

STATE RECORDS BILL 1999

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon TOM STEPHENS: The minister has indicated that he will move an amendment to the Bill. Will the amendment place at risk this legislation, in view of the advice from the Government that if the Bill were amended in this Chamber no further parliamentary time would be available to consider it, which would leave the legislation languishing on the Notice Paper in the other place?

Hon PETER FOSS: I indicated that certain clauses in the Bill were incapable of being amended because it would destroy the basis of the agreement by which I could bring the legislation before the Chamber. I did not say that no amendments whatsoever could be passed. In fact, some were made during the consideration in detail stage in the other place. Amendments in general are not of concern. Amendments are of concern only when they affect the fundamental areas that enabled me to bring the legislation before the Chamber in the first place. The amendment the member suggested would affect one of those fundamental areas, in which case, there would be no point proceeding with it because it would bounce to and fro between the two Chambers.

Hon TOM STEPHENS: Can the minister assure the Chamber that when the Bill is amended, it will be given priority in the other place so that it is dealt with before the House rises this year?

Hon PETER FOSS: If only I could! I would love to be able to say what can occur in the other place. Members in this Chamber often wish they could have the slightest influence on it. Unfortunately, I have no capacity to give any such assurance.

Hon TOM HELM: I am aware of a report commissioned by a minister and subsequently sought through freedom of information, which now appears to be missing. How will this Bill address issues of that nature? The report was available but it now cannot be found.

Hon PETER FOSS: It would depend on whether the report had been disposed of improperly or had been misplaced. Offences created under the Bill deal with that improper disposal. However, as with any criminal matter, it must be proved that somebody has disposed of it. Some instances of documents being disposed of were exposed during the Royal Commission into Commercial Activities of Government and Other Matters. Even if an illegal disposition could be shown, proof must be given of who disposed of a record.

Hon Tom Helm: The Bill does not address that.

Hon PETER FOSS: It does address that. At present it may be difficult to bring a charge because the actions of a person disposing of documents are not illegal. This will at least make illegal the disposal, other than in accordance with the plan. It will be necessary to prove who did it and that the person knew what he was doing.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation -

Hon J.A. SCOTT: One of the definitions reads -

“restricted access archive” means a State archive that is a government record and to which access is restricted until it is of a certain age;

To whom is it restricted and to what degree? Will the restriction be set by the plan?

Hon PETER FOSS: Yes, it will be set by the plan, but it will not change the present situation greatly. People place documents in the state archives and say whether they are restricted and, if so, for how long. Therefore, the documents are in the custody of the State Records Office and are not available for general service. It is still available to the department which placed the documents. That restriction falls away after a period and they become available for public search. The documents can be looked at under freedom of information in the meantime, but they are not publicly available; that is, a person cannot walk into a department and look through the files. The transfer to state archives does not change that situation. The right of access remains the same as though they had not been transferred. If they are not restricted, the files can be examined as soon as they arrive. The intent is that ultimately all records will be available. It might be for future generations. That is dealt with in the plan, which must be approved by the commission. The situation is currently totally in the hands of the nominated agencies, but that will not be the case in the future.

Clause put and passed.

Clauses 4 to 19 put and passed.

Clause 20: Existing organizations to lodge draft plans -

Hon PETER FOSS: I move -

Page 17, after line 11 - To insert the following new subclause -

- (3) The Commission must ensure that subsection (1) is complied with by all government organizations within 2 years after principles and standards first come into operation under section 61(3).

This amendment relates to an undertaking regarding concerns about the open-endedness of the time frame. It imposes a time limit.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 21 to 84 put and passed.

Schedule 1 put and passed.

Schedule 2 -

Hon HELEN HODGSON: I have difficulty working out what clause 7 will mean in practice. It refers to -

The organization, controlled by the leader of a party in the Legislative Assembly, other than a party led by the Premier or the Leader of the Opposition in that House . . .

Who or what is that meant to encompass?

Hon PETER FOSS: This is designed to pick up the officers of the minor parties.

Hon Helen Hodgson: Who?

Hon PETER FOSS: The member's party and others. It refers to political officers.

Hon HELEN HODGSON: Does that include an officer of major parties?

Hon PETER FOSS: That is in clause 6.

Hon HELEN HODGSON: Are both sets covered?

Hon Peter Foss: Yes.

Schedule put and passed.

Schedule 3 -

Hon PETER FOSS: I move -

Page 56, line 5 - To delete the line.

The Gas Corporation will no longer be within the definition of "government organisation". It is pointless to continue with the reference to remove this body which is no longer a government organisation.

Amendment put and passed.

Schedule, as amended, put and passed.

Schedule 4 put and passed.

Title put and passed.