

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 4

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

THURSDAY, 13 NOVEMBER 2008

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Petition

Mammography Machine in Karratha – Mr D.T. Redman presented a petition from 376 persons supporting the acquisition of a mammography machine, to be located in Karratha, for use by residents in the Pilbara (P. 13).

3. Papers

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

By the Clerk –

Carers Recognition Act 2004 – Review of the Act, Final Report, October 2008 (411).

Housing Authority – Annual Report 2007–2008 (412).

Metropolitan Health Service – Annual Report 2007–2008 (413).

4. Address in Reply

The Order of the Day for the resumption of debate upon the Address in Reply to His Excellency the Governor's speech was read.

Debate resumed.

Mr A.J. Waddell moved, To add to the Address in Reply the following –

“But regrets to inform His Excellency that the Barnett Government has failed the people of Western Australia by abandoning plans to extend the rail line to Butler, by failing to order new rail cars and by removing from WA's Infrastructure Australia application all reference to public transport”.

Debate ensued.

On the question, That the amendment be agreed to,

Question put.

The Assembly divided.

Ayes (28)

Ms L.L. Baker
Mr A.J. Carpenter
Mr V.A. Catania
Mr R.H. Cook
Ms J.M. Freeman
Mr J.N. Hyde
Mr W.J. Johnston
Mr J.C. Kobelke
Mr F.M. Logan
Ms A.J.G. MacTiernan

Mr J.A. McGinty
Mr M. McGowan
Mrs C.A. Martin
Mr M.P. Murray
Mr A.P. O’Gorman
Mr P. Papalia
Mr J.R. Quigley
Ms M.M. Quirk
Mr E.S. Ripper
Mrs M.H. Roberts

Ms R. Saffioti
Mr T.G. Stephens
Mr C.J. Tallentire
Mr A.J. Waddell
Mr P.B. Watson
Mr M.P. Whitely
Mr B.S. Wyatt
Mr D.A. Templeman (*Teller*)

Noes (30)

Mr P. Abetz
Mr F.A. Alban
Mr C.J. Barnett
Mr I.C. Blayney
Mr J.J.M. Bowler
Mr I.M. Britza
Mr T.R. Buswell
Mr G.M. Castrilli
Dr E. Constable
Mr M.J. Cowper

Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Dr K.D. Hames
Mrs L.M. Harvey
Mr A.P. Jacob
Dr G.G. Jacobs
Mr R.F. Johnson
Mr A. Krsticevic
Mr W.R. Marmion

Mr P.T. Miles
Ms A.R. Mitchell
Dr M.D. Nahan
Mr C.C. Porter
Mr D.T. Redman
Mr A.J. Simpson
Mr M.W. Sutherland
Mr T.K. Waldron
Dr J.M. Woollard
Mr J.E. McGrath (*Teller*)

Amendment thus negatived.

On the question, That the Address in Reply be agreed to,

Debate resumed.

Debate interrupted by the Chair (Mr M.P. Whitely speaking) and adjourned until a later stage of the sitting.

5. Speaker's Statement - Photographs during Question Time

The Speaker advised members that - he had given permission for a photographer from *The West Australian* to take photographs during question time for the first 10 minutes of each question time.

6. Questions

Questions without Notice were taken.

Questions on Notice Nos 243 to 246 were asked.

7. Personal Explanation

The Minister for Health made a personal explanation on the sale of his shares in Eastland Medical Systems.

8. Additional Information under Standing Order No. 82A

In accordance with Standing Order No. 82A, the Minister for Education provided additional information relating to a question without notice from Mrs M.H. Roberts in relation to the correct time the Minister was informed by the Department of Education of the alleged assaults of two primary school children in the northern suburbs.

9. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

10. Address in Reply

The Order of the Day for the resumption of debate upon the Address in Reply to His Excellency the Governor's speech was read.

Debate resumed.

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

Question put and passed.

11. Message from the Legislative Council

Message No. 1 dated 12 November 2008 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has passed the following resolution and invites the Legislative Assembly to concur with the resolution -

That the Legislative Assembly be invited to agree to the rules and orders of the Legislative Council contained in the schedule for the constitution, powers and procedure of a Joint Standing Committee on Delegated Legislation.

SCHEDULE

3. Joint Standing Committee on Delegated Legislation

- 1 *A Joint Delegated Legislation Committee is established.*
- 2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chairman must be a Member of the Committee who supports the Government.
- 3 A quorum is 4 Members of whom at least 1 is a Member of the Council and 1 a Member of the Assembly.
- 4 A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.
- 5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.
- 6 In its consideration of an instrument, the Committee is to inquire whether the instrument -
 - (a) is authorized or contemplated by the empowering enactment;
 - (b) has an adverse effect on existing rights, interests, or legitimate expectations beyond giving effect to a purpose authorized or contemplated by the empowering enactment;
 - (c) ousts or modifies the rules of fairness;
 - (d) deprives a person aggrieved by a decision of the ability to obtain review of the merits of that decision or seek judicial review;

- (e) imposes terms and conditions regulating any review that would be likely to cause the review to be illusory or impracticable; or
- (f) contains provisions that, for any reason, would be more appropriately contained in an Act.

7 In this clause -

“adverse effect” includes abrogation, deprivation, extinguishment, diminution, and a compulsory acquisition, transfer, or assignment;

“instrument” means -

- (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
- (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;

“subsidiary legislation” has the meaning given to it by section 5 of the *Interpretation Act 1984*.

Ordered, That consideration in detail of Legislative Council Message No. 1 be made an Order of the Day for a later stage of the sitting.

12. Suspension of Standing Orders

The Leader of the House, without notice, moved,

That so much of the Standing Orders be suspended as is necessary to enable the motions for the establishment of standing committees, a sessional committee and the joint standing committee on the Commissioner for Children and Young People and also the consideration of Legislative Council Message No. 1 to be moved forthwith.

Debate ensued.

Question put.

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, the motion was declared by the Speaker to be carried with the concurrence of an absolute majority of the whole number of members of the House.

13. Legislative Assembly Standing Committees

The Leader of the House, pursuant to the foregoing motion, moved,

That for the present Parliament –

- (1) The Procedure and Privileges Committee consist of the Speaker, the Deputy Speaker and the members for Cockburn, Rockingham, and Swan Hills.
- (2) The Public Accounts Committee consist of the members for Balcatta, Carine, Gosnells, Jandakot and Willagee.
- (3) The Community Development and Justice Standing Committee consist of the members for Armadale, Joondalup, Morley, Ocean Reef and Pilbara.
- (4) The Economics and Industry Standing Committee consist of the members for Cannington, Collie-Preston, Riverton, Scarborough and South Perth.
- (5) The Education and Health Standing Committee consist of the members for Albany, Alfred Cove, Fremantle, Geraldton and Southern River.

Debate ensued.

Question put and passed.

14. Parliamentary Services Committee

The Leader of the House, pursuant to the foregoing motion, moved,

That –

- (1) For the present Session, the Parliamentary Services Committee consist of the Speaker and the members for Darling Range, Forrestfield, Geraldton, Maylands; and Kimberley; and
- (2) That the Legislative Council be acquainted accordingly.

Question put and passed.

15. Joint Standing Committee on the Corruption and Crime Commission

The Leader of the House, pursuant to the foregoing motion, moved,

That –

- (1) For the present Parliament, in accordance with Legislative Assembly Standing Orders 289 to 293, a Joint Standing Committee on the Corruption and Crime Commission be appointed by the Legislative Assembly and the Legislative Council; and
- (2) The Legislative Assembly requests the Legislative Council to agree to a similar resolution.

Question put and passed.

16. Joint Standing Committee on the Commissioner for Children and Young People

The Leader of the House, pursuant to the foregoing motion, moved,

- (1) That for the present Parliament –

- (a) pursuant to section 51 of the Commissioner for Children and Young People Act 2006, a Joint Standing Committee on the Commissioner for Children and Young People be appointed by the Legislative Assembly and the Legislative Council.
 - (b) The Joint Standing Committee shall comprise 2 members appointed by the Legislative Assembly and 2 members appointed by the Legislative Council.
 - (c) It is the function of the Joint Standing Committee to —
 - (i) monitor, review and report to Parliament on the exercise of the functions of the Commissioner for Children and Young People;
 - (ii) to examine Annual and other Reports of the Commissioner; and
 - (iii) to consult regularly with the Commissioner.
 - (d) A report of the Joint Standing Committee will be presented to the Legislative Assembly and the Legislative Council by members of the Joint Standing Committee nominated by it for that purpose.
 - (e) The Standing Orders of the Legislative Assembly relating to Standing and Select Committees will be followed as far as they can be applied; and
- (2) That the Legislative Assembly requests the Legislative Council to agree to a similar resolution.

Question put and passed.

17. Joint Standing Committee on Delegated Legislation

The Leader of the House, pursuant to the foregoing motion, moved,

That –

- (1) The terms contained in Legislative Council Message No. 1 for the establishment of the Joint Standing Committee on Delegated Legislation be agreed to; and
- (2) The members for Forrestfield, Jandakot, Nollamara and Wanneroo be appointed as members of the Committee.

Question put and passed. And the Legislative Council acquainted accordingly.

18. Minerals Sands (Eneabba) Agreement Amendment Bill 2008

Message No. 2 dated 13 November 2008 from the Legislative Council was reported forwarding for concurrence a bill entitled a bill for “An Act to amend the *Mineral Sands (Eneabba) Agreement Act 1975*.”

Ordered, That the first reading of the bill be made an Order of the Day for the next sitting of the Assembly.

19. Suspension of Standing Orders

Mrs M.H. Roberts, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be moved forthwith –

The Minister for Education to explain when and in what circumstances the Minister became aware of the events that allegedly took place near a northern suburbs school and whether or not she has misled the House.

Debate ensued.

Question put.

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, the motion was declared by the Speaker to be carried with the concurrence of an absolute majority of the whole number of members of the House.

20. Alleged Assaults on Students Incident

Mrs M.H. Roberts, pursuant to the foregoing motion, moved,

The Minister for Education to explain when and in what circumstances the Minister became aware of the events that allegedly took place near a northern suburbs school and whether or not she has misled the House.

Debate ensued.

The Minister for Education provided an explanation.

21. Paper

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

By the Clerk –

Public Trustee Act 1941 – Public Trustee’s Scale of Fees (G.G. 24/06/2008) (414).

22. Special Adjournment

The Leader of the House moved, That the House at its rising adjourn until Tuesday, 25 November 2008 at 2.00 p.m.

Question put and passed.

23. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly, at 4.23 p.m. until Tuesday, 25 November 2008 at 2.00 p.m.

Members present during any part of the day's proceedings - All the members were present.

PETER J. McHUGH
Clerk of the Legislative Assembly

HON. GRANT WOODHAMS
Speaker of the Legislative Assembly