

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 159

TUESDAY, 17 NOVEMBER 2015

1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Order.

The President, Hon Barry House, took the Chair and read prayers.

2. Statement by President — Terrorist Attacks in Paris and Beirut

The President made the following Statement —

In acknowledgment of the recent terrorist attacks in Paris, Beirut and various other places, I request that Members stand and observe a minute's silence as a sign of respect for the victims of these atrocities.

3. Message from Her Excellency the Governor — Assent to Bills

The President reported the receipt of a Message from Her Excellency the Governor assenting to the following Bills —

2 November 2015 — Message No. 43	Act No.
Associations Incorporation Bill 2014	30 of 2015
Alumina Refinery (Mitchell Plateau) Agreement (Termination) Bill 2015	31 of 2015
Sentencing Amendment Bill 2014	32 of 2015
Cement Works (Cockburn Cement Limited) Agreement Amendment Bill 2015	33 of 2015
Railway (Forrestfield-Airport Link) Bill 2015	34 of 2015
Liquor Legislation Amendment Bill 2015	35 of 2015

4. Distinguished Visitors — Japanese Delegation

The President drew attention to the presence in the gallery of a delegation from Sugito, Japan and the cities of Busselton and Bunbury, and, on behalf of Honourable Members, extended a warm welcome to members of the delegation.

5. Petition

Hon Kate Doust presented a petition from 201 petitioners requesting the Legislative Council to support the maintenance of the Sunday Community Market in Canning Vale in the event that the Perth Market in Canning Vale is sold. (Tabled Paper 3607).

6. Ministerial Statement — Higher Education Delegation to China and Vietnam

The Minister for Education made a Ministerial Statement with respect to a delegation to China and Vietnam comprising the Minister for Education, Vice Chancellors and other senior officials from Western Australia's universities.

The Minister for Education tabled the Itinerary for the Higher Education Delegation to China and Vietnam. (Tabled Paper 3608).

7. Ministerial Statement — Housing Authority Inaugural [design]ability Affordable Housing Design Competition Results

The Minister for Housing made a Ministerial Statement with respect to Housing Authority Inaugural [design]ability Affordable Housing Design Competition results.

8. Papers

The following Papers were laid on the Table by —

President

Annual Reports —

Inspector of Custodial Services, Office of the (2014–2015) (Deemed tabled 23/10/2015) 3560

Auditor General's Papers —

Audit Results Report — Annual (2014–2015) Financial Audits (Report No. 24) (November 2015) (Deemed tabled 11/11/2015)..... 3561

Information Systems Audit Report (Report No. 23) (November 2015) (Deemed tabled 5/11/2015)..... 3562

Reports —

Corruption and Crime Commission — Report on Operation Aviemore: Major Crime Squad Investigation into the Unlawful Killing of Mr Joshua Warneke (5 November 2015) (Deemed tabled 5/11/2015) 3563

Inspector of Custodial Services, Office of the — Report of an Announced Inspection of Boronia Pre-Release Centre for Women (Report No. 100) (September 2015) (Deemed tabled 10/11/2015)..... 3564

Inspector of Custodial Services, Office of the — Thermal Conditions of Prison Cells (September 2015) 3565

Standing Committee on Legislation —

Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015 (Report No. 30) (November 2015) (Deemed tabled 10/11/2015 pursuant to Standing Order 188) 3566

Leader of the House

Annual Reports —

Governor's Establishment (2014–2015) (Date received 26/10/2015)..... 3567

Independent Market Operator (2014–2015) (Deemed tabled 10/11/2015) 3568

Regulations —

Electricity Corporations Act 2005 (Electricity Corporations (Electricity Generation and Retail Corporation Area of Operation) Regulations 2015 G.G. 20/10/2015)..... 3569

Electricity Industry Act 2004 (Electricity Industry (Wholesale Electricity Market) Amendment Regulations (No. 3) 2015 G.G. 13/11/2015)..... 3570

Gas Services Information Act 2012 (Gas Services Information Amendment Regulations (No. 3) 2015 G.G. 13/11/2015)..... 3571

Minister for Mental Health

Leases —

CALM Lease No. 2318/100 — Between the Conservation and Land Management Executive Body and Guilford Grammar School for the purpose of Outdoor Education Camps in the Moondyne Precinct — Part of the Avon Valley National Park (Reserve No. 50853) 3572

CALM Lease No. 2319/100 — Between the Conservation and Land Management Executive Body and Guilford Grammar School for the purpose of Outdoor Education Camps in the Moondyne Precinct — Part of the Avon Valley National Park (Reserve No. 51385)	3573
<i>Local Laws —</i>	
Dog Act 1976 (City of Armadale Dogs Amendment Local Law 2015 G.G. 23/10/2015).....	3574
Local Government Act 1995 (City of Armadale Bush Fire Control Amendment Local Law 2015 G.G. 23/10/2015, City of Armadale Environment, Animals and Nuisance Amendment Local Law 2015 G.G. 23/10/2015, City of Armadale Extractive Industries Amendment Local Law 2015 G.G. 23/10/2015, City of Armadale Livestock in Public Places and Wandering at Large Local Law 2015 G.G. 23/10/2015, City of Armadale Local Government Property Amendment Local Law 2015 G.G. 23/10/2015, City of Armadale Parking and Parking Facilities Amendment Local Law 2015 G.G. 23/10/2015, City of Armadale Removal of Refuse, Rubbish and Disused Materials Amendment Local Law 2015 G.G. 23/10/2015, City of Wanneroo Penalty Units Local Law 2015 G.G. 30/10/2015, Shire of Augusta-Margaret River Street Numbering Local Law 2015 G.G. 6/11/2015 and Shire of Perenjori Standing Orders Local Law 2015 G.G. 3/11/2015).....	3575
<i>Local Laws —</i>	
Local Government Act 1995 (City of Joondalup Local Government and Public Property Amendment Local Law 2015 G.G. 13/11/2015, City of Wanneroo Parking Local Law 2015 G.G. 10/11/2015 and Town of Narrogin Repeal Local Law 2015 G.G. 13/11/2015).....	3576
<i>Notices —</i>	
Financial Management Act 2006 — Section 82 — Notice from the Treasurer in respect to Legislative Council Question on Notice No. 3402	3577
Financial Management Act 2006 — Section 82 — Notice from the Treasurer in respect to Legislative Council Question without Notice No. 1220	3578
<i>Regulations —</i>	
Conservation and Land Management Act 1984 (Conservation and Land Management Amendment Regulations (No. 3) 2015 G.G. 10/11/2015).....	3579
Mental Health Act 2014 (Mental Health Regulations 2015 G.G. 13/11/2015).....	3580
<i>Reports —</i>	
Economic Regulation Authority — Inquiry into the Efficiency and Performance of Western Australian Prisons — Final Report (8 October 2015) (Deemed tabled 29/10/2015)	3581
Economic Regulation Authority — Inquiry into the Efficiency and Performance of Western Australian Prisons — Prison Benchmarking Manual (8 October 2015) (Deemed tabled 29/10/2015).....	3582
Treasury Corporation — Quarterly Report (for the quarter ended 30 September 2015) (Deemed tabled 10/11/2015)	3583
<i>Response to Reports —</i>	
Standing Committee on Uniform Legislation and Statutes Review — Planning and Development (Development Assessment Panels) Regulations 2011 (Report No. 93) (Minister for Planning)	3584
Attorney General	
<i>Annual Reports —</i>	
Acacia Prison Services Agreement (2014–2015) (Date received 11/11/2015).....	3585
Architects Board (2014–2015) (Date received 22/10/2015)	3586
CBD Courts Project Contract (2014–2015) (Date received 9/11/2015)	3587
Contract for the Provision of Court Security and Custodial Services (2014–2015) (Date received 11/11/2015).....	3588

State Emergency Management Committee Western Australia — Emergency Preparedness Report (2015) (October 2015).....	3589
Young Adult Facility Contract (2014–2015) (Wandoo Reintegration Facility) (Date received 13/11/2015).....	3590
<i>Regulations —</i>	
Fines, Penalties and Infringement Notices Enforcement Act 1994 (Fines, Penalties and Infringement Notices Enforcement Amendment Regulations (No. 5) 2015 G.G. 13/11/2015).....	3591
Industrial Relations Act 1979 (Industrial Relations Commission (Government School Teachers Tribunal [Elections]) Repeal Regulations 2015 G.G. 13/11/2015).....	3592
<i>Rules —</i>	
Supreme Court Act 1935 (Supreme Court Amendment Rules (No. 3) 2015 G.G. 13/11/2015)	3593
Minister for Agriculture and Food	
<i>Management Plans —</i>	
Fish Resources Management Act 1994 (Gascoyne Demersal Scalefish Managed Fishery Management Plan Amendment (No. 2) 2015 [1262] G.G. 6/11/2015, Octopus Interim Managed Fishery Management Plan 2015 [1186] G.G. 27/10/2015, Shark Bay Crab Fishery (Interim) Management Plan Revocation Notice 2015 [1176] G.G. 30/10/2015 and Shark Bay Crab Managed Fishery Management Plan 2015 [1176] G.G. 27/10/2015).....	3594
<i>Notices —</i>	
Fish Resources Management Act 1994 (Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery Management Plan Amendment Correction Notice 2015[1257] G.G. 23/10/2015)	3595
<i>Orders —</i>	
Fish Resources Management Act 1994 (Fish Trap Restrictions Amendment Order 2015 [1248] G.G. 27/10/2015 and Fish Traps Prohibition Amendment Order 2015 [1248] G.G. 27/10/2015)...	3596
<i>Reports</i>	
Biosecurity Council (2014–2015) (Date received 13/11/2015)	3597
Water Corporation — Statement of Corporate Intent (2015–2016).....	3598
Minister for Housing	
<i>Annual Reports —</i>	
Greyhound Racing Association (2014–2015) (Deemed tabled 29/10/2015).....	3599
Racing and Wagering (2014–2015) (Deemed tabled 29/10/2015).....	3600
<i>Regulations —</i>	
Betting Control Act 1954, Casino Control Act 1984, Gaming and Wagering Commission Act 1987, Liquor Control Act 1988, Racing and Wagering Western Australia Act 2003, Racing Penalties (Appeals) Act 1990 (Racing, Gaming and Liquor Regulations Amendment (Fees and Charges) Regulations 2015 G.G. 6/11/2015).....	3601
Parliamentary Secretary representing the Minister for Transport	
<i>Regulations —</i>	
Road Traffic (Administration) Act 2008 (Road Traffic (Administration) Amendment Regulations (No. 4) 2015 G.G. 13/11/2015).....	3602
Road Traffic (Authorisation to Drive) Act 2008 (Road Traffic (Authorisation to Drive) Amendment Regulations (No. 5) 2015 G.G. 13/11/2015).....	3603
Parliamentary Secretary representing the Minister for Health	
<i>Local Laws —</i>	
Health Act 1911 (City of Armadale Health Amendment Local Law 2015 G.G. 23/10/2015)	3604
Health Act 1911 (Town of Narrogin Health Repeal Local Law 2015 G.G. 13/11/2015)	3605

Regulations —

Poisons Act 1964 (Poisons Amendment Regulations (No. 6) 2015 G.G. 3/11/2015) 3606

9. Standing Committee on Environment and Public Affairs — Report No. 42 — Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas

Hon Simon O'Brien presented Report No. 42 of the Standing Committee on Environment and Public Affairs, *Implications for Western Australia of Hydraulic Fracturing for Unconventional Gas*. (Tabled Paper 3609).

10. Paper

The following Paper was laid on the Table by —

Attorney General

Response to Reports —

Standing Committee on Legislation — Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015 3610

11. Obsolete Legislation Repeal Bill 2015

The Attorney General: To move on the next day of sitting —

That a Bill for “An Act to repeal obsolete and spent legislation.” be introduced and read a first time.

12. Co-operatives Amendment Bill 2015

The Minister for Commerce: To move on the next day of sitting —

That a Bill for “An Act to amend the *Co-operatives Act 2009*..” be introduced and read a first time.

13. Genetically Modified Crops Free Areas Repeal Bill 2015

The Minister for Agriculture and Food: To move on the next day of sitting —

That a Bill for “An Act to repeal the *Genetically Modified Crops Free Areas Act 2003* and to consequentially amend the *Biosecurity and Agriculture Management Act 2007*.” be introduced and read a first time.

14. Graffiti Vandalism Bill 2015

The President reported the receipt of Message No. 127 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General representing the Minister for Police moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Attorney General representing the Minister for Police moved, That the Bill be read a second time.

The Attorney General representing the Minister for Police tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3611).

Debate stands adjourned.

15. Liquor Legislation Amendment Bill 2015

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 128

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Liquor Legislation Amendment Bill 2015* without amendment.

Hon Mr M.W. Sutherland

Speaker

Legislative Assembly Chamber

Perth, 22 October 2015

16. Perth Market (Disposal) Bill 2015

The President reported the receipt of Message No. 129 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Mental Health representing the Treasurer moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Minister for Mental Health representing the Treasurer moved, That the Bill be read a second time.

The Minister for Mental Health representing the Treasurer tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3612).

Debate stands adjourned.

17. Order of Business

Ordered — That Orders of the Day Nos No. 1, *Shire of Ravensthorpe Fencing Local Law 2015 — Disallowance*, and 2, *City of Mandurah Fencing Local Law 2015 — Disallowance*, be taken after Order of the Day No. 6, *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015*. (Leader of the House).

18. Mental Health Amendment Bill 2015

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 Mental Health moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

19. Ministerial Statement — Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015

The Attorney General, by leave, made a Ministerial Statement with respect to the Standing Committee on Legislation — Report No. 30 — *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015*.

20. Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015

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

Debate resumed.

21. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Minister for Transport tabled documents in relation to notices of intention related to the proposed Roe 8 extension, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 3613).

The Minister for Aboriginal Affairs, by leave incorporated into *Hansard*, documents in relation to 35 sites identified as part of the site reassessment process undertaken in response to the Supreme Court decision of *Robinson v Fielding*, in response to a question without notice asked by Hon Robin Chapple.

The Minister for Education, by leave incorporated into *Hansard*, documents in relation to the review of the Student-Centred Funding Model, in response to a question without notice asked by Hon Sue Ellery.

The Leader of the House representing the Minister for Training and Workforce Development tabled documents in relation to the details of TAFE courses for international students in 2012, 2013 and 2014, in response to question on notice No. 3432 asked by Hon Sue Ellery. (Tabled Paper 3614).

The Minister for Housing tabled documents in relation to the details of water testing since 1 July 2014 as part of the Remote Area Essential Services Program, in response to question on notice No. 3436 asked by Hon Stephen Dawson. (Tabled Paper 3615).

The Minister for Agriculture and Food representing the Minister for Water, by leave incorporated into *Hansard*, documents in relation to the exposure of Water Corporation staff and contractors to asbestos at Minnivale Reservoir, in response to a question without notice asked by Hon Kate Doust.

22. Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015

Debate resumed on the second reading of this Bill (*see item 20 above*).

Question — put and passed.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2.

The Attorney General, by leave, moved —

Page 2, line 8 — To delete “Assent;” and insert —

Assent (*assent day*);

Page 2, lines 12 and 13 — To delete “a day fixed by proclamation, and different days may be fixed for different provisions.” and insert —

the day after assent day.

Debate ensued.

Amendments — put and passed.

Clause as amended, agreed to.

Clause 3.

The Attorney General moved —

Page 5, after line 11 — To insert —

director, of a company, means a person who is a director of the company under paragraph (a) of the definition of *director* in the Corporations Act section 9;

Debate ensued.

Amendment — put and passed.

The Attorney General moved —

Page 6, lines 9 to 11 — To delete the lines and insert —

liquidator means a liquidator of a WA Bell Company and includes a provisional liquidator of a WA Bell Company immediately before —

- (a) for a WA Bell Company that was registered immediately before the transfer day — the transfer day; and

- (b) for a reinstated WA Bell Company — the day on which the company was deregistered;

Amendment — put and passed.

The Attorney General, by leave, moved —

Page 7, after line 12 — To insert —

reinstated WA Bell Company means a WA Bell Company that was not registered immediately before the transfer day but which had its registration reinstated on or after the transfer day;

Page 8, line 15 — To delete “12 noon on”.

Page 9, line 3 — To delete “12 noon on the transfer day.” and insert —

the dissolution of that company under section 27.

Page 9, line 7 — To delete “by” and insert —

under

Page 9, after line 7 — To insert —

- (4) A reference in this Act to —
- (a) the deregistration of a company is a reference to the deregistration of the company under the Corporations Act or the Corporations Law (as in force before 15 July 2001); and
 - (b) the reinstatement of the registration of a company is a reference to the reinstatement of the registration of the company under the Corporations Act.

Debate ensued.

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 4.

The Attorney General moved —

Page 9, lines 10 and 11 — To delete “mechanism to resolve, without litigation, disputes which have arisen in relation to” and insert —

mechanism, that avoids litigation, for

Debate ensued.

Amendment — put and passed.

The Attorney General moved —

Page 10, lines 4 to 6 — To delete “intentions of the liquidator and the creditors who funded the Bell litigation as set out in agreements” and insert —

commercial substance of the agreements between the liquidator and the creditors who funded the Bell litigation, as

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clauses 7 and 8 agreed to.

Clause 9.

The Attorney General moved —

Page 12, after line 10 — To insert —

- (aa) to administer each WA Bell Company until it is dissolved; and

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 10.

The Attorney General, by leave, moved —

Page 12, after line 28 — To insert —

- (da) seek the reinstatement of the registration of a WA Bell Company;
- (db) indemnify a liquidator of a WA Bell Company against costs or liability in relation to the performance of a function as liquidator of the company, on the terms and conditions determined by the Authority;

Page 13, line 4 — To delete “section 7(3) or”.

Debate ensued.

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 11 to 17 agreed to.

Clause 18.

The Attorney General, by leave, moved —

Page 16, after line 15 — To insert —

- (aa) expenses of, and incidental to, the administration of a WA Bell Company by the Authority;
- (ab) any amount payable under an indemnity under section 10(2)(db);

Page 16, line 22 — To delete “all other payments.” and insert —

the payment of amounts specified in the determination of the Governor under section 37(2).

Debate ensued.

Amendments — put and passed.

Clause, as amended, agreed to.

Clauses 19 to 21 agreed to.

Clause 22.

The Attorney General, by leave, moved —

Page 19, lines 12 to 14 — To delete the lines and insert —

- (c) all property held (in any capacity) by a person who is a liquidator of a WA Bell Company on trust for any person, other than property held in a capacity that does not relate to the liquidation of a WA Bell Company.

Page 19, after line 14 — To insert —

- (1A) Property received by a WA Bell Company or another person, on or after the transfer day, that would have been transferred to, and vested in, the Authority by subsection (1) were it vested or held by the company or person as described in subsection (1) before the transfer day, is transferred to, and vested in, the Authority by force of this section, at the time at which it is received.
- (1B) In relation to a reinstated WA Bell Company, property revested in the company as a consequence of its reinstatement is taken to have been received by the company for the purposes of subsection (1A).
- (1C) Subsection (1) or (1A), whichever is relevant, does not apply to a share in a company that was a subsidiary of TBGL —
 - (a) immediately before the transfer day; or
 - (b) if the company was deregistered before the transfer day — immediately before the time at which the company was deregistered.
- (1D) A share to which subsection (1) or (1A) would have applied but for subsection (1C), is transferred to, and vested in, the Authority by force of this section immediately before the earlier of —
 - (a) the day specified by the Authority, by instrument published in the *Gazette*, for the purposes of this paragraph; and
 - (b) the day on which the WA Bell Company is dissolved under section 27.
- (1E) To the extent to which a right to make a taxation objection, or a right or capacity to seek the review of, or to appeal against, a decision of the Commissioner in relation to a taxation objection, is property of a WA Bell Company, subsection (1) or (1A), whichever is relevant, does not apply to the right or capacity.
- (1F) Words and expressions used in subsection (1E) and also in the *Taxation Administration Act 1953* (Commonwealth) Part IVC have the same meanings in that subsection as they have in that Part.

Page 19, line 28 — To delete “transfer day.” and insert —

day specified in the certificate.

Debate ensued.

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 23.

The Attorney General moved —

Page 20, lines 14 to 16 — To delete “held, property that, before the transfer day, was property of a kind referred to in section 22(1).” and insert —

held —

- (a) property that, before the transfer day, was property of a kind referred to in section 22(1); or
- (b) in relation to a reinstated WA Bell Company — property that, before the day on which the company was deregistered, was property of a kind referred to in section 22(1); or
- (c) property to which section 22(1A) applies.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

Clause 24 agreed to.

Clause 25.

The Attorney General, by leave, moved —

Page 21, line 10 — To insert after “incurred by” —

a WA Bell Company or

Page 21, line 17 — To insert after “of” —

a WA Bell Company or

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 26 agreed to.

New Division 3A.

The Attorney General moved —

Page 22, after line 29 — To insert —

Division 3A — Administration of WA Bell Companies

26A. Authority to administer WA Bell Companies

- (1) The Authority is, by force of this section, the administrator of each WA Bell Company.
- (2) Subsection (1) has effect —
 - (a) for a WA Bell Company that was registered immediately before the transfer day — from the beginning of the transfer day; and
 - (b) for a reinstated WA Bell Company — from the time at which the company’s registration is reinstated.

- (3) The Authority's administration of a WA Bell Company ceases on the earlier of —
 - (a) the dissolution of the company; and
 - (b) the day specified in a notice given by the Authority to the liquidator (or other officer if there is no liquidator) of the company that the Authority will cease to be the administrator of the company on that day.

26B. Role of Authority as administrator of WA Bell Companies

- (1) While a WA Bell Company is under the administration of the Authority, the Authority —
 - (a) has control of the company's property and affairs; and
 - (b) may manage that property and those affairs; and
 - (c) may dispose of any of that property; and
 - (d) may perform any function, and exercise any power, that the company or any of its officers could perform or exercise if the company were not under the administration of the Authority.
- (2) Nothing in subsection (1) limits the generality of anything else in it.
- (3) Nothing in this section limits any other power of the Authority under this Act or any other written law.

26C. Powers of other officers

- (1) While a company is under the administration of the Authority, a person (other than the Authority) cannot perform or exercise, and must not purport to perform or exercise, a function or power as an officer of the company.
- (2) Subsection (1) does not apply to the extent that the performance or exercise is with the Authority's written approval or is in the exercise of a power or duty under this Act.
- (3) Subsection (1) does not remove a director or the liquidator of a WA Bell Company from his or her office.

Debate ensued.

Amendment — put and passed.

New Division 3A agreed to.

Clause 27.

The Attorney General, by leave, moved —

Page 23, lines 3 and 4 — To delete the lines and insert —

- (1) The Governor may, by proclamation, dissolve a WA Bell Company.

Page 23, line 5 — To delete "a WA" and insert —

the WA

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 28 agreed to.

New Division 1A.

The Attorney General moved —

Page 25, after line 2 — To insert —

Division 1A — Application of this Part

28A. Application of this Part in relation to certain interests

- (1) In relation to a liability referred to in section 25(3), this Part has effect as if —
 - (a) the liability were, immediately before the transfer day, a liability of the WA Bell Company referred to in section 25(2) in relation to the liability; and
 - (b) the person who, immediately before the transfer day, had the benefit of the liability were, immediately before the transfer day, a creditor of the WA Bell Company.
- (2) If property vested in a WA Bell Company or held by a liquidator of a WA Bell Company, to which section 22(1)(a) or (b) applied at the beginning of the transfer day, was freed from an encumbrance, trust, equity or interest (the *interest*) by section 22 and the WA Bell Company was not the beneficiary of the interest, this Part has effect as if —
 - (a) the interest were, immediately before the transfer day, a liability of the WA Bell Company; and
 - (b) the person who, immediately before the transfer day, had the benefit of the interest were, immediately before the transfer day, a creditor of the WA Bell Company.
- (3) If property to which section 22(1) applied at the beginning of the transfer day was freed from an encumbrance, trust, equity or interest (the *interest*) by section 22 and subsection (2) does not apply in relation to the property, this Part has effect as if —
 - (a) the interest were, immediately before the transfer day, a liability of each WA Bell Company; and
 - (b) the person who, immediately before the transfer day, had the benefit of the interest were, immediately before the transfer day, a creditor of each WA Bell Company.
- (4) In relation to a claim referred to in section 26(3), this Part has effect as if —
 - (a) the claim were, immediately before the transfer day, a liability of the WA Bell Company referred to in section 26(2) in relation to the claim; and
 - (b) the person who, immediately before the transfer day, had the benefit of the claim were, immediately before the transfer day, a creditor of the WA Bell Company.
- (5) If the Authority determines, under section 33, that an interest to which subsection (3) applies is a liability of each WA Bell Company, each company is jointly and severally liable.

Debate ensued.

Amendment — put and passed.

New Division 1A agreed to.

Clause 29.

The Attorney General, by leave, moved —

Page 26, lines 14 to 16 — To delete “liquidator, in the capacity of liquidator of the company, on trust for any person other than the company;” and insert —

liquidator referred to in section 22(1)(c);

Page 26, after line 24 — To insert —

- (12) This section has effect in relation to a reinstated WA Bell Company as if references in it to the transfer day were references to the day on which the registration of the company was reinstated.

Amendments — put and passed.

Clause, as amended, agreed to.

Clause 30.

The Attorney General moved —

Page 27, after line 7 — To insert —

- (2A) The Authority may also publish the notice referred to in subsection (2) by any other means that the Authority thinks necessary to bring it to the attention of the persons referred to in that subsection.

Debate ensued.

Amendment — put and passed.

Clause, as amended, agreed to.

The Leader of the House moved, That the Deputy Chair report progress and seek to sit again.

Question — put and passed.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

Question — put and passed.

23. Adjournment

The Council adjourned at 9.45pm until Wednesday, 18 November 2015 at 1.00pm.

Members present during the day’s proceedings

Attendance: Present all Members Hon Jacqui Boydell, Hon Mark Lewis and Hon Amber-Jade Sanderson (*leave of absence*).

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council