

1960.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

THE SENATE.

SIXTEENTH REPORT

from the

STANDING COMMITTEE

on

REGULATIONS AND ORDINANCES.

(Being the First Report of the 1960 Session, and the
Sixteenth Report since the formation of the Committee.)

STANDING COMMITTEE ON REGULATIONS AND ORDINANCES

SIXTEENTH REPORT OF THE COMMITTEE

The Standing Committee on Regulations and Ordinances has the honour to present its Sixteenth Report to the Senate.

PUBLIC SERVICE REGULATIONS

2. The Committee has considered the amendments of the Public Service Regulations contained in Statutory Rules 1960, No.12. Statutory Rule No.12 of 1960 was made by the Public Service Board and approved by the Governor-General. The regulations increase salaries of officers of the Public Service by amounts which represent a budget load of £10,000,000 in a full year.

3. The explanatory memorandum accompanying the regulations is probably unique for the fact that it quotes a Cabinet decision. The memorandum says:-

"The adjustments have been made in accordance with Cabinet decision No. 578 of the 15th December, 1959, which reads -

It was decided that the Public Service Board should be informed that Cabinet -

1. Agreed that Fourth Division Salaries up to and including the level of Tradesman should be adjusted on the basis of a 28 per cent increase in margins:
 2. Considered that salaries at the top of Second Division should be increased by an amount of the order of £750, and that the Board should proceed to make an appropriate adjustment of all intervening classifications down to those of Tradesman in the Fourth Division."
4. This Committee is authorised to consider the regulations from the points of view -
- (a) as to whether in making them the Statute has been complied with;
 - (b) as to whether the regulations are concerned with administrative detail only or amount to substantive legislation which should be a matter for Parliamentary enactment.

5. The authority for the Public Service Board to alter public service salaries by regulation derives from the Statute of 1922.

Section 30 of the Public Service Act 1922-1958 is as follows:-

- "30.- (1) Officers of the First Division shall be paid such salaries as the Parliament provides.
- (2) Officers of the Second, Third and Fourth Divisions shall be paid salaries at such rates, or in accordance with such scales of rates, as are prescribed.
- (3) The regulations may, notwithstanding the classification of officers, provide for the variation of rates of salary according to variations in the cost of living."

6. The Board has power, with the approval of the Governor-General, to make regulations under the Act, including the prescription of rates of salaries.

7. Section 18 of the Act provides -

- (1.) The Board shall furnish reports or recommendations on all matters required to be dealt with by the Governor-General under this Act or referred to the Board by the Governor-General; and no such matters shall be submitted for the consideration of the Governor-General unless accompanied by a report or recommendation of the Board.
- (2.) If the Governor-General does not approve of any recommendation, he may require the Board to furnish a fresh recommendation, which shall be considered and dealt with by the Governor-General.
- (3.) If the Governor-General does not approve of the fresh recommendation, a statement of the reasons for not approving shall be laid before both Houses of Parliament

8. In evidence, Mr. F. C. Nordeck, Acting Commissioner of the Public Service Board, told the Committee that the Board put before the Government quite a comprehensive submission reviewing all the facts.

9. It was in the light of such submission apparently that the Cabinet minute referred to in paragraph 3. above was decided on. This procedure appears to be a substantial but not a strict compliance with Section 18.

10. Within the previous period of twelve months, following the basic wage decision, the Board issued regulations increasing Public Service salaries by an amount of the order of £5,500,000. The total budget load of increases in the Public Service salaries authorised by such regulations in the present year was of the order of £15,500,000.

11. In the opinion of this Committee, the regulation making authority which enables increases of expenditure of this magnitude warrants review. It may be appropriate to provide that when increases decided upon exceed some specified figure, say £2,000,000 per year, such increases should be authorised only by Parliament.

CANBERRA BUILDING REGULATIONS

12. The Committee has also considered the amendments of the Canberra Building Regulations contained in A.C.T. Regulations 1959, No.13.

Regulation 7 provides -

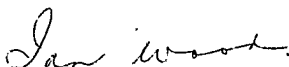
(5) The proper authority may, in his discretion, issue to an applicant under this regulation a Builder's Licence or a Builder's Special Licence, as the case requires.

(9) The proper authority may, by notice in writing to the holder, cancel or suspend a Builder's Licence or a Builder's Special Licence.

13. Regulation 4 of the Canberra Building Regulations defines "the proper authority" as "the person or persons for the time being appointed as such by the Minister".

14. The Committee does not question the policy of regulations relating to the issue of licences to builders in the A.C.T., but considers that where a power of issue or cancellation or suspension is given to an administrative authority, with the possible effect of completely taking away a person's means of livelihood, provision should be made for a right to be heard, and, in the event of an adverse decision, a right of appeal.

15. As the Committee scrutinises regulations to ascertain that they do not unduly make the rights and liberties of citizens dependent upon administrative and not upon judicial decisions, the Committee reports that, in its opinion, action should be taken to provide for a right to be heard and a proper right of appeal where a licence has been refused, cancelled or suspended.



Ian Wood,
Chairman.

Regulations and Ordinances Committee Room.

11th May, 1960.