

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 41

WEDNESDAY, 27 NOVEMBER 2013

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**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. Statement by President — Appointment of Clerk of the Legislative Council**

The President made the following Statement —

Following the announcement by the Clerk, Mr Malcolm Peacock, that due to his poor health he had made a decision to retire from the position of Clerk of the Legislative Council and Clerk of the Parliaments, the position was advertised on 21 October 2013. A selection panel comprising of myself, a former President of the Legislative Council, and a Legislative Council Clerk from another Australian Parliament interviewed several high quality candidates on 22 November 2013. Over the past few days I have reflected on the deliberations of the panel and personally undertaken reference checks on preferred candidates. After careful consideration I contacted the Governor, the Honourable Malcolm McCusker, to recommend the appointment of a new Clerk.

I am delighted to advise that following discussions yesterday with the Governor, I intend to formally recommend to His Excellency the appointment of Mr Nigel Pratt to the position of Clerk of the Legislative Council and Clerk of the Parliaments.

Mr Pratt is a highly regarded professional who is currently appointed as the Deputy Clerk of the Legislative Council of Tasmania, a position he has held since October 2007. He brings more than 14 years of Parliamentary experience, including nine years with the Legislative Council of Western Australia and almost a decade as a private practice solicitor. Mr Pratt is well credentialed and holds the following qualifications: a Bachelor of Laws, University of Western Australia (1990), Bachelor of Jurisprudence, University of Western Australian (1989) and a Bachelor of Arts, University of Western Australia (1986).

Mr Pratt's appointment will take effect upon the confirmation by the Governor and he is expected to formally take up the position of Clerk of the Legislative Council and Clerk of the Parliaments prior to the commencement of the 2014 Legislative Council sittings.

Until such time as Mr Pratt takes up his commission Mr Nigel Lake will continue as Acting Clerk.

### 3. Papers

The following Papers were laid on the Table by —

#### Leader of the House

##### *Reports -*

Remuneration of Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission (22 November 2013) (Date received 26/11/2013) ..... 1048

#### Attorney General

##### *Annual Reports -*

State Coroner, Office of the (2012-2013) (Date received 26/11/2013)..... 1049

##### *Rules -*

Criminal Procedure Act 2004 (Criminal Procedure Amendment Rules (No. 2) 2013 G.G. 19/11/2013)..... 1050

#### Minister for Agriculture and Food

##### *Regulations -*

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 8) 2013 G.G. 19/11/2013) ..... 1051

#### Parliamentary Secretary representing the Minister for Health

##### *Regulations -*

Health Act 1911 (Health (Pesticides) Amendment Regulations 2013 G.G. 19/11/2013) ..... 1052

Hospitals and Health Services Act 1927 (Hospitals (Services Charges) Amendment Regulations (No. 6) 2013 G.G. 19/11/2013) ..... 1053

### 4. Metropolitan Region Scheme Amendment 1225/41 – Upper Swan Urban Precinct — 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 *Metropolitan Region Scheme Amendment 1225/41 – Upper Swan Urban Precinct* published in the *Gazette* on 24 September 2013 and tabled in the Legislative Council on 15 October 2013 under the *Planning and Development Act 2005*, be and is hereby disallowed.

### 5. Recreational Hunting Systems

Motion No. 1 having been called for the adjourned debate on the amendment of Hon Helen Morton, as follows —

- (1) In paragraph (b)(i) to delete “*Environment and Public Affairs Committee*” and insert —

*Public Administration Committee*

- (2) In paragraph (b)(i) to delete “26 June 2014” and insert —

4 December 2014

- (3) In paragraph (b)(ii) to delete “*Environment and Public Affairs Committee*” and insert —

*Public Administration Committee*

to the motion of Hon Rick Mazza as follows –

That the Council —

- (a) acknowledges the use in other States of regulated, licensed recreational hunting systems and the potential environmental contribution made in controlling pest animals on public lands, together with the possible economic, cultural and recreational benefits to the community; and
- (b) directs that —
  - (i) the *Environment and Public Affairs Committee* inquire into the benefits or otherwise of a similar system being adopted in Western Australia and report back to the House by 26 June 2014; and
  - (ii) Hon Rick Mazza be co-opted as a member to the *Environment and Public Affairs Committee* for the purposes of the foregoing inquiry.

Debate resumed.

*Point of Order*

Hon Liz Behjat raised the following Point of Order —

Mr President, I am not sure that it is actually prudent for the Member on his feet to actually bring into the House matters that are private discussions held outside this chamber, and I would seek your guidance in that regard. The conversation was with me, Mr President.

*President's Ruling*

The President ruled as follows —

Yes. It is a standard practice that conversations involving any committee deliberations are not public knowledge, as, therefore, is the information of the people participating in those conversations. Members do always need to be careful about crossing the boundaries of what is a conversation within a committee context, whether it is actually formally within that committee structure or about committee business between Members.

Debate resumed.

Amendment — put and passed.

Debate resumed.

Motion, as amended, agreed to.

## **6. Liberal Party — Election Claims**

Motion No. 2 having been called, Hon Ken Travers, pursuant to notice, moved —

That the Legislative Council condemns Premier Barnett and the Liberal Party for misleading the people of Western Australia during the March 2013 State Election, when they claimed they had a “fully funded, fully costed” plan for Western Australia.

*Interruption pursuant to order.*

## **7. Consideration of Committee Reports**

Pursuant to order for the consideration of Committee Reports.

### **In Committee**

(Hon Alanna Clohesy in the Chair)

## **Joint Standing Committee on the Commissioner for Children and Young People — Report No. 1 — 2012-2013 Annual Report**

Hon Sally Talbot moved, That the Report be noted.

## 8. Questions Without Notice

Questions without notice were taken.

The Minister for Education, by leave incorporated into Hansard, an answer in tabular format in relation to the school support program resource allocation, in response to a question without notice asked by Hon Sally Talbot.

The Minister for Education, by leave incorporated into Hansard, an answer in tabular format in relation to the school support program resource allocation, in response to a question without notice asked by Hon Amber-Jade Sanderson.

## 9. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports (*see item 7 above*).

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### In Committee

(Hon Simon O'Brien in the Chair)

#### Joint Standing Committee on the Commissioner for Children and Young People — Report No. 1 — 2012-2013 Annual Report

Continuation of remarks of Hon Sally Talbot in moving, That the Report be noted.

Debate ensued.

On the motion of Hon Liz Behjat debate was adjourned to the next sitting.

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The President resumed the Chair.

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

Joint Standing Committee on the Commissioner for Children and Young People — Report No. 1 — 2012-2013 Annual Report, made progress, and seeks to sit again.

Report adopted.

## 10. Order of Business

Ordered — That Bills for Introduction be taken forthwith. (Leader of the House).

### 11. Criminal Code Amendment (Child Sex Offences) Bill 2013

The Leader of the House on behalf of the Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend *The Criminal Code*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Attorney General moved, That the Bill be read a second time.

The Leader of the House on behalf of the Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1054).

Debate stands adjourned.

## 12. Order of Business

Ordered — That Bills for Introduction No. 4, *Warehousemen's Liens Amendment Bill 2013*, be taken before Bills for Introduction No. 3, *Criminal Code Amendment (Unlawful Possession) Bill 2013*. (Leader of the House).

### 13. Warehousemen's Liens Amendment Bill 2013

The Leader of the House on behalf of the Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend the *Warehousemen's Liens Act 1952*.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Attorney General moved, That the Bill be read a second time.

The Leader of the House on behalf of the Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1055).

Debate stands adjourned.

#### **14. Criminal Code Amendment (Unlawful Possession) Bill 2013**

The Leader of the House on behalf of the Attorney General, pursuant to notice, moved —

That a Bill for “An Act to amend *The Criminal Code* and to amend various other Acts as a consequence.” be introduced and read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House on behalf of the Attorney General moved, That the Bill be read a second time.

The Leader of the House on behalf of the Attorney General tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 1056).

Debate stands adjourned.

#### **15. Order of Business**

Ordered — That Orders of the Day Nos 1, *Shire of Dundas Activities on Thoroughfares and Public Places and Trading Local Law 2013*, and 2, *Lotteries Commission (Internet Entries) Amendment Rules 2013*, be taken after Order of the Day No. 6, *Consumer Protection Legislation Amendment Bill 2013*. (Leader of the House).

#### **16. Standing Committee on Procedure and Privileges – Report No. 28 – Further Review of the Standing Orders (No. 2)**

The Order of the Day having been read for the further consideration, in Committee of the Whole House, on the motion of the Deputy President, as amended by the Leader of the House, as follows –

- (1) That Report No. 28 of the Standing Committee on Procedure and Privileges in relation to the *Further Review of the Standing Orders (No. 2)* be noted.
- (2) That, in relation to the recommended amendments to the Standing Orders, the House adopts —
  - (a) Recommendation 3;
  - (b) Recommendation 6;
  - (c) Recommendation 8;
  - (d) Recommendation 10;
  - (e) Recommendation 11;
  - (f) Recommendation 12;
  - (g) Recommendation 13;
  - (h) Recommendation 14;
  - (i) Recommendation 1;
  - (j) Recommendation 2;
  - (k) Recommendation 4;
  - (l) Recommendation 5;
  - (m) Recommendation 7;
  - (n) Recommendation 9; and
  - (o) Recommendation 15.
- (3) That the Clerk be authorised to make further clerical amendments, as required, to the Standing Orders adopted by the House.

The President left the Chair.

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**In Committee**  
(President in the Chair)

Amendment (2)(i).

Hon Kate Doust moved —

That Recommendation 1 be amended as follows —

- (1) To delete “and Budget Debate (SO 68)”.
- (2) To insert after the last line of the inserted text —

**Budget Debate (SO 68)**

Mover	unlimited
Lead Member (Government or Opposition)	unlimited
Party Leader or Member deputed	unlimited
Other Members	60 minutes
Mover-in-Reply	unlimited

Debate ensued.

Amendment — put and passed.

Question — That Recommendation 1, as amended, be agreed to — put and passed.

Amendment (2)(j) — put and negatived.

Amendment (2)(k).

Hon Kate Doust moved —

That Recommendation 4 be amended as follows —

In line 2 of the text to be inserted — To delete “of the relevant Committee”.

Amendment — put and passed.

Question — That Recommendation 4, as amended, be agreed to — put and passed.

Amendment (2)(l) — put and passed.

Amendment (2)(m) — put and passed.

Amendment (2)(n) — put and passed.

Amendment (2)(o) —

Hon Kate Doust moved —

That Recommendation 15 be amended as follows —

To delete subsection (2) of the recommendation and insert —

- (2) When a motion is moved under (1), no debate shall ensue at that time, and the debate shall be adjourned until a later stage of the sitting.

Amendment — put and passed.

Question — That Recommendation 15, as amended, be agreed to — put and passed.

Amendment (3) — put and passed.

Question — That the motion, as amended, be agreed to — put and passed.

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The Acting President resumed the Chair.

Question — That the report be adopted.

Report adopted.

# **17. Electricity Corporations Amendment Bill 2013**

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

Debate resumed.

## *Point of Order*

Minister for Mental Health raised the following Point of Order —

I believe that the Member is alluding to a debate in the Assembly and under Standing Order 41 that is not allowed.

## *Acting President's Ruling*

The Acting President ruled as follows —

The issue raised by the Minister for Mental Health related to Standing Order 41, which relates to allusion to debate in the Assembly. It states —

A Member shall not allude to any debate of the current calendar year in the Assembly, or to any measure impending therein.

The advice that I have received from Clerks at Table is that this Standing Order is intended most particularly not to anticipate and seek to influence some matter that may currently be before the other House. The practice of this place, as I have observed it over many years, has been that there is on occasion relevant reference to the other place as a matter of course; it has become so commonplace that it is the custom and practice of the House to tolerate that, although if we start to stray into a debate that purports to closely examine and forensically take apart a debate or a proceeding in another House, we clearly are then transgressing Standing Order 41.

Debate resumed.

Hon Darren West sought leave to extend his speaking time.

Leave granted.

Debate resumed.

*Interruption pursuant to order.*

# **18. Members' Statements**

Statements were taken.

# **19. Adjournment**

The Council adjourned at 10.01pm until Thursday, 28 November 2013 at 10.00am.

## **Members present during the day's proceedings**

Attendance: Present all Members except Hon Adele Farina, Hon Nick Goiran and Hon Alyssa Hayden.

**NIGEL LAKE**

Acting Clerk of the Legislative Council

**HON BARRY HOUSE**

President of the Legislative Council