be considered and is expected to be dealt with in 10 minutes. Having said that, and having expressed my extreme displeasure with this - it has not been well handled - we will support the amendment, but only because we think that the alternative, which is to introduce another Bill, will further take up the time of the Chamber and will not achieve a better result than we have currently. It is most unfortunate that this has happened. It will not always be the case that the Chamber will be satisfied that an amendment like this should not go through the same processes as those through which the original Bill went; that is, being referred to and examined by the Legislation Committee, and allowing appropriate time for it to be dealt with. The only reason I take this position is that it will be better. I do not see the amendment as being foisted on the State so much as being a better idea that came along later, which we might as well take. If I thought it was another imposition on the State, I would certainly say that it should be considered for another 30 days, in the hope that people will at least learn that it is not done that way. In view of the fact that it is not an imposition on the State but would make life easier for the State, and I do not fancy taking up the time of the Chamber with another Bill, the Opposition will support the amendment.

Hon DEE MARGETTS: The issue then becomes the way in which legislation and amendments to legislation are put together, and for quality legislation to be produced there must be a degree of scrutiny. We spoke about this yesterday. By what process did the minister have the opportunity to check all the elements of the Bills and the Acts those Bills are to amend? As I indicated yesterday, it was quite difficult, if not impossible, for us to get all that information at short notice. Did the minister have any opportunity at all to have any of those areas double-checked by people outside the Attorney General's office, which drafted it?

Hon N.D. GRIFFITHS: The Attorney General accepts the advice of his advisers.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 23 to 30 put and passed.

Schedule 1 put and passed.

Title put and passed.