

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 110

THURSDAY, DECEMBER 11 2003

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. Message from His Excellency the Governor - Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills -

December 9 2003 - Message No. 59	Act No.
Motor Vehicle Repairers Bill 2002	68 of 2003
Western Australian Planning Commission Amendment Bill 2003	69 of 2003

3. Petitions

Hon Kim Chance presented a petition from 95 residents of Western Australia requesting the Legislative Council support seven days liquor store trading hours. (Tabled paper 1837).

Hon Giz Watson presented a petition from 81 residents of Western Australia requesting the Legislative Council to inquire into and support the preservation and expansion of midwifery programs. (Tabled paper 1838).

4. Papers

The following Papers were laid on the Table by -

Minister for Local Government and Regional Development

Annual Reports -

Busselton Water (2002-2003) (Date received 10/12/2003)..... 1832

Gascoyne Development Commission (2002-2003) (Date received 10/12/2003)..... 1833

Minister for Local Government and Regional Development on behalf of the Minister for Housing and Works

Annual Reports -

State Coroner, Office of the (2002-2003) (Date received 10/12/2003)..... 1834

Parliamentary Secretary to the Minister for Planning and Infrastructure

Annual Reports -

Armadale Redevelopment Authority (2002-2003) (Date received 10/12/2003).....	1835
Eastern Goldfields Transport Board (2002-2003) (Date received 10/12/2003).....	1836

5. Rural and Regional Western Australia Funding

Hon Bruce Donaldson: To move on the next day of sitting -

That this House notes with great concern -

- (1) The reduction of funding for Infrastructure and Services in Rural and Regional Western Australia by the Gallop Government.
- (2) Programs being developed which involve cost-shifting from Government to Local Government.
- (3) Lack of commitment to develop a Decentralisation Policy for Rural Western Australia, providing an opportunity for economic diversification in communities.

6. Regional Road Improvement Program - Funding

Hon Murray Criddle: To move on the next day of sitting -

That the Gallop Government be condemned for its failure to provide -

- (1) Adequate funding under the Regional Road Group allocation in 2003-04 and future years.
- (2) A comprehensive plan and/or mechanism for funding the construction of new strategic freight transport and tourism roads.
- (3) A comprehensive road construction and road improvement program for the next 5, 10, and 15 years to cater for the road freight task in Western Australia which is expanding at between 7 and 10 per cent per annum.

7. Building and Construction Training Levy Fund

Hon Alan Cadby: To move on the next day of sitting -

This House notes with considerable concern -

- (1) The level of reserves, currently over \$12 million, being held in the Building and Construction Training Levy Fund.
- (2) The inability of the Minister for Education and Training to ensure that these funds are used constructively to assist young people to gain apprenticeships and training places in this important industrial sector.

8. Government Use of Taxpayers' Funds

Hon Ray Halligan: To move on the next day of sitting -

That this House notes with grave concern this Government's lack of accountability for taxpayers' funds in relation to -

- (1) Use of credit cards.
- (2) Acceptance by some Ministers of responsibility for the performance indicators of agencies under their control.
- (3) The lack of priority on recording and managing public property.

9. Stamp Duty Levy for First Home Buyers

Hon Ray Halligan: To move on the next day of sitting -

That the House condemns the Government for drastically reducing the affordability of housing sought by struggling first home buyers through its excessive levy of stamp duty.

10. Ministerial Statement - Local Government (Official Conduct) Amendment Bill

The Minister for Local Government and Regional Development made a Ministerial Statement with respect to the proposed *Local Government (Official Conduct) Amendment Bill*.

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

11. Ministerial Statement - Future Employment of Current Anti-Corruption Commission Employees

The Leader of the House made a Ministerial Statement with respect to the future employment of current Anti-Corruption Commission employees.

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

12. Ministerial Statement - Business of the House

The Leader of the House made a Ministerial Statement with respect to the business of the House and Sessional Orders.

13. Genetically Modified Crops Free Areas Bill 2003

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

The Minister for Agriculture, Forestry and Fisheries 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.

Question - put.

Debate ensued.

Question - put and passed.

Bill read a third time and passed.

14. Criminal Code Amendment Bill 2003

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 Ed Dermer the debate was adjourned to a later stage of this day's sitting.

15. Corruption and Crime Commission Amendment Bill 2003

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 George Cash in the Chair)

The Chairman of Committees reported and stated under SO234A -

That the amendments recommended by the Standing Committee on Legislation be read into and deemed part of the Bill.

[For text of amendments see Legislation Committee Report 21]

Debate ensued.

Statement by Chairman

The Chairman made the following Statement -

As the amendments recommended by the committee's report have now been adopted under Standing Order No 234A(2)(a), with the exception of clause 1, debate may not occur on clauses agreed to by the committee without amendment unless it is proposed to amend the particular clauses. Bill version 218-2B affects clauses 3, 4, 13, 14, 19, 26, 27, 29, 33 to 47, 49 to 66, and schedule 2. Debate may occur on all other clauses as amended.

With regard to procedure, to facilitate debate on this Bill, I also draw members' attention to Bill version 218-2B. This is the version of the Corruption and Crime Amendment Bill 2003 as amended by the report of the Standing Committee on Legislation and the question now passed under Standing Order No 234A. It is the version for which debate will proceed and to which the proposed amendments that are being circulated should relate. To assist with the debate, I observe that throughout the Bill members will find editorial notes in square brackets. These indicate either a clause that has been deleted by the report of the Standing Committee on Legislation, a new clause that has been inserted or the clause number in the original Bill before its referral to the Legislation Committee. Members may find these notes useful as they will assist in making Bill 218-2B referable to the Legislation Committee's report and to the version of the previous Bill that the committee considered. That is the copy of the Corruption and Crime Commission Amendment and Repeal Bill that the Committee will deal with from here on in. If members require a copy of the green-covered printers proof, which incorporates the committee's amendments, please ask now.

I now propose to put the question that clause 1 do stand as printed. Members can speak to that clause. Although there has been wide-ranging debate to this point, if members so desire, they will be able to speak to the other clauses which the committee amended and which have now been adopted. However, once the debate on those matters has been concluded, it is my understanding that the Minister handling the Bill will invite me to report the Bill, as amended, to the House. At the appropriate time - that is, when the question that the report be adopted is put - the Minister will move to recommit the Bill for the purpose of dealing with the government amendments; that is, the amendments which have been circulated and which I assume will require some debate and discussion. We will then move through those amendments and, one hopes, we will be able to again report the amended Bill. That is the procedure that I intend to adopt.

Question - put and passed.

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 67 agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

The Leader of the House asked leave to proceed forthwith to consideration of the report.

Leave granted.

The Leader of the House moved -

That the Bill be recommitted for the purpose of reconsidering Clauses 2, 5, 8, 11, 12, 15, 16, 20, 21, 24, 31, 32, 34, 47, 48 and new Clauses 14, 17, 18, 19, 23, 36, 37, 38 and 40.

Question - put and passed.

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 2.

The Leader of the House moved -

Page 2, lines 16 to 18 - To delete the lines and insert instead -

“

- (4) Except as provided in subsection (3), so much of this Act as has not been proclaimed is to come into operation upon the date 12 months after the date upon which this Act receives the Royal Assent.

”

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 5.

The Leader of the House moved -

Page 4, lines 7 to 10 - To delete the lines and insert instead -

“

“bipartisan support” means the support of —

- (a) at least one member of the Standing Committee who is a member of the party of which the Premier is a member; and
- (b) at least one member of the Standing Committee who is a member of the party of which the Leader of the Opposition is a member;

”

Debate ensued.

The Leader of the House moved, That progress be reported and leave asked to sit again at a later stage of this day’s sitting.

Question - put and passed.

The Deputy President resumed the Chair.

The Chairman reported, That the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day’s sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day’s sitting.

16. Cat Bill 2003

Hon Giz Watson pursuant to notice, moved -

That a Bill for “An Act to regulate the ownership and keeping of cats and for related purposes” be introduced and read a first time.

Question - put and passed.

Bill read a first time.

Hon Giz Watson moved, That the Bill be now read a second time.

Debate stands adjourned.

17. Order of Business

Ordered - That Order of the Day No. 204 be taken forthwith. (Leader of the House).

18. Corruption and Crime Commission Amendment and Repeal Bill 2003

Pursuant to the Order of the House.

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

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 5.

Debate resumed on amendment moved by the Leader of the House as follows -

Page 4, lines 7 to 10 - To delete the lines and insert instead -

“

“bipartisan support” means the support of —

- (a) at least one member of the Standing Committee who is a member of the party of which the Premier is a member; and
- (b) at least one member of the Standing Committee who is a member of the party of which the Leader of the Opposition is a member;

”.

The Leader of the House, by leave, amended his amendment by withdrawing the words to be inserted and substitute instead the following -

“

“bipartisan support” means the support of —

- (a) members of the Standing Committee who are members of the party of which the Premier is a member; and
- (b) members of the Standing Committee who are members of the party of which the Leader of the Opposition is a member;

”.

Amendment - put and passed.

The Leader of the House moved -

Page 5, line 17 - To delete the line and insert instead -

“

- (c) a person appointed by the Governor to represent the interests of the community;

”.

Amendment - put and passed.

The Leader of the House moved -

Page 9, line 4 - To delete “sections 4(a)-(c)” and insert instead -

“ section 4(a), (b) or (c) ”.

Amendment - put and passed.

The Leader of the House moved -

Page 9, line 5 - To delete “is” and insert instead -

“ means ”.

Amendment - put and passed.

The Leader of the House moved -

Page 9, lines 23 to 27 - To delete the lines and insert instead -

“ the *Parliamentary Papers Act 1891*. ”.

Debate ensued.

The Leader of the House, by leave, withdrew the amendment.

Clause, as amended, agreed to.

Clause 8.

The Leader of the House moved -

Page 12, after line 26 - To insert the following -

“

(1) Section 7(3) is amended by inserting after “appointed” —

“ on the recommendation of the Premier ”.

”.

Amendment - put and passed.

The Leader of the House moved -

Page 12, lines 29 to 32 - To delete the lines and insert instead -

“

(3a) The Premier is to recommend the appointment of a person —

(a) whose name is on a list of 3 persons eligible for appointment that is submitted to the Premier by the nominating committee; and

(b) who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.

”.

Amendment - put and passed.

The Leader of the House moved -

Page 13, line 1 - To delete “a recommendation” and insert instead -

“ nominations ”.

Amendment - put and passed.

The Leader of the House moved -

Page 13, lines 16 to 19 - To delete the lines.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 11.

The Leader of the House moved -

Page 17, lines 14 and 15 - To delete “, in the case of an allegation under section 4,”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 12.

The Leader of the House moved -

Page 18, line 1 - To delete “(b)” and insert instead -

“ (ab) ”.

Page 18, line 4 - To delete "(c)" and insert instead -
 " (ac) ".

Page 18, line 6 - To delete "(d)" and insert instead -
 " (ad) ".

Page 18, line 12 - To delete "(g)" and insert instead -
 " (ca) ".

Page 18, line 15 - To delete "(h)" and insert instead -
 " (cb) ".

Debate ensued.

Amendments- put and passed.

Clause, as amended, agreed to.

Clause 15.

The Leader of the House moved -

Page 19, lines 9 to 12 - To delete the lines and insert instead -

"

(2) The Commission may deal with a matter notified under subsection (1) as
 if it were a matter notified under section 28(2).

".

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 16.

The Leader of the House moved -

Page 21, after line 31 - To insert -

"

Penalty: Imprisonment for 3 years and a fine of \$60 000.
 Summary conviction penalty: \$10 000.

".

Debate ensued.

Amendment - put and passed.

The Leader of the House moved -

Page 22, lines 4 to 6 - To delete the lines.

Amendment - put and passed.

The Leader of the House moved -

Page 29, line 21 - To delete "sections" and insert instead -

" section ".

Page 29, line 23 - To delete "those sections" and insert instead -

" that section ".

Debate ensued.

Amendments - put and passed.

The Leader of the House moved -

Page 30, line 8 - To delete "33," and insert instead -

" 22, ".

Amendment - put and passed.

The Leader of the House moved -

Page 30, lines 27 to 30 and page 31, lines 1 to 4 — To delete the lines and insert instead —

“

- (2) The Commission may deal with a matter reported to it under section 30 as if it were a matter notified under section 28(2).

”.

Amendment - put and passed.

The Leader of the House moved -

Page 31, after line 6 - To insert the following -

“

- (1) Without limiting the matters to which the Commission may have regard, when the Commission decides whether or not to make a decision under section 32(1)(a) or (b) the Commission is to have regard to whether, in the opinion of the Commission, serious misconduct —
- (a) has or may have occurred;
 - (b) is or may be occurring;
 - (c) is or may be about to occur; or
 - (d) is likely to occur.

”.

Debate ensued.

The Leader of the House, by leave, amended his amendment by deleting “32” and substitute instead “33”.

Amendment, as amended, agreed to.

The Leader of the House moved -

Page 31, lines 13 and 14 — To delete the lines and insert instead —

“

- (b) whether, in the opinion of the Commission, serious misconduct —
- (i) has or may have occurred;
 - (ii) is or may be occurring;
 - (iii) is or may be about to occur; or
 - (iv) is likely to occur;

”.

Amendment - put and passed.

The Leader of the House moved -

Page 32, lines 12 to 14 - To delete the lines and insert instead -

“ information to the person is in the public interest. ”.

Amendment - put and passed.

The Leader of the House moved -

Page 33, line 26 - To delete “33(1)(a)-(c)” and insert instead -

“ 33(1)(a), (b) or (c) ”.

Amendment - put and passed.

The Leader of the House moved -

Page 37, lines 26 and 27 - To delete “by the independent agency”.

Amendment - put and passed.

The Leader of the House moved -

Page 37, lines 27 and 28 - To delete "discharging its obligations under".

Amendment - put and passed.

The Leader of the House moved -

Page 64, line 16 - To delete "a Standing Committee" and insert instead -
" the Standing Committee ".

Page 65, line 1 - To delete "a Standing Committee" and insert instead -
" the Standing Committee ".

Page 68, line 25 - To delete "a Standing Committee" and insert instead -
" the Standing Committee ".

Amendments - put and passed.

The Leader of the House moved -

Page 70, line 30 - To delete "official" and insert instead -
" officer ".

Page 71, line 3 - To delete "official" and insert instead -
" officer ".

Page 76, line 14 - To delete "official" and insert instead -
" officer ".

Page 76, line 17 - To delete "official" and insert instead -
" officer ".

Amendments - put and passed.

The Leader of the House moved -

Page 76, line 28 - To delete "serious".

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (9)

Hon Kim Chance
Hon Kate Doust
Hon Jon Ford
Hon Graham Giffard
Hon Louise Pratt

Hon Ljiljanna Ravlich
Hon Tom Stephens
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (18)

Hon George Cash
Hon Robin Chapple
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough
Hon Barry House
Hon Dee Margetts

Hon Norman Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Jim Scott
Hon Christine Sharp
Hon Bill Stretch
Hon Derrick Tomlinson
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

The Leader of the House moved -

Page 78, lines 13 to 21 - To delete the lines and insert instead -

“

- (8) Before an authorised person acting under a warrant uses force that may cause damage to any property in order to gain access or entry to a place or thing, the authorised person must, if reasonably practicable —
- (a) give the occupier of the place a reasonable opportunity to allow the authorised person entry or access to the place; or
 - (b) give the person who has possession or control of the thing a reasonable opportunity to allow the authorised person to have access to the thing,

as the case requires, unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the search permitted by the warrant or would endanger any person.

”.

Debate ensued.

Amendment - put and passed.

The Leader of the House moved -

Page 105, line 22 - To delete “Where an investigation relates to serious misconduct, if” and insert the following -

“ If ”.

Debate ensued.

The Leader of the House, by leave, withdrew his amendment.

The Leader of the House moved -

Page 105, line 22 - To insert after the word “misconduct” the following -

“ or a summons is issued pursuant to an application under section 48 ”.

Amendment - put and passed.

The Leader of the House moved -

Page 106, line 24 - To delete “immediately” and insert instead -

“ as soon as is practicable ”.

Debate ensued.

Amendment - put and negatived.

The Leader of the House moved -

Page 107, lines 3 to 11 - To delete the lines and insert instead -

“

- (7a) Before the person acting under the warrant (the “**authorised person**”) uses force that may cause damage to any property in order to gain access or entry to a place or thing, the authorised person must, if reasonably practicable—
- (a) give the occupier of the place a reasonable opportunity to allow the authorised person entry or access to the place; or
 - (b) give the person who has possession or control of the thing a reasonable opportunity to allow the authorised person to have access to the thing,

as the case requires, unless the authorised person suspects on reasonable grounds that to do so would frustrate the effectiveness of the warrant or would endanger any person.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 20.

The Leader of the House moved -

Page 123, lines 17 to 21 - To delete the lines and insert instead -

“

and is responsible for assisting the Standing Committee in the performance of its functions.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 21.

The Leader of the House moved -

Page 123, lines 27 to 32 and page 124, lines 1 to 3 — To delete the lines and insert instead —

“

- (1) The Parliamentary Inspector is to be appointed on the recommendation of the Premier by the Governor by commission under the Public Seal of the State.
- (2) The Premier is to recommend the appointment of a person —
 - (a) whose name is on a list of 3 persons eligible for appointment that is submitted to the Premier by the nominating committee; and
 - (b) who, if there is a Standing Committee, has the support of the majority of the Standing Committee and bipartisan support.
- (3) The Parliamentary Inspector is to hold office in accordance with this Act.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 24.

The Leader of the House moved -

Page 130, line 9 - To delete “a Standing Committee” and insert instead -

“ the Standing Committee ”.

Page 130, lines 20 and 21 - To delete “a Standing Committee” and insert instead -

“ the Standing Committee ”.

Page 131, lines 8 and 9 - To delete “a Standing Committee” and insert instead -

“ the Standing Committee ”.

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 31.

The Leader of the House moved -

Page 140, after the table - To insert -

“

- (14) In the first reprint of the *Corruption and Crime Commission Act 2003* (the “**principal Act**”) as amended by this Act provisions of the principal Act as reprinted may be renumbered or redesignated in arithmetical or alphabetical order and, if that occurs, relevant cross-references in the principal Act as reprinted are to be adjusted.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 32.

The Leader of the House moved -

Page 141, line 8 - To delete “21 and 32” and insert instead -

“ 35 and 46 ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 34.

The Leader of the House moved -

Page 141, after line 22 - To insert -

“

“**commencement**” means the day on which section 35 comes into operation;

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 47.

The Leader of the House moved -

Page 146, line 28 - To delete “this Act” and insert instead -

“ the *Corruption and Crime Commission Act 2003* ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 48.

The Leader of the House moved -

Page 147, lines 8 and 9 - To delete the lines.

Debate ensued.

19. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary to the Minister for Education and Training tabled, and by leave incorporated into *Hansard*, documents in relation to the number of students enrolled in Government primary schools, Government secondary schools, Non-Government primary schools and Non-Government secondary schools in the three years 2001, 2002 and 2003 in response to a question without notice asked by Hon Alan Cadby. (Tabled paper 1839).

The Leader of the House on behalf of the Minister for Housing and Works in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 1413 asked by Hon George Cash will be provided when Parliament resumes in 2004.

The Minister for Local Government and Regional Development in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 1406 asked by Hon George Cash will be provided in the near future.

The Minister for Local Government and Regional Development tabled documents in relation to Acts of Parliament within the responsibility of the Deputy Premier that have only been partially proclaimed in response to question on notice No. 1419 asked by Hon George Cash. (Tabled paper 1840).

The Minister for Local Government and Regional Development tabled documents in relation to Acts of Parliament within the responsibility of the Minister for the Environment that have only been partially proclaimed in response to question on notice No. 1422 asked by Hon George Cash. (Tabled paper 1841).

The Parliamentary Secretary to the Minister for Planning and Infrastructure in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 1440 asked by Hon George Cash will be provided by December 12 2003.

20. Standing Committee on Public Administration and Finance - Fifth Report - Petition on Western Power's Underground Policy

Hon Barry House presented the Fifth Report of the Standing Committee on Public Administration and Finance in relation to the Petition on Western Power's Underground Power Policy. (Tabled paper 1842).

Hon Barry House moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

21. Corruption and Crime Commission Amendment and Repeal Bill 2003

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 48.

Debate resumed on the following amendment by the Leader of the House -

Page 147, lines 8 and 9 - To delete the lines.

The Leader of the House moved -

That further consideration of the Clause be postponed until after consideration of New Clause 40.

Question - put and passed.

New Clause 14.

The Leader of the House moved -

Page 18, after line 26 - To insert the following new clause -

“

14. Section 19 amended

Section 19(4)(d) is amended by deleting “a Standing Committee” and inserting instead -

“ the Standing Committee”.

”.

New Clause agreed to.

New Clauses 17 and 18.

The Leader of the House moved -

Page 109, after line 11 - To insert the following new clauses -

“

17. Section 40 amended

Section 40(2)(d) is amended by deleting “a Standing Committee” and inserting instead -

“ the Standing Committee”.

18. Section 42 amended

Section 42(4)(c) is amended by deleting “a Standing Committee” and inserting instead -

“ the Standing Committee”.

”.

New Clauses agreed to.

New Clause 19.

The Leader of the House moved -

Page 109, before line 12 - To insert the following new clause -

“

19. Section 43 amended

Section 43(4) is amended by deleting “(2)” and inserting instead -

“ (3) ”.

”.

Debate ensued.

New Clause agreed to.

New Clause 23.

The Leader of the House moved -

Page 20, after line 16 - To insert the following new clause -

“

23. Commission must not publish opinion as to commission of offence

- (1) The Commission must not publish or report a finding or opinion that a particular person has committed, is committing or is about to commit a criminal offence or a disciplinary offence.
- (2) An opinion that misconduct has occurred, is occurring or is about to occur is not, and is not to be taken as, a finding or opinion that a particular person has committed, or is committing or is about to commit a criminal offence or disciplinary offence.

”.

New Clause agreed to.

New Clauses 36 to 38.

The Leader of the House moved -

Page 141, after line 28 - To insert the following new clauses -

“

36. Things done under repealed Act

On and after the commencement -

- (a) any application made under the repealed Act to a special commissioner but not finally dealt with by the special commissioner is transferred to the CCC;
- (b) anything ordered, decided, or otherwise done by a special commissioner under the repealed Act becomes of the same effect as if, and enforceable as if, it were ordered, decided, or done by the CCC under the provisions of the *Corruption and Crime Commission Act 2003* authorising the CCC to order, decide, or do corresponding things; and
- (c) anything decided or otherwise done by the Police Commissioner under the repealed Act becomes of the same effect as if, and enforceable as if, it were decided or done by the Police Commissioner under the provisions of the *Corruption and Crime Commission Act 2003* authorising the Police Commissioner to decide or do corresponding things.

37. Offences

- (1) Proceedings for an offence against the repealed Act may be continued, or started, despite the Act having been repealed and section 11 of *The Criminal Code* and for the purposes of section 10 of the *Sentencing Act 1995*, the statutory penalty for the offence immediately before the commencement continues to have effect.
- (2) Sections 32, 33, 39 and 40 of the repealed Act continue to have effect, with any necessary modifications, as if they had not been repealed.

38. Transfer of records

- (1) On the commencement all records in the possession of a special commissioner under the repealed Act are to be transferred to the CCC, become the records of the CCC and may be dealt with accordingly.
- (2) In this section -
 - “**records**” includes -
 - (a) evidence in any form; and
 - (b) information and other things.

”.

New Clauses agreed to.

New Clause 40.

The Leader of the House moved -

Page 143, after line 26 - To insert the following new clause -

“

40. Section 5A inserted

After section 5 the following section is inserted -

“

5A. Constitution of Commission after 31 December 2003

- (1) Despite section 5, after 31 December 2003 the Commission shall consist of the 3 members appointed under section 5(3) who held office immediately before that date.
- (2) If the office of a member of the Commission referred to in subsection (1) becomes vacant under section 5(11) -
 - (a) section 5(5), (6) and (7) shall not apply; and
 - (b) the Governor may appoint a person who is eligible for appointment, and who is nominated by the Solicitor General, to that office.

”

”

New Clause agreed to.

The Leader of the House moved, That progress be reported and leave asked to sit again.

Question - put and passed.

The Deputy President resumed the Chair.

The Chairman reported, That the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

22. Member's Statements

Statements were taken.

23. Adjournment

The House adjourned at 6.00pm until Friday, December 12 2003 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Sue Ellery, Hon Adele Farina, Hon Nick Griffiths and Hon Robyn McSweeney.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council