

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS**No. 118****FIRST SESSION OF THE THIRTY-SEVENTH PARLIAMENT**

TUESDAY, 21 NOVEMBER 2006**1. Meeting of Assembly**

The Assembly met at 2.00 p.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Vacancy in the Electoral District of Peel

The Speaker advised members that he had received a letter from the Mr N.R. Marlborough on 10 November 2006 advising that he was relinquishing his position as Member for Peel as of Friday, 10 November 2006.

As a result, the Speaker advised that today, acting under section 67(2) of the *Electoral Act 1907*, he directed the Electoral Commissioner to proceed with an election in the Peel electoral district. The writ listed the following dates for the purpose of the election -

Last day for the nominations of candidates: Thursday, 4 January 2007

Polling Day: Saturday, 3 February 2007

Last day for the return of the writ: Monday, 19 February 2007

3. Brief Ministerial Statements

The following Brief Ministerial Statements were made by -

The Premier on his visit to the West Kimberley and the resulting request for Brendan Hammond, Head of the Office of Development Approvals Co-ordination, to enter into dialogue with the people of the region regarding the developing of onshore LNG facilities.

The Minister for Employment Protection on the High Court decision that the Commonwealth could regulate workplace relations using the corporations power of the Constitution.

The Minister for Planning and Infrastructure on the bravery of two transit guards assisting a man being brutally assaulted by a gang on 16 November 2006 outside the Perth train station.

The Minister for Seniors on improving community awareness regarding elder abuse and exploitation prevention.

The Minister for Indigenous Affairs on the 2006 Partnership, Acceptance, Learning and Sharing (PALS) Schools Reconciliation Awards 2006.

The Minister for Citizenship and Multicultural Interests on the nine community-based projects that have been approved under the Government's Inclusion and Integration Grants Program.

The Minister for Science and Innovation on the delegation led by the Minister to Spain and Norway as part of Western Australia's bid to win part of the \$2 billion Australian Navy vessel contract.

Papers

The following papers were presented and ordered to lie upon the Table of the House -

By the Minister for Science and Innovation -

Official Travel - Report on Mission to Spain and Norway by the Minister for Energy; Science and Innovation, 5 to 14 November 2006 (2222).

Australian Naval Vessel Contract - Western Australia: The Logical Choice (2223).

The Minister for Planning and Infrastructure on the Albany Port Authority winning the national title of Australasian Port of the Year in Melbourne last week.

4. Questions

Questions without notice were taken.

Questions on notice Nos 1619 to 1639 were asked.

Questions on notice Nos 1498, 1551 to 1554, 1556, 1557, 1559 to 1568, 1570, 1574 to 1577, 1580, 1582 to 1584, 1587 to 1589, 1598, 1602, 1604 and 1606 were answered.

Paper tabled by the Minister for Health –

Question on Notice No. 1563 - List of Complaints Received by the South West PATS Administration during the period August 2004 to August 2005 (2220).

Paper tabled by Minister for Public Sector Management –

Question on Notice No. 1580 - List of Management Initiated Retirements (MIR) during the period 2000 to 2006 (2221).

5. Message from the Governor

Message No. 52 from Lieutenant Governor and Deputy of the Governor was reported assenting to the following bills -

Parliamentary Legislation Amendment Bill 2006, Act No. 56 of 2006.

Criminal and Found Property Disposal Bill 2005, Act No. 57 of 2006.

Criminal Investigation Bill 2005, Act No. 58 of 2006.

Criminal Investigation (Consequential Provisions) Bill 2005, Act No. 59 of 2006.

Land Information Authority Bill 2006, Act No. 60 of 2006.

6. Messages from the Governor

Messages from His Excellency the Governor were reported recommending the purpose of the appropriations for the following bills -

Appropriation (Consolidated Fund) Bill (No. 5) 2006 (Message No. 53).

Appropriation (Consolidated Fund) Bill (No. 6) 2006 (Message No. 54).

Road Traffic Amendment Bill 2006 (Message No. 55).

Owner-Drivers (Contracts and Disputes) Bill 2006 (Message No. 56).

7. Unanswered Question on Notice

Under Standing Order 80, Ms K. Hodson-Thomas asked the Minister for Tourism why no answer had been received in respect of her Question on Notice No. 1543.

8. Personal Explanation

The Minister for Disability Services made a personal explanation on the Brief Ministerial Statement he made on Tuesday, 17 October 2006 regarding the accommodation funding application of Mr Alex Duncanson.

9. Additional Information under Standing Order No. 82A

In accordance with Standing Order No. 82A, the Premier provided additional information relating to a Question without Notice No. 869 from Mr J.H.D. Day.

Paper

The following paper was presented and ordered to lie upon the Table of the House -

By the Premier -

Western Australia Police Service - Police vote to work to rule, *Kalgoorlie Miner*, 22 June 1998 (2224).

10. Petition

Ballajura Youth and Community Venture Inc. Youth Centre - Mr J.B. D'Orazio presented a petition from 383 persons requesting that the State Government continue funding of the Ballajura Youth and Community Venture Inc (BYCV Inc.) Youth Centre (known as the Dungeon Youth Centre) (P. 159).

11. Papers

The following papers were presented and ordered to lie upon the Table of the House -

By the Deputy Speaker -

Parliamentary Commissioner for Administrative Investigations, Office of [Ombudsman] - Annual Report 2005-2006 (2174).

Public Sector Standards Commissioner, Office of - Ten Year Review - Report No. 3, CEO Recruitment and Selection in WA Public Sector (2175).

By the Clerk -

Aboriginal Communities Act 1979 - By-laws (Parnpajinya Community By-laws 2006 G.G. 31/10/2006) (2177).

Architects Board of Western Australia - Annual Report 2005-2006 (2178).

Architects Board of Western Australia - Chairman's Report 2005-2006 (2179).

Armadale Redevelopment Act 2001 - Ministerial approval in accordance with section 17(3) of the Act, to enter into a contract of sale with Mazzega Group for Lot 218 Ranford Road, Forrestfield with value greater than \$1 million, dated 3 November 2006 (2180).

Betting Control Act 1954 - Regulations (Betting Control Amendment Regulations (No. 4) 2006 G.G. 14/11/2006) (2181).

Broome Port Authority - Statement of Corporate Intent, 2006-2007 (2182).

Bush Fires Act 1954 - Local Laws (Shire of Yalgoo - Bush Fire Brigades Local Law 2006 G.G. 07/11/2006) (2183).

Casino Control Act 1984 - Regulations (Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2006 G.G. 14/11/2006) (2184).

Cemeteries Act 1986 - Local Laws (Shire of Yalgoo - Cemetery Local Law 2006 G.G. 07/11/2006) (2185).

Construction Industry Portable Paid Long Service Leave Act 1985 - Regulations (Construction Industry Portable Paid Long Service Leave Amendment Regulations 2006 G.G. 07/11/2006) (2186).

Criminal Procedure Act 2004 - Regulations (Criminal Procedure Amendment Regulations (No. 3) 2006 G.G. 14/11/2006) (2187).

Dampier Port Authority - Statement of Corporate Intent, 2006-2007 (2188).

Dog Act 1976 - Local Laws (City of Geraldton Dogs Amendment Local Law 2006 G.G. 10/11/2006) (2189).

Dog Act 1976 - Local Laws (Shire of Yalgoo - Dogs Local Law 2006 G.G. 07/11/2006) (2190).

Electricity Act 1945 - Regulations (Electricity Amendment Regulations (No. 2) 2006 G.G. 31/10/2006) (2191).

Esperance Port Authority - Statement of Corporate Intent, 2006-2007 (2192).

Fish Resources Management Act 1994 - Regulations (Fish Resources Management Amendment Regulations (No. 6) 2006 G.G. 10/11/2006) (2193).

Fish Resources Management Act 1994 - Regulations (Fish Resources Management Amendment Regulations (No. 8) 2006 G.G. 10/11/2006) (2194).

Forest Products Commission - Statement of Corporate Intent 2006-2007 (2195).

Forest Products Commission - Strategic Development Plan, 2006-2007 - 2010-2011 (2196).

Fremantle Port Authority - Statement of Corporate Intent 2006-2007 (2197).

Gaming and Wagering Commission Act 1987 - Regulations (Gaming and Wagering Commission Amendment Regulations (No. 2) 2006 G.G. 14/11/2006) (2198).

Geraldton Port Authority - Statement of Corporate Intent 2006-2007 (2199).

Hospitals and Health Services Act 1927 - Regulations (Hospitals (Services Charges) Amendment Regulations (No. 5) 2006 G.G. 14/11/2006) (2200).

Liquor Licensing Act 1988 - Regulations (Liquor Licensing Amendment Regulations (No. 2) 2006 G.G. 14/11/2006) (2201).

Local Government Act 1995 - Local Laws (Shire of Bridgetown-Greenbushes - Repeal Local Law 2006 G.G. 17/11/2006) (2202).

Local Government Act 1995 - Local Laws (Shire of Denmark Local Government Property Amendment Local Law 2006 G.G. 03/11/2006) (2203).

Local Government Act 1995 - Local Laws (Shire of Yalgoo - Fencing Local Law 2006 G.G. 07/11/2006) (2204).

Local Government Act 1995 - Local Laws (Shire of Yalgoo - Local Government Property Local Law 2006 G.G. 07/11/2006) (2205).

Lotteries Commission Act 1990 - Rules (Lotteries Commission (Super 66) Amendment Rules (No. 3) 2006 G.G. 03/11/2006) (2206).

Motor Vehicle Dealers Act 1973 - Regulations (Motor Vehicle Dealers (Sales) Amendment Regulations 2006 G.G. 17/11/2006) (2207).

Perry Lakes Redevelopment Act 2005 - Regulations (Perry Lakes Redevelopment Regulations 2006 G.G. 31/10/2006) (2208).

Port Authorities Act 1999 - Ministerial Direction to the Bunbury Port Authority over the handling of coal at Berth 8, dated 30 October 2006 (2209).

Poseidon Nickel Agreement 1971 - Variation Agreement between Hon. A.J. Carpenter, Premier and Niagara Mining Limited (2210).

Racing and Wagering Western Australia Act 2003 - Regulations (Racing and Wagering Western Australia Amendment Regulations (No. 3) 2006 G.G. 14/11/2006) (2211).

Racing Penalties (Appeals) Act 1990 - Regulations (Racing Penalties (Appeals) Amendment Regulations 2006 G.G. 14/11/2006) (2212).

Real Estate and Business Agents Act 1978 - Regulations (Real Estate and Business Agents (General) Amendment Regulations (No. 2) 2006 G.G. 17/11/2006) (2213).

School Education Act 1999 - Regulations (School Education Amendment Regulations 2006 G.G. 17/11/2006) (2214).

Subiaco Redevelopment Act 1994 - Regulations (Subiaco Redevelopment (Subtracted Area - Stage 2) Regulations 2006 G.G. 17/11/2006) (2215).

Treasury Corporation, Western Australia - Quarterly Report for the quarter ended 30 September 2006 (2216).

Water Agencies (Powers) Act 1984 - By-laws (Water Agencies (Charges) Amendment By-laws (No. 3) 2006 G.G. 14/11/2006) (2217).

Western Australian Meat Industry Authority Act 1976 - Regulations (Western Australian Meat Industry Authority Amendment Regulations 2006 G.G. 03/11/2006) (2218).

Western Power Corporation - Annual Report 2005-2006 (2219).

12. Notice of Motion

13. Orders of the Day Lapsed under Standing Order 144A

The Deputy Speaker advised members that in accordance with Standing Order 144A, Private Members' Business Order of the Day, *Staffing and Funding Levels in Public Hospitals*, which had not been debated for more than twelve calendar months, had been removed from the Notice Paper.

14. Matter of Public Interest - Censure of Premier and Members of the Government

The Deputy Speaker informed the Assembly that the Speaker was in receipt of a notice from Mr P.D. Omodei that he intended to move a motion on a matter of public interest.

At least five members having risen in support,

Mr P.D. Omodei moved,

That this House censures the Premier and members of his Government for undermining public trust and confidence in Western Australian politics by allowing disgraced former Labor members of Parliament Brian Burke and Julian Grill to influence the decisions of Government.

Debate ensued.

Question put.

The Assembly divided.

Ayes (23)

Mr C.J. Barnett
Mr D.F. Barron-Sullivan
Mr M.J. Birney
Mr T.R. Buswell
Mr G.M. Castrilli
Dr E. Constable
Mr M.J. Cowper
Mr J.H.D. Day

Mr B.J. Grylls
Ms K. Hodson-Thomas
Dr G.G. Jacobs
Mr J.E. McGrath
Mr P.D. Omodei
Mr D.T. Redman
Mr A.J. Simpson
Mr G. Snook

Dr S.C. Thomas
Mr M.W. Trenorden
Mr T.K. Waldron
Ms S.E. Walker
Mr G.A. Woodhams
Dr J.M. Woollard
Mr T.R. Sprigg (*Teller*)

Noes (27)

Mr J.J.M. Bowler
Mr A.J. Carpenter
Dr J.M. Edwards
Mrs D.J. Guise
Mrs J. Hughes
Mr J.N. Hyde
Mr J.C. Kobelke
Mr R.C. Kucera
Mr F.M. Logan

Ms A.J.G. MacTiernan
Mr J.A. McGinty
Mr M. McGowan
Ms S.M. McHale
Mr A.D. McRae
Mr M.P. Murray
Mr A.P. O’Gorman
Mr J.R. Quigley
Ms M.M. Quirk

Ms J.A. Radisich
Mr E.S. Ripper
Mrs M.H. Roberts
Mr T.G. Stephens
Mr D.A. Templeman
Mr P.B. Watson
Mr M.P. Whitely
Mr B.S. Wyatt
Mr S.R. Hill (*Teller*)

Question thus negatived.

15. Paper

The following paper was presented and ordered to lie upon the Table of the House -

By the Speaker –

State Records Commission - Annual Report 2005-2006 (2176).

16. Daylight Saving Bill (No. 2) 2006

Message No. 126 dated 21 November 2006 from the Legislative Council was reported agreeing to the bill without amendment.

17. Electoral Legislation Amendment Bill 2006

Message No. 125 dated 2 November 2006 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Electoral Legislation Amendment Bill 2006* subject to the amendment contained in the Schedule annexed; in which amendment the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendment made by the Legislative Council in the Electoral Legislation Amendment Bill 2006

No. 1

Clause 24, page 15, lines 12 to 14 — To delete the clause.

Ordered, That consideration in detail of Legislative Council message No. 125 be made an Order of the Day for the next sitting of the Assembly.

18. Prisons and Sentencing Legislation Amendment Bill 2006

Message No. 124 dated 2 November 2006 from the Legislative Council was reported as follows -

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Prisons and Sentencing Legislation Amendment Bill 2006* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Prisons and Sentencing Legislation Amendment Bill 2006

No. 1

Clause 14, page 9, lines 4 to 6 — To delete the lines.

No. 2

Clause 14, page 9, line 8 — To delete “prison” and insert instead —
“ a prison or other facility ”.

No. 3

Clause 14, page 9, line 10 — To delete “from prison”.

No. 4

Clause 29, page 14, lines 17 and 18 — To delete “the prison in which the prisoner is confined” and insert instead —

“ a prison or other facility ”.

No. 5

Clause 29, page 15, line 3 — To delete “from prison”.

No. 6

Clause 31, page 16, after line 23 — To insert —

“

(4) In this section —

“**proceedings**” of a judicial body includes anything done in the performance of the functions of the judicial body.

”.

No. 7

Clause 32, page 20, after line 25 — To insert —

“

(7) A prisoner may be confined in a facility outside a prison to facilitate the prisoner being provided with opportunities for work or participation in services or programmes under this section.

(8) This section does not authorise a prisoner to be absent from a prison, or facility referred to in subsection (7), without an absence permit.

”.

No. 8

Clause 66, page 43, lines 16 to 19 — To delete the lines and insert instead —

“

(o) person who —

- (i) is an officer or employee of an agency as defined in section 3(1) of the *Public Sector Management Act 1994*; or
- (ii) provides services to such an agency under a contract for services; or
- (iii) is a contract worker as defined in section 3 of the *Court Security and Custodial Services Act 1999* or section 15A of the *Prisons Act 1981*,

being a person prescribed or of a class prescribed by regulations.

”.

No. 9

New Clause 78, page 52, after line 16 — To insert the following new clause —

“

78. Section 151 amended

Section 151(3) is repealed and the following subsections are inserted instead —

“

- (3) A person is to be appointed as the secretary of the Board.
- (4) The secretary and any other staff of the Board are to be appointed under Part 3 of the *Public Sector Management Act 1994*.

”.

Ordered, That consideration in detail of Legislative Council message No. 124 be made an Order of the Day for the next sitting of the Assembly.

19. Variation to the Order of Business

Ordered, That Government Business Orders of the Day Nos 2 and 3 be next considered.

20. Racing and Wagering Western Australia Tax Amendment Bill 2006

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Cognate Debate

Leave was granted to debate the Racing and Wagering Legislation Amendment Bill 2006 in conjunction with this bill.

Debate resumed.

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

21. Personal Explanation

The Premier made a personal explanation about comments he had made earlier today in reference to a donation to the campaign of Mr P.D. Omodei.

22. Speaker's Statement - *Subjudice* Convention

The Speaker advised members that while he would not rule that there could be absolutely no reference to the matter of *Mickelberg v. State of Western Australia and Others*, there should be no further canvassing by members in the House of any of the details of the case or speculation about the role of particular individuals in it, as a strike-out application had been set down for trial in February 2007.

23. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 4 be next considered.

24. Stamp Amendment Bill 2006

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 4 agreed to.

Title agreed to.

Consideration in detail concluded.

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

The Treasurer moved, That the bill be now read a third time.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

25. Variation to the Order of Business

Ordered, That Government Business Order of the Day No. 1 be next considered.

26. Notice of Motion after the Time Prescribed

Mr T.R. Buswell was granted leave to present a late notice of motion.

27. Road Traffic Amendment (Drugs) Bill 2006

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

Ordered, That the consideration in detail of the bill be made an Order of the Day for the next sitting of the Assembly.

28. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly, at 10.47 p.m. until Wednesday, 22 November 2006 at 12 noon.

Members present during any part of the day's proceedings - All the members except Mr P.W. Andrews, Dr K.D. Hames and Mrs C.A. Martin.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. FRED RIEBELING

Speaker of the Legislative Assembly