

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 29

WEDNESDAY, NOVEMBER 27 2002

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

2. Ministerial Statement - Kwinana Cumulative Risk Study 1998

The Parliamentary Secretary to the Minister for State Development made a Ministerial Statement with respect to the 1998 Kwinana Cumulative Risk Study.

The Parliamentary Secretary to the Minister for State Development, by leave, tabled a report titled Update of Kwinana Cumulative Risk Study. (Tabled paper 526).

3. Hon Peter Foss - Personal Explanation - Comments by Attorney General

Hon Peter Foss, by leave, made a personal explanation [SO 85] regarding comments made by the Attorney General.

Point of Order

The Leader of the House raised the following Point of Order -

Leave was given to allow Hon Peter Foss to make a personal explanation. What we have had is an attack on a Member of the other place on matters apparently unrelated to the matter relating to the personal explanation. I feel that the process of the House has been abused.

President's Ruling

The President ruled as follows -

I believe that the Member has gone beyond the scope of Standing Order No. 85 in that he has gone on to a range of other matters that are not related to the defence of his reputation or any attack that was made in another place. I trust that, as the Standing Order states, the Member will keep to the explanation of a matter of a personal nature and not discuss an unrelated, debateable matter that is not pertinent.

4. Papers

The following Papers were laid on the Table by -

President

Auditor General's Papers -

Management of Hospital Special Purpose Accounts (Report No. 7) (November 2002)..... 519

Minister for Housing and Works

Annual Reports -

Building Management Authority of Western Australia [BMA] (2001-2002)
(Date received 26/11/2002) 520

Parliamentary Secretary to the Minister for Health

Annual Reports -

ScreenWest (2001-2002) (Date received 26/11/2002) 521

Parliamentary Secretary to the Minister for Planning and Infrastructure

Annual Reports -

Albany Port Authority (2001-2002) (Date received 26/11/2002) 522

Indigenous Affairs, Department of (2001-2002) (Date received 26/11/2002) 523

Reports -

Dampier Port Authority - Statement of Corporate Intent (2001-2002) 524

Geraldton Port Authority - Statement of Corporate Intent (November 2001)..... 525

5. City of Melville Local Law Relating to Signs, Hoardings and Billposting - Disallowance, Mines Safety and Inspection Amendment Regulations 2002 - Disallowance and Industrial Relations Commission Amendment Regulations (No. 2) 2002 - Disallowance - Discharge from Notice Paper

Hon Ray Halligan, moved, without notice -

That Order of the Day No. 85, *City of Melville Local Law Relating to Signs, Hoardings and Billposting - Disallowance*, Order of the Day No. 100, *Mines Safety and Inspection Amendment Regulations 2002 - Disallowance* and Order of the Day No. 112, *Industrial Relations Commission Amendment Regulations (No. 2) 2002 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

6. Australian Involvement in Military Action in Iraq

Motion No. 6 having been called.

Debate resumed on the motion of Hon Dee Margetts as follows -

That this House notes -

- (1) The recent comments from the Prime Minister and Minister for Foreign Affairs regarding Australia's possible support for US military action in Iraq.
- (2) That these comments were made in the absence of any United Nations resolution or processes.
- (3) The threat to the livelihood of Western Australian agricultural producers and exporters in light of the Prime Minister's indication that any request for Australian assistance would be considered against the "national interest test".
- (4) The statements from Labour Leader Simon Crean that Mr Howard's and Mr Downer's statements are out of step with other international opinion.
- (5) The likely impact on the civilian population, particularly women and children.

Therefore, the Legislative Council informs the Federal Government that it does not support Australian involvement in military action in Iraq without UN backing.

Hon Giz Watson, by leave, tabled a report in relation to the collateral damage on the health and environmental costs of war on Iraq. (Tabled paper 527).

Debate resumed.

Interruption of Debate [SO 195].

7. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the amendment of Hon Bruce Donaldson as follows -

That the following words be added to the end of the motion -

“

but regret to inform your Excellency that the Government is failing in its administration of the State of Western Australia.

”.

to the motion of Hon Sue Ellery as follows -

That the following address be presented to His Excellency -

To His Excellency, Lieutenant General John Murray Sanderson, Companion of the Order of Australia, Governor in and over the State of Western Australia and its dependencies in the Commonwealth of Australia.

May it please Your Excellency -

We, the Members of the Legislative Council of the Parliament of Western Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the Speech you have been pleased to deliver to Parliament.

Debate resumed.

8. Questions Without Notice

Questions without notice were taken.

The Minister for Local Government and Regional Development tabled a copy of relevant sections of Minutes of the meeting of the Marine Parks and Reserves Authority conducted on September 19 2002 in response to a question without notice asked by Hon Norman Moore. (Tabled paper 528).

The Minister for Local Government and Regional Development tabled a letter from the Department of Conservation and Land Management [CALM] to the Minister for Environment and Heritage concerning alleged conflict of interest of Dr. Barry Wilson, Chairman, Marine Parks and Reserve Authority in response to a question without notice asked by Hon Norman Moore. (Tabled paper 529).

The Parliamentary Secretary representing the Minister for Health tabled a copy to the terms of reference for the Kimberley Chemical Use Review Panel in response to a question without notice asked by Hon Robin Chapple. (Tabled paper 530).

The Minister for Racing and Gaming tabled a copy of a report titled ‘Working Together for Road Safety’ in response to a question without notice asked by Hon Frank Hough. (Tabled paper 531).

The Minister for Housing and Works, by leave, incorporated into *Hansard* and tabled his response regarding the contaminated Caltex Fuel Depot at Two Rocks Marina in response to a question without notice asked by Hon Jim Scott. (Tabled paper 532)

The Minister for Housing and Works tabled a list of consultants engaged by the Environmental Protection Authority [EPA] over the past 12 months and details of the purpose of each consultancy and cost in response to a question without notice asked by Hon Christine Sharp. (Tabled paper 533).

9. Address-In-Reply

Debate resumed on the amendment of Hon Bruce Donaldson to the Address-in-Reply (cf item 7 above).

Hon Barry House, by leave, tabled a document in relation to a draft Serpentine and Peel Deviations Funding Submissions. (Tabled paper 534).

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

10. Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill 2002

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

Point of Order

Hon Derrick Tomlinson raised the following Point of Order -

Before we commence the second reading debate I rise on a point of order for clarification. It may take a little time to explain my concern, but it will save time if I receive clarification now rather than delay proceedings during the committee stage. The *Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill 2002* indicates in its Long Title that it is -

An Act to amend -

- the *Fire and Emergency Services Authority of Western Australia Act 1998*; and
- the *Fire Brigades Act 1942*,

to provide for the payment of a levy for the provision of emergency services, to amend and consolidate the financial provisions relating to emergency services, to make consequential amendments to the *Rates and Charges (Rebates and Deferments) Act 1992*, and for related purposes.

Regarding the amendment to the *Fire and Emergency Services Authority of Western Australia Act* and the other services of the Long Title, Clause 3 of the Bill states -

The amendments in this Part are to the *Fire and Emergency Services Authority of Western Australia Act 1998*.

That is followed by an explanatory statement -

[*Act No. 41 of 1998.

For subsequent amendments see 2001 Index to legislation of Western Australia, Table 1, p.135, and Act No. 20 of 2002.]

Act No. 20 of 2002 is the *Labour Relations Reform Act No. 20 of 2002*. I draw attention to Clause 8 of the Bill on page 6, where section 18B(3)(j) is amended after “roads” by including “etc”. Section 18B was inserted by the *Fire and Emergency Services Legislation Amendment Bill*. That Bill was introduced and second read in this place on May 7; the second reading was agreed to in this place on September 24; the Committee Stage commenced that day; the amendment was proposed on November 13; the Legislative Council third reading was on November 13; the Legislative Assembly accepted the amendments on November 14; and assent was given on November 20 to Act No. 38 of 2002. I acknowledge that section 30 of the *Interpretation Act* allows that an Act may be amended or repealed in the same session of Parliament as that in which it was passed. Hence, and I guess this is part of my question - is it valid for us to be amending a Bill that was proclaimed or assented to after the Bill was introduced and debated before the other Bill was even completed and assented to.

My other question, Mr Deputy President, is for you to indicate which Act we are discussing. Are we discussing the Act described in Clause 3, which includes the amendments up to and including Act No. 20 of 2002, or are we considering the Act which is Act No. 38 of 2002 assented to on 20 November?

Deputy President's Ruling

The Deputy President ruled as follows -

As Hon Derrick Tomlinson has said, the Bill before us is a Bill to amend an Act, and that Act is in fact Act No. 38, which was assented to on November 20 2002. Hon Derrick Tomlinson also made reference to section 30 of the *Interpretation Act*, which -

An Act may be amended or repealed in the same section of Parliament as that in which it is passed.

That is reflected in Standing Order No. 227, which states -

A Bill may amend or repeal an Act of the same session.

I do not see any conflict in any Cause of this Bill, notwithstanding the fact that only a few days ago assent was given to the Bill that was referred to as the *Fire and Emergency Services Legislation Amendment Bill*, which is now an Act of this Parliament, which Hon Derrick Tomlinson has recognised as Act No. 38 of 2002.

There is no conflict and there is no reason for us not to continue. In fact, with great respect to Hon Derrick Tomlinson, he not only asked the question but he also answered it whilst he was on his feet. That saved me the need to leave the Chair and consider in depth the most serious matters that were raised.

Debate resumed.

Hon George Cash, by leave, tabled a Summary Position Paper on Emergency Services Levy (ESL) - Collection by Local Government (Tabled paper 535).

Hon George Cash, by leave, tabled a document entitled FESA Levy - Collections by Local Governments from 1 July 2003. (Tabled paper 536).

Debate resumed.

On the motion of Minister for Racing and Gaming the debate was adjourned to the next sitting.

11. Emergency Services Levy Bill 2002

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.

12. Child Support (Adoption of Laws) Amendment 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.

Ordered - That consideration of the Bill, in Committee, be made an Order of the Day for the next sitting.

13. Conservation and Land Management Amendment Bill 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)].

14. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 11.14am until Thursday, November 28 2002 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Murray Criddle.

L B MARQUET

Clerk of the Legislative Council

HON JOHN COWDELL

President of the Legislative Council