



PARLIAMENT OF NEW SOUTH WALES

LEGISLATION REVIEW COMMITTEE

Parliament of New South Wales · Macquarie Street · Sydney NSW 2000 · Australia

SUMMARY OF CONCLUSIONS

***LEGISLATION REVIEW DIGEST* No. 17 of 2006**

21 November 2006

Legislation Review Digest No. 17 of 2006 contains the Legislation Review Committee's consideration of bills introduced into Parliament in the sitting week beginning 14 November 2006 and any reports on regulations since the previous *Digest*.

The Bills reported on include:

- **Avalon Police Station (Public Ownership) Bill 2006***
- **Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2006**
- **Parliamentary Electorates and Elections Amendment (Child Sexual Offences Disclosures) Bill 2006**
- **Police Powers Legislation Amendment Bill 2006**
- **Registered Clubs Amendment Bill 2006**
- **Road Transport Legislation Amendment (Evidence) Bill 2006**
- **Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Bill 2006***
- **Statute Law (Miscellaneous Provisions) Bill (No 2) 2006**
- **Victims Support and Rehabilitation Amendment Bill 2006**
- **World Youth Day Bill 2006**

SUMMARY OF CONCLUSIONS

SECTION A: Comment on Bills

1. Avalon Police Station (Public Ownership) Bill 2006*

Retrospectivity: revocation of s 75B declaration under proposed s 7(3)

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| 7. | The Committee will always be concerned to identify the retrospective effects of legislation which may impact adversely on any person. |
| 8. | The Committee notes that legislatively revoking a declaration duly made under the law trespasses upon a person's right to order his or her affairs in accordance with the current law. |
| 9. | The Committee refers to Parliament the question of whether providing for the revocation of any declaration under s 75B of the <i>Environmental Planning and Assessment Act 1979</i> in relation to the site unduly trespasses on personal rights and liberties. |

2. Parliamentary Contributory Superannuation Amendment (Criminal Charges and Convictions) Bill 2006

Retrospectivity: Schedule 1[11]

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| 6. | The Committee will always be concerned to identify the retrospective effects of legislation which may adversely impact on any person. |
| 7. | The Committee notes that the Bill suspends, and on conviction removes, an entitlement that, but for the retrospective operation of the Bill, would have flowed to a person who ceased to be a member of Parliament at a time when criminal proceedings were pending. |
| 8. | The Committee refers to Parliament the question of whether this retrospective operation trespasses unduly on personal rights and liberties. |

Rule of Law

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| 11. | The Committee notes that, although this Bill was drafted in response to an individual case, it is not limited in operation to one individual. The Committee is of the view that, for this reason, the Bill is not an <i>ad hominem</i> law and, on balance, does not unduly trespass on this fundamental Rule of Law principle. |
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Presumption of Innocence

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| 15. | The Committee notes the fundamental right of everyone to be presumed innocent until proved guilty beyond reasonable doubt. |
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| 16. | The Committee also notes that under the Bill, a person will suffer financial detriment <i>before</i> his or her guilt has been established beyond reasonable doubt and, therefore, the Bill trespasses on a fundamental personal right. |
| 17. | The Committee further notes that the Bill only suspends a person's pension entitlement pending a final determination of their innocence or guilt and that it provides for the Trustees of the Parliamentary Contributory Superannuation Fund to authorise an advance from superannuation to the member during the period of their suspension. |
| 18. | The Committee is of the view that, having regard to these matters, the trespass on a person's right to be presumed innocent is not undue. |

3. Parliamentary Electorates and Elections Amendment (Child Sexual Offences Disclosures) Bill

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| 6. | The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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4. Police Powers Legislation Amendment Bill 2006

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| 2. | The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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5. Registered Clubs Amendment Bill 2006

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| 3. | The Committee did not identify any issues arising under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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6. Road Transport Legislation Amendment (Evidence) Bill 2006

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| 13. | The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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7. Sale of Goods and Warehousemen's Liens Amendment (Bulk Goods) Bill 2006*

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| 8. | The Committee did not identify any issues arising under s 8A(1)(b) of the <i>Legislation Review Act 1989</i> . |
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8. Statute Law (Miscellaneous Provisions) Bill 2006

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| 3. | The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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9. Victims Support and Rehabilitation Amendment Bill 2006

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| 11. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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10. World Youth Day Bill 2006

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| 2. The Committee has not identified any issues under s 8A(1)(b) of the <i>Legislation Review Act 1987</i> . |
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The Legislation Review Committee reports on whether each bill introduced into Parliament:

- (i) trespasses unduly on personal rights and liberties, or
- (ii) makes rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers, or
- (iii) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions, or
- (iv) inappropriately delegates legislative powers, or
- (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny.

Those bills marked with an * are sponsored by Private Members.

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Chair