

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 179

THURSDAY, 24 MARCH 2016

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

2. Statement by President — Standing Committee on Legislation — Substitution of Committee Members

The President made the following Statement —

I have a letter addressed to me as follows —

Dear Mr President

I am writing to you in relation to the Committee's inquiry into the *Pilbara Ports Assets (Disposal) Bill 2015* referred to the Committee on 22 March 2016.

The Committee met on 23 March 2016 and, pursuant to Standing Order 163, resolved to order the substitution of the following Members as a Member of the Committee for the duration of this inquiry:

- Hon Robin Chapple MLC in place of the Hon Lynn MacLaren MLC; and
- Hon Ken Travers MLC in place of the Hon Sally Talbot MLC.

Yours sincerely

Hon Robyn McSweeney MLC

Chair

3. Statement by President — Standing Committee on Procedure and Privileges — Substitution of Committee Member

The President made the following Statement —

I have a letter addressed to me as follows —

Dear Mr President

I am writing to you in relation to the *Procedure and Privileges Committee's* inquiry into the *Referral of a Matter of Privilege* referred to the Committee on 22 March 2016.

The Committee met on 23 March 2016 and, pursuant to Standing Order 163, resolved to order the substitution of Hon Sue Ellery MLC in place of the Hon Kate Doust as a Member of the Committee for the duration of the inquiry.

Yours sincerely

Hon Barry House MLC

Chair

4. Petition

Hon Paul Brown presented a petition from 180 petitioners requesting the Legislative Council to support the maintenance of the current Crown lease arrangements covering the Point Moore area. (Tabled Paper 3974).

5. Standing Committee on Procedure and Privileges — Report No. 38 — Referral of a Matter of Privilege raised by Hon Sue Ellery MLC — Terms of Reference

The President presented Report No. 38 of the Standing Committee on Procedure and Privileges, *Referral of a Matter of Privilege raised by Hon Sue Ellery MLC — Terms of Reference*. (Tabled Paper 3975).

6. Papers

The following Papers were laid on the Table by —

Leader of the House

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Minister for Mental Health

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7. **Albany Cemetery Board By-laws Amendment 2015 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Albany Cemetery Board By-laws Amendment 2015* published in the *Gazette* on 1 December 2015 and tabled in the Legislative Council on 17 February 2016 under the *Cemeteries Act 1986*, be and is hereby disallowed. (Tabled paper No. 3783).

8. **Shire of Kellerberrin Dogs Local Law 2016 — Disallowance**

Hon Robin Chapple: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Kellerberrin Dogs Local Law 2016* published in the *Gazette* on 19 January 2016 and tabled in the Legislative Council on 17 February 2016 under the *Dog Act 1976*, be and is hereby disallowed. (Tabled paper No. 3786).

9. **Agriculture in Western Australia**

Non-Government Business No. 1 having been called, Hon Ken Travers moved, without notice —

That this House condemns the Liberal-National Government for —

- (a) dropping the ball on agriculture and in particular, the cuts, waste, lack of direction, poor leadership and staff freezes; and
- (b) putting at risk our biosecurity and the future of agriculture in Western Australia.

Debate ensued.

Point of Order

Hon Sue Ellery raised the following Point of Order —

Hon Helen Morton just said probably some of the most offensive personal comments I have heard by way of interjection when she said, “You would know”, in respect of Hon Darren West about dysfunctional farming families. I am asking you, Mr President, to ask the Member to withdraw those comments. They are offensive and absolutely unnecessary.

President’s Ruling

The President ruled as follows —

In this case, the tone of the words may well have been offensive, but the Member who was making the comments had already referred to that situation and admitted that he knew what it was like to be involved in a difficult family farming environment. It is not a point of order but, as a general courtesy, if somebody takes offence at a reference such as this, the Member who made that reference is invited to withdraw. Does the Minister for Mental Health wish to say anything?

Hon Helen Morton withdrew her remark.

Debate resumed.

Motion lapsed.

10. **Western Australia’s relationship with India**

Private Members’ Business No. 1 having been called, Hon Liz Behjat moved, without notice —

That the Legislative Council of the Parliament of Western Australia acknowledges the increasing significance of Western Australia’s relationship with India, with particular regard to —

- (a) technology and innovation;
- (b) education and training;
- (c) tourism and hospitality; and
- (d) sport.

Further we encourage the Barnett Government to pursue all steps to continue to foster this important relationship.

Debate ensued.

Motion lapsed.

11. Order of Business

Ordered — That Order of the Day No. 1, *Mental Health Regulations 2015 – Disallowance*, be taken after Order of the Day No. 11, *Genetically Modified Crops Free Areas Repeal Bill 2015*. (Leader of the House).

12. Select Committee into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc) — Interim Report — Extension of Time

The Order of the Day having been read, debate ensued on the motion of Hon Rick Mazza as follows —

That the reporting date for the Select Committee's inquiry into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australia (Inc) be extended from 6 April 2016 to no later than 19 May 2016.

Point of Order

Hon Rick Mazza raised the following Point of Order —

Under Standing Order 177, I think the Member has drifted into some of the deliberations that we had. This report for an extension of time was, of itself, a deliberation of the committee. I think she has drifted into that, Mr President.

President's Ruling

The President ruled as follows —

It is a valid point of order. The Member on her feet must refrain from making any reference to any of those deliberations.

Debate resumed.

Question — put.

The Council divided.

Ayes (20)

Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Dave Grills
 Hon Nigel Hallett

Hon Alyssa Hayden
 Hon Col Holt
 Hon Peter Katsambanis
 Hon Mark Lewis
 Hon Rick Mazza
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Brian Ellis (*Teller*)

Noes (11)

Hon Robin Chapple
 Hon Stephen Dawson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Lynn MacLaren
 Hon Martin Pritchard

Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Ken Travers
 Hon Darren West
 Hon Samantha Rowe (*Teller*)

Question thus passed.

Motion agreed to.

13. Dangerous Sexual Offenders Legislation Amendment Bill 2015

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 Liz Behjat in the Chair)

Clause 17.

Debate resumed on the amendment of Hon Adele Farina as follows —

Page 15, after line 19 — To insert —

- (4) A court may only make an order under subsection (1)(b) if the court is satisfied that the offender will comply with the conditions stated in the order.
- (5) The offender has the onus of satisfying the court as described in subsection (4) and the court has to be satisfied —
 - (a) by acceptable and cogent evidence; and
 - (b) to a high degree of probability.
- (6) In deciding whether to make an order under subsection (1)(b), the court must disregard the fact that the person will be subject to electronic monitoring if an order under subsection (1)(b) is made.

14. Questions Without Notice

Questions without notice were taken.

The Minister for Education tabled documents in relation to the total number of transportable classrooms in Western Australian schools as at 31 December 2015, in response to a question without notice asked by Hon Sue Ellery. (Tabled Paper 3976).

The Parliamentary Secretary to the Minister for Health tabled documents in relation to Port Hedland Air Quality Health Risk Assessment for Particulate Matter, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 3977).

The Minister for Education tabled documents in relation to Student Centred Funding Model (SCFM) budget for each public school in 2016, in response to a question without notice asked by Hon Sue Ellery. (Tabled Paper 3978).

The Minister for Mental Health, by leave incorporated into *Hansard*, information in relation to the proposed sale of Fremantle Port to promote the expansion of the live export industry, in response to a question without notice asked by Hon Lynn MacLaren.

The Minister for Mental Health tabled documents in relation to mental health patients held in emergency departments for more than 24 hours from 1 July 2015 to 30 December 2015, in response to question on notice No. 3791 asked by Hon Stephen Dawson. (Tabled Paper 3979).

The Attorney General, by leave incorporated into *Hansard*, information in relation to requests for approval for exemptions from the public sector recruitment freeze lodged by the Attorney General, in response to a question without notice asked by Hon Sally Talbot.

The Parliamentary Secretary to the Minister for Transport, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 3816 asked by Hon Darren West will be provided on 5 April 2016.

The Parliamentary Secretary to the Minister for Transport, by leave incorporated into *Hansard*, information in relation to proposed changes to the taxi industry announced in December 2015, in response to a question without notice asked by Hon Alanna Clohesy.

15. Dangerous Sexual Offenders Legislation Amendment Bill 2015

Resumption of consideration of this Bill in Committee of the Whole House (*see item 13 above*).
The President left the Chair.

In Committee

(Hon Liz Behjat in the Chair)

Clause 17.

Debate resumed on the amendment of Hon Adele Farina as follows —

Page 15, after line 19 — To insert —

- (4) A court may only make an order under subsection (1)(b) if the court is satisfied that the offender will comply with the conditions stated in the order.
- (5) The offender has the onus of satisfying the court as described in subsection (4) and the court has to be satisfied —
 - (a) by acceptable and cogent evidence; and
 - (b) to a high degree of probability.
- (6) In deciding whether to make an order under subsection (1)(b), the court must disregard the fact that the person will be subject to electronic monitoring if an order under subsection (1)(b) is made.

The Attorney General 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.

16. Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Amendment Bill 2016

The President reported the receipt of Message No. 144 from the Legislative Assembly forwarding the Bill for concurrence.

The Attorney General on behalf of 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 Attorney General on behalf of the Minister for Mental Health representing the Treasurer moved, That the Bill be read a second time.

The Attorney General on behalf of the Minister for Mental Health representing the Treasurer tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3980).

Debate stands adjourned.

17. Order of Business

Ordered — That Members' Statements, be taken forthwith. (Leader of the House).

18. Adjournment

There being no Members' Statements, the Council adjourned at 5.15pm until Tuesday, 5 April 2016 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Phil Edman.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council