

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 44

WEDNESDAY, MARCH 12 2003

1. Meeting of Council

The Council assembled at 4.00pm pursuant to order.

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

2. Papers

The following Papers were laid on the Table by -

President

Auditor General's Papers -

Interim Reports for Hospitals and Health Services 2001-02 830

Leader of the House

Regulations -

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations
(No. 4) 2003 G.G. 07/03/2003) 831

Leader of the House on behalf of the Minister for Minister for Housing and Works

Orders -

Water Services Coordination Act 1995 (Licence Exemption (Wesfarmers CSBP) Order 2003
G.G. 04/03/2003) 832

Minister for Minister for Racing and Gaming

Regulations -

Weights and Measures Act 1915 (Weights and Measures (Lower Accuracy Instruments)
Regulations 2003 G.G. 07/03/2003) 833

Workers' Compensation and Rehabilitation Act 1981 (Workers' Compensation and
Rehabilitation (Scales of Fees) Amendment Regulations 2003 G.G. 07/03/2003) 834

Parliamentary Secretary to the Minister for Health on behalf of the Parliamentary Secretary to the Minister for Planning and Infrastructure

Explanatory Memorandums -

Midland Redevelopment Act 1999 - Extension of Midland Redevelopment Area
Regulations..... 835

Regulations -

Port Authorities Act 1999 (Port Authorities (Act Amendment) Regulations 2003 G.G. 04/03/2003) 836

3. Perth Urban Rail Development - Tabling of Questions and Referral to Standing Committee on Public Administration and Finance

Motion No. 9 having been called.

Hon Peter Foss continued his introductory remarks in moving the following motion -

- (1) That the Parliamentary Secretary to the Minister for Planning and Infrastructure do -
 - (a) table in the House at the next sitting day three calendar days after the making of this order, full and complete answers to all the questions of which notice was given with respect to the Perth Urban Rail Development Proposal for the hearing by the Estimates Committee for the 2002-2003 Budget together with all the documents requested by those questions;
 - (b) attend before the Standing Committee on Public Administration and Finance at its next meeting after such tabling and thereafter and with such other witnesses as directed by that Committee in order that the Committee may satisfy itself as to the adequacy of such answers and tabling, and on any other matters arising out of those answers or which as a result of its inquiries the Standing Committee consider appropriate to inquire into.
- (2) The Standing Committee do generally inquire into and maintain Parliamentary supervision over the Perth Urban Rail Development and report to the House; and
- (3) The Standing Committee do report to the House -
 - (a) with respect to the compliance of the Parliamentary Secretary with part (1)(a) of this order no later than three sitting days after the making of this order;
 - (b) with respect to compliance with part (1)(b) of this order, and any other matters related thereto, no later than December 3 2002; and
 - (c) otherwise, as the Committee deems fit from time to time.

4. Questions Without Notice

Questions without notice were taken.

The Minister for Racing and Gaming tabled documents in relation to a Water Corporation market survey in response to a question without notice asked by Hon Norman Moore. (Tabled paper 837).

5. Perth Urban Rail Development - Tabling of Questions and Referral to Standing Committee on Public Administration and Finance

Hon Peter Foss continued his introductory remarks in moving his motion (cf item 3 above).

Interruption of Debate [SO 195].

6. Order of Business

Ordered - That Order of the Day No. 15 be taken before Order of the Day No. 10. (Leader of the House).

7. **Electronic Transactions Bill 2001**

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 Racing and Gaming moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

8. **Select Committee on Rules, Orders and Usages of the House - Final Report**

Hon Norman Moore presented the Final Report of the Select Committee on Rules, Orders and Usages of the House. (Tabled paper 838).

Hon Norman Moore moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

9. **Public Interest Disclosure Bill 2002**

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

The Deputy President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Postponed Clause 3.

Debate resumed.

Hon Peter Foss, moved -

Page 4, lines 5 and 6 - To delete “, in relation to its performance of a public function.

Page 4, after line 22 - To insert -

“

in relation to its performance of a public function, or, in the case of a public officer, to an extent that affects their fitness or qualification to hold that public office.

”.

Debate ensued.

Point of Order

The Minister for Racing and Gaming raised the following Point of Order -

I considered the amendment last night. Hon Peter Foss has raised an interesting issue; however, when I considered the matter, I formed the view that it was outside the policy of the Bill and, therefore, out of order. The policy of the Bill relates to a public interest disclosure about the performance of a public function or duty, not about the other mischief Hon Peter Foss seeks to deal with in his amendment. I invite him to seek leave to withdraw it.

The Deputy Chairman of Committees left the Chair at 7.41pm

The Deputy Chairman of Committees resumed the Chair at 7.49pm

Statement by Deputy Chairman of Committees.

I have had the opportunity to consider the amendment moved by Hon Peter Foss, and to seek advice. The proposed amendment raises an issue of relevance to the scope and purpose of the Bill. The point of order is in relation to an amendment that links, in this case, fitness to hold office with the right to make public interest disclosure otherwise protected under this Bill. Hon Peter Foss may wish to make some further comment, and indicate whether he wishes to proceed with this amendment or withdraw it. I indicate now, that if the Committee were to proceed with this amendment I would have to rule it out of order. The member may not wish to proceed down that path.

Hon Peter Foss, by leave, withdrew the amendments standing in his name.

Clause 3 agreed to.

New Clause 11.

Hon Peter Foss, moved -

Page 11, after line 21 - To insert the following new clause -

“

11. Alternative investigation where proper authority under no obligation

- (1) This section applies where a public interest disclosure is made to a proper authority who is either the Chief Justice or the Presiding Officer of a House of Parliament (“**an exempt proper authority**”).
- (2) Unless the exempt proper authority forms the view that had section 8 applied to the exempt proper authority the exempt proper authority would be entitled to refuse to investigate or to discontinue an investigation pursuant to subclause 8(2), if the exempt proper authority decides not to investigate the information disclosed to it, he or she shall refer the investigation in accordance with the next subclause.
- (3) The referral shall be to —
 - (a) in the case of the Chief Justice, to the President of the Legislative Council;
 - (b) in the case of the Presiding Officer of a House of Parliament, to a body within the House which would within the usual processes of the House deal with improper conduct on the part of a member.

”.

Debate ensued.

New Clause agreed to.

Postponed Clause 7.

Debate ensued.

Clause 7 agreed to.

Postponed Clause 10.

The Minister for Racing and Gaming moved -

Page 10, line 29 - To delete “person referred to in section 5(3), that person” and insert instead -

“ proper authority, that proper authority ”.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 11, lines 4, 9, 14 and 18 - To delete “person” and insert instead -
“proper authority ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Postponed Clause 11.

The Minister for Racing and Gaming moved -

Page 11, line 23 - To delete “person” and insert instead -
“ proper authority ”.

Page 11, line 24 - To delete “person’s” and insert instead -
“ proper authority’s ”.

Amendments - put and passed.

Clause, as amended, agreed to.

Schedule 1.

The Minister for Racing and Gaming moved -

Page 24, line 12 to page 25, line 11 - To delete “*Whistleblowers Protection*” where it appears and insert instead -

“ *Public Interest Disclosure* ”.

Amendment - put and passed.

Schedule, as amended, agreed to.

Title.

Debate ensued.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day’s sitting.

The Minister for Racing and Gaming moved, That the report be adopted.

Question - put and passed.

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

The Deputy 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 and passed.

Bill read a third time and passed.

10. Gas Pipelines Access (Western Australia) (Reviews) Amendment Bill 2003

The Minister for Housing and Works pursuant to notice, moved -

That a Bill for “An Act to amend the *Gas Pipelines Access (Western Australia) Act 1998*” be introduced and read a first time.

Question - put and passed.

Bill read a first time.

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

Debate stands adjourned and the Bill referred to the Standing Committee on Uniform Legislation and General Purposes. (SO230A)

11. Adoption Amendment Bill (No. 2) 2002

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

Debate resumed.

Interruption of Debate [SO 61(b)].

12. Water Boards Amendment Bill 2002

The President reported the receipt of Message No. 48 from the Legislative Assembly forwarding the Bill for concurrence.

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

Question - put and passed.

Bill read a first time.

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

Debate stands adjourned.

13. Adjournment

The Leader of the House moved, That the House do now adjourn.

Debate ensued.

Question - put and passed.

The House adjourned at 10.14pm until Thursday, March 13 2003 at 11.00am.

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