

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 250

WEDNESDAY, 28 NOVEMBER 2012

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

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

2. President's Ruling — Standing Committee on Estimates and Financial Operations — Report No. 37 — Report in relation to a possible contempt regarding summonses to produce documents issued pursuant to Section 5 of the *Parliamentary Privileges Act 1891*

The President ruled as follows —

During proceedings yesterday the Chair of the Standing Committee on Estimates and Financial Operations tabled the Committee's thirty-seventh report in the House. The report advises the House of a possible contempt of the Council by a witness arising from the failure to produce documents pursuant to summons issued by the Committee. Further to my advice to the House yesterday, I have considered the report in the context of Standing Order 92, which deals with matters of privilege. In particular, Standing Order 92(5) provides that, upon a matter of privilege being raised in the House, the President shall determine whether "*there is some substance to the matter*" and, if so, "*refer the matter to the Procedure and Privileges Committee for inquiry and report to the Council*".

The question as to whether "*some substance*" exists in relation to a particular matter requires the President to make a preliminary assessment. This preliminary assessment exists to provide an initial threshold in relation to such matters. As prescribed in Schedule 4 to the Standing Orders, which deals with contempts of the Council, the House has declared that it will not pursue "*matters of a trivial nature or unworthy of the attention of the Council*". The assessment required of the President under Standing Order 92(5) is whether the relevant matter falls into this category, and therefore should not be considered further. Importantly, Standing Order 92(5) does not require the President to inquire into an alleged contempt beyond that necessary to determine that initial assessment. A thorough inquiry into and assessment of the relevant facts of the matter, and any recommended action for the House, is undertaken by the Standing Committee on Procedure and Privileges.

After reviewing the Estimates and Financial Operations Committee's report, I do not consider the matters raised to be trivial or unworthy of the attention of the Council. Accordingly, I rule that the Committee's report thirty-seven stand referred to the Procedure and Privileges Committee for its inquiry and report to the House.

3. Statement by President — Charles Broadbent — Artwork

The President made the following Statement —

I wish to inform Members that yesterday the Speaker and I joined Mr Charles Broadbent, who comes from Busselton, in unveiling a significant piece of art in the Forrest Foyer. The artistic piece in the shape of a leaf and gumnut incorporates some wood from the lemon-scented gum, which was a prominent feature at the front of Parliament House for many years, together with several other timbers that would have grown naturally on this site in the past. Mr Broadbent has produced an outstanding piece of art that will adorn the walls of Parliament House for many years to come. It reflects an important part of our history and the natural heritage of this site. I wish to record my thanks and congratulations to Mr Charles Broadbent and recommend the artwork to Members and visitors.

4. Distinguished Visitors — Perth Flying Squadron Yacht Club

The President drew attention to the presence in the gallery of Ms Helen Moore and Ms Elizabeth Rumball from the Perth Flying Squadron Yacht Club, and, on behalf of Honourable Members, extended a warm welcome to them.

5. Petition

Hon Lynn MacLaren presented a petition from 90 petitioners requesting the Legislative Council recommend that the Minister for Transport take measures to improve the efficiency and sustainability of public transport in the southern corridor of Perth. (Tabled Paper 5424).

6. Ministerial Statement — Local Content Report

The Minister for Commerce made a Ministerial Statement with respect to the fourth Local Content Report.

The Minister for Commerce tabled the *Local Content Report* by the Department of Commerce. (Tabled Paper 5425).

7. Ministerial Statement — Great Bike Hike

The Minister for Disability Services made a Ministerial Statement with respect to the Great Bike Hike.

8. Ministerial Statement — Council of Official Visitors

The Minister for Mental Health made a Ministerial Statement with respect to the annual report of the Council of Official Visitors.

The Minister for Mental Health tabled the *Council of Official Visitors Annual Report 2011–12*. (Tabled Paper 5426).

9. Ministerial Statement — Rangelands Reform Program

The Parliamentary Secretary representing the Minister for Regional Development made a Ministerial Statement with respect to the Rangelands Reform Program.

10. Paper

The following Paper was laid on the Table by —

Leader of the House

Report —

Ministerial Resourcing Report — Quarterly Report as at 25 October 2012..... 5423

11. Order of Business

Ordered — That Orders of the Day Nos 1, *Submission No. 13/2012 — Amendment to Class A Reserve 8485 and Cancellation of Class A Reserve 28535 — Disallowance*, 2, *City of Vincent Dogs Amendment Local Law No. 2, 2012 — Disallowance*, 3, *Metropolitan Region Scheme Amendment No. 1218/41 — Keralup Stage 1 — Disallowance*, 4, *City of Subiaco Meeting Procedures Local Law 2012 — Disallowance*, 5, *Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban*

Precinct — Disallowance, 6, Metropolitan Region Scheme Amendment No. 1221/41 — Banjup Urban Precinct — Disallowance, and 8, City of Nedlands Parking and Parking Facilities Local Law 2012 — Disallowance, be taken after Order of the Day No. 11, Integrity (Lobbyists) Bill 2011. (Leader of the House).

12. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

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

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 4.

Debate resumed on the amendment of Hon Philip Gardiner as follows —

Page 3, line 9 — To delete “is” and insert —

can be

Hon Philip Gardiner, by leave, withdrew his amendment.

Debate resumed.

Hon Giz Watson moved —

Page 7, after line 15 — To insert —

(5A) In deciding whether to make an order under subsection (5) the court must have regard to the following —

- (a) the offender’s means to satisfy any such order having regard to —
 - (i) the offender’s income, assets and liabilities; and
 - (ii) the offender’s current and prospective employment;
- (b) the extent to which the offender is likely to be able to satisfy any such order within a reasonable time; and
- (c) the age of the offender and the impact of the order on the future of the offender.

Debate ensued.

Question — put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
 Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford

Hon Lynn MacLaren
 Hon Ljiljanna Ravlich
 Hon Linda Savage
 Hon Giz Watson
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

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Noes (18)

Hon Liz Behjat
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Philip Gardiner
Hon Nick Goiran
Hon Nigel Hallett

Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

Clause 5.

Debate ensued.

Clause agreed to.

Clause 6 agreed to.

Clause 7.

Debate ensued.

The Attorney General representing the Minister for Police moved, That the Chair report progress and seek to sit again at a later stage of this day's sitting.

Question — put and passed.

The Deputy President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again at a later stage of this day's sitting.

Ordered — That the Committee of the Whole House sit again at a later stage of this day's sitting.

13. Questions Without Notice

Questions without notice were taken.

The Minister for Finance tabled documents in relation to financial details of the head contracts for the Building the Education Revolution Projects, in response to question on notice No. 6349 asked by Hon Kate Doust. (Tabled Paper 5427).

14. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Standing Committee on Estimates and Financial Operations — Report No. 36 — 2011/12 Annual Report Hearings — Comments Regarding the Police Commissioner's Evidence

Debate resumed on the motion of Hon Ken Travers, That the Report be noted.

Question — put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Report No. 31 — Surveillance and Accountability: A Gap in the Oversight Umbrella?

Hon Nick Goiran moved, That the Report be noted.

Question — put and passed.

Standing Committee on Public Administration — Report No. 16 — Public Discussion Paper: Public Sector Reform

Hon Max Trenorden moved, That the Report be noted.

Debate ensued.

Question — put and passed.

Joint Standing Committee on the Corruption and Crime Commission — Report No. 32 — How the Corruption and Crime Commission Handles Allegations and Notifications of Police Misconduct

Hon Nick Goiran moved, That the Report be noted.

Question — put and passed.

Joint Standing Committee on the Commissioner for Children and Young People — Report No. 11 — A Review of the Exercise of the Functions of the Commissioner for Children and Young People

Hon Linda Savage moved, That the Report be noted.

Interruption pursuant to order.

The Deputy President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Standing Committee on Estimates and Financial Operations — Report No. 36 — 2011/12 Annual Report Hearings — Comments Regarding the Police Commissioner's Evidence and had noted same;
- (2) Joint Standing Committee on the Corruption and Crime Commission — Report No. 31 — Surveillance and Accountability: A Gap in the Oversight Umbrella? and had noted same;
- (3) Standing Committee on Public Administration — Report No. 16 — Public Discussion Paper: Public Sector Reform and had noted same;
- (4) Joint Standing Committee on the Corruption and Crime Commission — Report No. 32 — How the Corruption and Crime Commission Handles Allegations and Notifications of Police Misconduct and had noted same; and
- (5) Joint Standing Committee on the Commissioner for Children and Young People — Report No. 11 — A Review of the Exercise of the Functions of the Commissioner for Children and Young People, made progress, and seeks to sit again.

Report adopted.

15. Order of Business

Ordered — That Order of the Day No. 13, *Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012*, be taken forthwith. (Leader of the House).

16. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

Resumption of consideration of this Bill in Committee of the Whole House (*see item 12 above*).

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 7.

Debate resumed.

Hon Giz Watson moved —

Page 9, line 6 — To delete the line and insert —

gathering; and

- (c) the exercise of the powers is reasonable under consideration of all available circumstances of the threat,

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (12)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina

Hon Jon Ford
Hon Lynn MacLaren
Hon Ljiljanna Ravlich
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (17)

Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Philip Gardiner
Hon Nick Goiran

Hon Alyssa Hayden
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Hon Giz Watson moved —

Page 12, line 26 — To insert after “the person” —

without reasonable excuse

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (12)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina

Hon Jon Ford
Hon Lynn MacLaren
Hon Ljiljanna Ravlich
Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

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Noes (17)

Hon Liz Behjat
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Philip Gardiner
Hon Alyssa Hayden

Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Amendment thus negatived.

Debate resumed.

Question, That the clause stand as printed — put and passed.

Clause 8 agreed to.

Clause 9 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

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

The Deputy President having reported that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Debate ensued.

Question — put.

The Council divided.

Ayes (27)

Hon Liz Behjat
Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Ed Dermer
Hon Kate Doust
Hon Wendy Duncan
Hon Phil Edman
Hon Sue Ellery
Hon Brian Ellis
Hon Adele Farina
Hon Jon Ford

Hon Philip Gardiner
Hon Nick Goiran
Hon Nigel Hallett
Hon Alyssa Hayden
Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Ljiljana Ravlich
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Noes (3)

Hon Robin Chapple
Hon Giz Watson

Hon Lynn MacLaren (*Teller*)

Question thus passed.

Bill read a third time and passed.

17. Order of Business

Ordered — That Order of the Day No. 12, *Trans-Tasman Mutual Recognition (Western Australia) Amendment Bill 2012*, be taken forthwith. (Leader of the House).

18. Trans-Tasman Mutual Recognition (Western Australia) Amendment Bill 2012

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

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 7 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Leader of the House representing the Premier moved, That the Bill be read a third time.

The Deputy President having reported that the Deputy Chair of Committees had certified that this was a true copy of the Bill as agreed to in Committee of the Whole House and reported.

Question — put and passed.

Bill read a third time and passed.

19. Standing Committee on Estimates and Financial Operations — Report No. 39 — The Government's Efficiency Dividend and the 2012/13 Budget

Hon Giz Watson presented Report No. 39 of the Standing Committee on Estimates and Financial Operations in relation to *The Government's Efficiency Dividend and the 2012/13 Budget*. (Tabled Paper 5428).

20. Order of Business

Ordered — That Order of the Day No. 19, *Road Traffic (Miscellaneous Amendments) Bill 2012*, be taken forthwith. (Leader of the House).

21. Road Traffic (Miscellaneous Amendments) Bill 2012

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

Debate resumed.

Interruption pursuant to order.

22. Members' Statements

Statements were taken.

Hon Alyssa Hayden, by leave, tabled a report entitled *Compulsory Voting — Does it keep the community at large more connected? Have First World countries forgotten the value of the vote?* (Tabled Paper 5429).

23. Adjournment

The Council adjourned at 10.02 pm until Thursday, 29 November 2012 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher (leave of absence) and Hon Sally Talbot.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council