

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 159

TUESDAY, SEPTEMBER 28 2004

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### 1. Meeting of Council

The Council assembled at the Kalgoorlie Town Hall 10.00am pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

### 2. Parliament Summoned to Meet

The following Proclamation of His Excellency the Governor dated July 13 2004 was read by the Clerk of the Parliaments -

WESTERN AUSTRALIA  
David K. Malcolm,  
Lieutenant-Governor and  
Administrator  
(L.S)

By His Excellency the Honourable David  
Kingsley Malcolm, Companion of  
the Order of Australia, Lieutenant-General and  
Administrator of the State of Western Australia.

By this proclamation, I, the Lieutenant Governor and Administrator, acting under section 3 of the *Constitution Act 1889*, vary the proclamation summoning the Legislative Council and the Legislative Assembly, which was made on 6 August 2002 and published in the *Government Gazette* on 9 August 2002, by fixing the Kalgoorlie Town Hall in the City of Kalgoorlie-Boulder as the place for holding the second session of the Legislative Council in the 36<sup>th</sup> Parliament on 28 and 29 September 2004.

GIVEN under my hand and the Public Seal of the State on 7 July 2004.

By Command of the Lieutenant-Governor and  
Administrator,  
Geoff Gallop  
Premier

GOD SAVE THE QUEEN!

### 3. Statement by President - Welcome to Visitors

The President made the following Statement -

I welcome to the President's gallery Mayor Yuryevich, Mayor of the City of Kalgoorlie-Boulder; Legislative Assembly Speaker, Fred Riebeling; Leader of the Opposition, Colin Barnett; Hon Dr Meredith Burgmann, President of the Legislative Council of New South Wales; Hon Don Wing, President of the Legislative Council of Tasmania; Minister Kucera and other distinguished guests.

Yesterday Cabinet met at the City of Kalgoorlie-Boulder chambers. Today we meet as the Legislative Council in the Kalgoorlie Town Hall. Our official history of Parliament House, to be published next month, reveals that we nearly arrived a lot earlier. On March 1 1942 HMAS *Perth* was sunk in the Sunda Strait by the Japanese. On March 3 Japanese aircraft raided Broome and Wyndham. On March 4 Premier Willcock wrote an urgent memorandum to all his Ministers requesting information concerning “the staff which would have to be evacuated from Perth in the event of the seat of Government being transferred owing to the imminent enemy occupation of Perth.” On March 12 a Cabinet minute headed “Seat of Government” was prepared. It read, in part -

The matter has been discussed with Major Palmer, Army Headquarters, who advises (in strict confidence) that an invasion would almost certainly converge on Fremantle as its main objective. Army administrative headquarters would evacuate to a place outside the enemy lines. . . . Major Palmer suggested that the State Government could perform little useful service inside the enemy ring . . . Outside the enemy ring, however, the normal functions of the State Government will have to continue and extra activities and responsibilities would inevitably be superimposed . . . Major Palmer [has] suggested that the State Government should make all the necessary plans for its evacuation to Kalgoorlie and that the Army would give as much notice as possible . . .

Ministers were told that the Solicitor General advises that there is no legal difficulty with regard to transferring the seat of Government from Perth to any other centre; no legal formalities are required.

I am pleased that the Government and Parliament are meeting in Kalgoorlie-Boulder this week in more auspicious circumstances. We meet in Kalgoorlie on this occasion as a part of our State’s 175<sup>th</sup> anniversary commemoration. It is 175 years since the establishment of the Swan River Colony. Of course, a military settlement was established in Albany three years before that. Kalgoorlie and the eastern goldfields have been a part of our story for the past 111 years. They have helped to make it a Western Australian - indeed, an Australian - story, not just a Swan River story. We recognise the importance of Kalgoorlie-Boulder to our material wellbeing and the development of the State. The 50 million ounces of gold produced on the Golden Mile have for over 100 years underpinned our economic growth and prosperity. The magnificent buildings we have seen in Kalgoorlie-Boulder, such as the Town Hall in which we meet today, and in Coolgardie are part of that gold rush legacy, as are many fine buildings in Perth, including the Mint.

The Parliament House building in Perth, the centenary of which we celebrate this year, may be seen as part of the gold rush legacy. It is fitting that we recognise this economic legacy with the passage of a motion through this House and with the naming yesterday of Kalgoorlie gold as the tenth icon of the State under the National Trust’s heritage icons program.

It is doubly fitting that this parliamentary sitting should be held in Kalgoorlie-Boulder, given the contribution of the goldfields to our political progress and development. The democrats of the goldfields fought and achieved the extension of the franchise to itinerant workers, the abolition of plural voting and property franchise, and just representation in the Parliament in Perth. Who can forget the contribution of the likes of Frederick Charles Vosper, the member for North-East Coolgardie?

The eastern goldfields made the federation movement’s cry “a nation for a continent, a continent for a nation” a political reality in 1900. The goldfields Separation for Federation league brought the Government on the coast to heel. The Press at the time spoke of the fairytale of the two beautiful princesses, the princess Kalgoorlie and the princess Coolgardie, being kept in the swamp of parochialism by the evil knight Sir John Forrest. The threat of a separate State of Aurelia, with its capital in Kalgoorlie and port at Esperance, part of an Australian Commonwealth, moved the old settler Government on the coast towards Federation.

It is the goldfields that once again stood resolutely for the Commonwealth in 1933, when two-thirds of the State voted for secession. The eastern goldfields voted to maintain the federation they had forged in 1900, and on the same day as the referendum, they restored what was essentially a goldfields Government to power in Perth to deal with the Great Depression and the secession push. By the end of the decade, with the Japanese bombing Wyndham, Broome and Port Hedland, and John Curtin mobilising the nation for total war, the decision was well and truly vindicated.

The goldfields have provided political leadership for the whole State. Alfred Edward Morgans, the Member for Coolgardie, was the fourth Premier of our State; John Scaddan, the Member for Brown Hill-Ivanhoe, was our eleventh Premier; Philip Collier, the Member for Boulder from 1905 to 1948, was our sixteenth and eighteenth Premier; and John Tonkin, the boy from Boulder, was our thirtieth Premier. There were Deputy Premiers from Tom Bath to Ian Taylor. Many of the names have passed now into undeserved obscurity. There was Thomas Walker, Minister, Speaker, Attorney General and Member for Kanowna - perhaps the finest orator that the State has ever known and architect of our system of free education. There was Texas Green, who became Minister for Defence, and Jimmy Cunningham, who became President of the Senate. They both served as State Members for Kalgoorlie. Sir John Kirwan, owner of the *Kalgoorlie Miner*, member of the Separation for Federation league and first MHR for Kalgoorlie, served as President of this Chamber for 20 years. They all made a contribution in their day to building a great State.

It is fitting that we are here today in the second city of our State, in Parliament assembled, to recognise our goldfields inheritance. It is fitting that we are here to legislate for the peace, order and good Government of the State from the City of Kalgoorlie-Boulder. I thank the municipal authorities that have welcomed us to the city.

#### 4. Papers

The following Papers were laid on the Table by -

##### **Minister for Housing and Works**

###### *Annual Reports -*

Guardianship and Administration Board (2003-2004) (Date received 24/09/2004) ..... 2647

Racing, Gaming and Liquor, Department of (2003-2004) (Date received 23/09/2004) ..... 2648

###### *Reports -*

Emergency Services Levy Insurance Compliance Review: Final Report (April 2004)..... 2649

##### **Parliamentary Secretary to the Minister for Planning and Infrastructure**

###### *Reports -*

Fremantle Ports Statement of Corporate Intent 2004-2005 ..... 2650

#### 5. **Standing Committee on Legislation - Twenty-second Report - Magistrates Court Bill 2003, Magistrates Court (Civil Proceedings) Bill 2003 and Courts Legislation Amendment and Repeal Bill 2003**

Hon Jon Ford presented the Twenty-second Report of the Standing Committee on Legislation in relation to the *Magistrates Court Bill 2003, Magistrates Court (Civil Proceedings) Bill 2003 and Courts Legislation Amendment and Repeal Bill 2003*. (Tabled paper 2651).

Hon Jon Ford moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

**6. Standing Committee on Uniform Legislation and General Purposes - Twentieth Report - Reserves (National Parks, Conservation Parks and Nature Reserves) Bill 2004**

Hon Adele Farina presented the Twentieth Report of the Standing Committee on Uniform Legislation and General Purposes in relation to the *Reserves (National Parks, Conservation Parks and Nature Reserves) Bill 2004*. (Tabled paper 2652).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

**7. Ministerial Statement - Legislative Council Regional Sitting in Kalgoorlie-Boulder**

The Leader of the House made a Ministerial Statement with respect to the Legislative Council Regional Sitting in Kalgoorlie-Boulder.

Hon Norman Moore, by leave, made a statement in response.

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

**8. Statement by President - Letter from Hon Tom Stephens**

The President made the following Statement -

Dear Mr President

Please relay to the Members of the Legislative Council my deep appreciation for the companionship and indeed friendship that has been extended to me by Members from all sides of the House over the 22 years that I have served regional Western Australia in the State Parliament.

The untimely death of the Shire President of Roebourne, Mr Kevin Richards, has meant that I have had to take on a fresh challenge at very short notice indeed. As a result I will miss the opportunity to rise in the Chamber to personally express my appreciation to the Members, the Clerks and the staff of the Legislative Council and the staff of the State Parliament.

As Members will appreciate, it is with mixed emotion that I leave the Chamber after such a long time of service in regional Western Australia. Nonetheless, I take with me warm memories of the friendship, support and care that has been showered on me by Members and staff in the Parliament over these years.

I would appreciate it if you could formally relay to all the Members and the Parliamentary staff this farewell expression of sincere appreciation.

Yours sincerely

Tom Stephens

**9. Ministerial Statement - Dental Clinic Waiting List in Kalgoorlie**

The Parliamentary Secretary to the Minister for Health made a Ministerial Statement with respect to the dental clinic waiting list in Kalgoorlie.

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

**10. Mining Amendment Bill 2004**

The President reported the receipt of Message No. 228 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary to the Minister for State Development moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary to the Minister for State Development moved, That the Bill be now read a second time.

Debate stands adjourned.

#### **11. Order of Business**

Ordered - That Order of the Day No. 414 be taken forthwith. (Leader of the House).

#### **12. Criminal Procedure Bill 2004**

The Order of the Day having been read.

The Minister for Housing and Works moved, That the Bill be now read a second time.

On the motion of Hon Bruce Donaldson the debate was adjourned to the next sitting.

#### **13. Criminal Injuries Compensation Amendment Bill 2004**

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Minister for Housing and Works moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

#### **14. Victims of Crime Amendment Bill 2003**

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Minister for Housing and Works moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

#### **15. Anzac Day Amendment Bill 2004**

The Order of the Day having been read for the adjourned debate on the second reading of this Bill.

Debate resumed.

*Interruption pursuant to Sessional Orders.*

#### **16. Electoral Commission - Filling of Vacancy**

The Clerk of the Legislative Council reported the receipt of a letter from the Acting Electoral Commissioner notifying of the election of Mr Kevin John Leahy and read the following letter -

His Excellency Lieutenant General John Sanderson AC  
Governor of Western Australia  
Government House  
PERTH WA 6000

Your Excellency

By notice dated 16 September 2004 you informed me of a vacancy in the Mining and Pastoral Region of the Legislative Council.

On Saturday 18 September 2004, I published the notices required by section 156C of the *Electoral Act 1907* in *The West Australian* and the *Kalgoorlie Miner* newspapers. Nominations for the vacancy closed at 12 noon on Tuesday 28 September 2004.

At the close of nominations, I had received six formal nominations from qualified persons. A re-count was then conducted in accordance with section 156D(4) of the *Electoral Act 1907*.

Following the re-count and in accordance with section 156D(8)(a) of the *Electoral Act 1907*, I declare Mr Kevin John Leahy to be elected as a member of the Legislative Council to fill the vacancy in the Mining and Pastoral Region.

I am pleased to inform you of the election of Mr Leahy, as required by section 156D(8)(b) of the *Electoral Act 1907*.

Yours sincerely

Warwick Gately AM  
ACTING ELECTORAL COMMISSIONER

28 September 2004

#### **17. Development of Western Australia, Contribution by the People of the Goldfields-Esperance Region**

The Minister for Local Government and Regional Development moved, without notice -

That this House -

- (1) Recognises the enormous contribution by the people of the Goldfields-Esperance region to the development of Western Australia throughout the State's history;
- (2) Notes the Gallop Labor Government's commitment to the Goldfields-Esperance region; and
- (3) Reaffirms its pledge to Regional Western Australia to support strong and vibrant regions.

Debate ensued.

Hon George Cash moved -

To amend the motion in part (2) by deleting the words "Gallop Labor" and substitute instead -  
" successive state ".

Debate ensued.

Amendment - put and passed.

Question - That the Motion, as amended be agreed to.

Debate ensued.

Question - put and passed.

#### **18. Questions Without Notice**

Questions without notice were taken.

The Minister for Government Enterprises tabled documents in relation to the PIWSS water supply figures for each surface water source and ground water bore field from July 1999 to June 2004 in response to question on notice No. 2376 asked by Hon Norman Moore. (Tabled paper 2653).

#### **19. Anzac Day Amendment Bill 2004**

Debate resumed on the second reading of this Bill (cf item 15 above).

## 20. Swearing of Member - Kevin John Leahy

The President reported the receipt of a Commission authorising the President to administer an Oath or Affirmation for Kevin John Leahy and invited the Clerk of the Legislative Council to read the Commission.

Commission  
authorising  
THE HONOURABLE JOHN ALEXANDER COWDELL  
President of the Legislative Council  
to administer the oath or affirmation of allegiance  
to members of the Legislative Council

WESTERN AUSTRALIA

By the Honourable Geoffrey Alexander Kennedy,  
Officer of the Order of Australia, deputy of the  
Governor of the State of Western Australia.

I, the deputy of the Governor, acting under section 22 of the *Constitution Act 1889*, authorise you, the Honourable John Alexander Cowdell, while you are the President of the Legislative Council, to administer the oath or affirmation of allegiance in Schedule E to that Act to members of the Legislative Council.

GIVEN under my hand and the Public Seal of the State on 22 May 2001.

GOD SAVE THE QUEEN!

The newly elected Member, Kevin John Leahy, made and subscribed the Oath of Allegiance before the President.

## 21. Anzac Day Amendment Bill 2004

Debate resumed on the second reading of this Bill (cf item 19 above).

On the motion of the Leader of the House the debate was adjourned to the next sitting.

## 22. Members' Statements

Statements were taken.

## 23. Statement by President - Acknowledgment of Members and Guests at Kalgoorlie Regional Parliament

The President made the following Statement -

The Leader of the Opposition has reflected on the role of the President and that requires a response. First, last night the room was full of Members of Parliament. I did not acknowledge every Member of Parliament who was there, nor did I acknowledge the Member for Eyre. I acknowledged those Members who were speakers. I acknowledged the representative of the traditional owners of the land, the Mayor of Kalgoorlie, the Leader of the Opposition and the Premier. Those were the four speakers. I constrained myself to acknowledging only the four speakers plus our distinguished visitors; that is, the other Presiding Officers from interstate. I did not acknowledge either the Member for Eyre or the Member for Kalgoorlie, or any other MLA or MLC. Today, when I looked at who was in my gallery, I once again acknowledged those people I saw present. I admit that I did not see the Member for Kalgoorlie. Some people were standing in front of him when I came into the Chamber and acknowledged the people in my gallery. His presence was subsequently brought to my attention. Although the Member for Kalgoorlie had left the President's gallery, I acknowledged him as having been present. There was no intent to slight or be partisan in any way, and I correct the Leader of the Opposition in that regard.

**24. Adjournment**

Pursuant to Sessional Order 2(2) the House adjourned at 9.00pm until Wednesday, September 29 2004 at 10.00am.

**Members present during the day's proceedings**

Attendance: Present all Members.

**L B MARQUET**  
Clerk of the Legislative Council

**HON JOHN COWDELL**  
President of the Legislative Council