

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 130

THURSDAY, 25 NOVEMBER 2010

1. Meeting of Council

The Council assembled at 10.00am pursuant to Temporary Orders.

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

2. Petitions

Hon Helen Bullock presented a petition, by delivery to the Clerk, [SO 130], from 47 petitioners requesting the Legislative Council to call on the State Government to reconsider the location of a proposed bridge over the Ord River and Heavy Vehicle Route to a position further from the residents of Riverfarm Road, Kununurra. (Tabled paper 2882).

Hon Mia Davies presented a petition from 175 petitioners requesting the Legislative Council seek an assurance from the Minister for Water that he will review the Karara Mining Ltd Water License application. (Tabled paper 2883).

3. Statement by President - Confidentiality Disclaimer - Committee Correspondence

The President made the following Statement -

On 4 December 2007, the House adopted a number of recommendations arising from the former Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations. Amongst these resolutions, the House adopted Recommendation 34 of the former Select Committee, which recommended that -

the Clerk of the Legislative Council ensure that all documents sent out by the Legislative Council Committee Office on behalf of a parliamentary committee should contain a confidentiality disclaimer.

Given the terms of this resolution, every document sent out by a Legislative Council committee, or a joint committee operating under the Standing Orders of the Legislative Council, since that date has included a confidentiality disclaimer.

The resolution did not over-ride the capacity for individual committees to resolve to release or 'make public' outgoing committee correspondence. Given this, the terms of the confidentiality disclaimer used since this time are such that the recipient is advised that the document is confidential, and that it should not be disclosed without the relevant committee's permission.

Where a committee intends that an item of correspondence remain confidential between the recipient and the committee, the inclusion of the confidentiality disclaimer is a sensible arrangement. However, where a committee determines that an item of correspondence may be disclosed by the recipient to other parties, or is a simple administrative document, the

inclusion of the disclaimer and the subsequent requirement for further advice to the recipient, either within the terms of the correspondence or separately, only serves to cause confusion between the parties.

There are some generic examples of correspondence that a committee clearly intends for the recipient to forward to other parties. These include requests for information from Ministers, where the Minister is required to circulate the correspondence to Ministerial and departmental officers in order that the correspondence be processed and a response prepared, and correspondence to associations and groups, where circulation of the correspondence amongst members of the body is similarly required. In these instances, the inclusion of a generic confidentiality disclaimer on the correspondence, in my view, serves to only confuse the recipients of the correspondence and hence inhibit the work of the committee.

Members will be aware that the Procedure and Privileges Committee is currently reviewing the Standing Orders of the House. Whilst I do not seek to anticipate the outcome of that committee's deliberations, or its final report to the House, I hope that the committee will provide some recommended changes to the Standing Orders that deal with this matter in a more comprehensive form. However, given that the reporting date for that inquiry has now been extended by the House until March next year, and the adoption of any recommended changes will not occur until some time after that reporting date, I believe that the current practice that has arisen from the resolution pertaining to confidentiality disclaimers cannot be allowed to continue.

I have discussed this matter with the Chairs of the Legislative Council committees. Pursuant to that discussion and general agreement amongst that group, I advise the House of my intention to direct the Committee Chairs that, in applying the terms of the resolution of 4 December 2007 into practice, whilst a confidentiality disclaimer should be included on outgoing committee correspondence as a standard practice, individual committees may resolve to vary that practice, and amend or exclude the disclaimer, for particular items or categories of correspondence where the committee determines the recipient can or should on-forward that correspondence to other parties.

If any Member has any concern arising from this action, I would ask that they raise this concern with me or any other Member involved with the Procedure and Privileges Committee's review of the Standing Orders outside the House.

4. Ministerial Statement - Disability Awareness Week

The Minister for Disability Services made a Ministerial Statement with respect to Disability Awareness Week and the progress achieved by the Government in the area of disability services.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

5. Ministerial Statement - Regional Development Commissions - Review Committee

The Parliamentary Secretary representing the Minister for Regional Development made a Ministerial Statement with respect to a report presented to the Minister for Regional Development by the Review Committee into the Functions and Responsibilities of Regional Development Commissions.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

6. Papers

The following Papers were laid on the Table by -

Minister for Child Protection

Annual Reports -

Conservation Commission (WA) (2009-2010) (Date received 24/11/2010) 2878

Marine Parks and Reserves Authority (2009-2010) (Date received 24/11/2010) 2879

Notices -

Financial Management Act 2006, Under Section 82 - Question on Notice No. 4316
asked in the Legislative Assembly on 16 November 2010, in relation to
Question on Notice Nos 3795 and 3991 2880

Parliamentary Secretary representing the Treasurer

Reports -

Water Corporation - Statement of Corporate Intent (2009-2010) 2881

7. Joint Standing Committee on the Commissioner for Children and Young People - Fifth Report - Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People

Hon Helen Bullock presented the Fifth Report of the Joint Standing Committee on the Commissioner for Children and Young People in relation to the *Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People*. (Tabled paper 2884).

Hon Helen Bullock moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

8. Joint Standing Committee on Delegated Legislation - Forty-Third Report - Shire of Koorda Cemeteries Amendment Local Law 2010

Hon Robin Chapple presented the Forty-Third Report of the Joint Standing Committee on Delegated Legislation in relation to the *Shire of Koorda Cemeteries Amendment Local Law 2010*. (Tabled paper 2885).

Hon Robin Chapple moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

9. Standing Committee on Legislation - Seventeenth Report - Annual Report 2009 and 2010

Hon Michael Mischin presented the Seventeenth Report of the Standing Committee on Legislation being the *Annual Report 2009 and 2010*. (Tabled paper 2886).

Hon Michael Mischin moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

10. Shire of Plantagenet Cemeteries Amendment Local Law 2010 - 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 Plantagenet Cemeteries Amendment Local Law 2010* published in the *Gazette* on 8 October 2010 and tabled in the Legislative Council on 12 October 2010 under the *Cemeteries Act 1986*, be and is hereby disallowed.

11. Regulation 13(4) of the Animal Welfare (Pig Industry) Regulations 2010 - Disallowance

Hon Lynn MacLaren: To move on the next day of sitting -

That the words -

“for more than 6 weeks of any gestation period unless the pig is —

- (a) under veterinary care; or
- (b) receiving additional care”;

in regulation 13(4) of the *Animal Welfare (Pig Industry) Regulations 2010* published in the *Gazette* on 5 November 2010 and tabled in the Legislative Council on 9 November 2010, under the *Animal Welfare Act 2002*, be and are hereby disallowed.

12. Temporary Orders - Extension

The Leader of the House moved, without notice -

That the duration of the Temporary Orders, adopted by the House on 25 March 2010, be extended from 25 November 2010 to 24 March 2011.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

13. Suspension of Standing and Temporary Orders - Aboriginal Heritage (Abydos-Woodstock Protected Area) Variation Order 2010

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable -

- (a) Hon Robin Chapple to move Motion for Disallowance No. 1 standing in his name at a later stage of the sitting as follows -

That the *Aboriginal Heritage (Abydos-Woodstock Protected Area) Variation Order 2010* published in the *Gazette* on 12 October 2010 and tabled in the Legislative Council on 12 October 2010 under the *Aboriginal Heritage Act 1972*, be and is hereby disallowed; and

- (b) that the total time allocated to the debate on the motion be limited to one hour, with no member speaking for more than 10 minutes, including the Member in reply.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

14. Suspension of Standing and Temporary Orders - Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010

Hon Sue Ellery moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable the *Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010* to proceed through all stages at this day's sitting.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

15. Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010

Non-Government Business No. 1 having been called for the adjourned debate on the second reading of this Bill.

Debate resumed.

Question - put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Max Trenorden in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

The Leader of the House moved -

Page 2, lines 16 to 19 — To delete the lines and insert —

- (ca) provisions that relate to registration as a company under the Corporations Act Chapter 5B to the extent that an incorporated association is authorised or required under Part IIIA to become registered as a company under that Chapter; or

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 5.

Debate ensued.

Clause put and negatived.

New Clause 5.

The Leader of the House moved -

Page 2, after line 24 — To insert —

5. Part IIIA inserted

After Part II insert:

Part IIIA — Transfer of incorporation

10A. Terms used

In this Part —

Corporations Act means the *Corporations Act 2001* (Commonwealth);

prescribed body corporate means —

- (a) a company within the meaning of the Corporations Act that is taken to be registered in Western Australia; or
- (b) an entity that is a body corporate under —
 - (i) another Commonwealth Act; or
 - (ii) a written law other than this Act, and is prescribed for the purposes of this definition.

10B. Incorporated association may apply for incorporation under another law

- (1) An incorporated association may by special resolution decide to apply for registration or incorporation as a prescribed body corporate and, subject to this section, the association is authorised to give effect to that decision.
- (2) An incorporated association cannot make the application for registration or incorporation unless the Commissioner has, on application made to the Commissioner by the association, approved —
 - (a) the application being made; and
 - (b) the doing of the things that are reasonably necessary to obtain the registration or incorporation.
- (3) An application made to the Commissioner under subsection (2) must —
 - (a) be in a form approved by the Commissioner; and
 - (b) include a copy of the special resolution referred to in subsection (1); and
 - (c) include any information required by the regulations; and
 - (d) specify the period within which the application for registration or incorporation is expected to be made; and
 - (e) be accompanied by the fee prescribed.
- (4) The Commissioner is to approve an application for registration or incorporation being made if satisfied that the continued incorporation of the association under this Act would for any reason be inappropriate, including —
 - (a) on account of the incorporated association having, in the opinion of the Commissioner, ceased to be eligible to be incorporated under this Act; or
 - (b) because of —
 - (i) the scale or nature of the activities of the incorporated association; or
 - (ii) the value or nature of the property of the incorporated association; or
 - (iii) the extent or nature of the dealings which the incorporated association has with the public,
 as determined by the Commissioner; or
 - (c) because any prescribed circumstances exist.
- (5) An incorporated association —
 - (a) in making an application for registration or incorporation; and
 - (b) in doing the things that are reasonably necessary to obtain it,
 must act in accordance with the terms and conditions of the Commissioner's approval.

10C. Review of decision to refuse application

- (1) If the Commissioner refuses an application made to the Commissioner under section 10B(2) by an incorporated association, the association may apply to the State Administrative Tribunal for a review of the decision.
- (2) An application under subsection (1) must be made within —
 - (a) 28 days; or
 - (b) such other period as is prescribed,
 after the incorporated association receives notice of the refusal.

10D. Commissioner may direct an incorporated association to apply for incorporation under another law

- (1) This section applies if the Commissioner is satisfied that the continued incorporation of an association under this Act would for any reason be inappropriate, including —
 - (a) on account of the incorporated association having, in the opinion of the Commissioner, ceased to be eligible to be incorporated under this Act; or
 - (b) because of —
 - (i) the scale or nature of the activities of the incorporated association; or
 - (ii) the value or nature of the property of the incorporated association; or
 - (iii) the extent or nature of the dealings which the incorporated association has with the public,
 as determined by the Commissioner; or
 - (c) because any prescribed circumstances exist.
- (2) The Commissioner may in writing direct the incorporated association to apply for, and do all things that are reasonably necessary to obtain, registration or incorporation as a prescribed body corporate.
- (3) A direction under subsection (2) —
 - (a) must specify the period within which the application is to be made; and
 - (b) may specify any terms and conditions that are to be observed in making the application for registration or incorporation or doing the things that are reasonably necessary to obtain it.
- (4) The Commissioner may, by notice in writing to the incorporated association —
 - (a) from time to time extend the period referred to in subsection (3)(a); or
 - (b) revoke or amend a direction given under subsection (2).

10E. Commissioner to give notice of intention

- (1) Before the Commissioner gives a direction to an incorporated association under section 10D(2) or notice of an amendment under section 10D(4)(b), the Commissioner must give notice in writing to the association stating —

- (a) the Commissioner's intention to give the direction or make the amendment; and
 - (b) the grounds on which the Commissioner is proposing to act; and
 - (c) that written submissions on the proposed direction or amendment may be made to the Commissioner within a specified period.
- (2) The period specified under subsection (1)(c) is not to be less than 90 days after the notice is given but the Commissioner may, on application made by the association, extend the specified period for a further period not exceeding 90 days.
- (3) Before the Commissioner gives or amends a direction to an incorporated association under section 10D, the Commissioner must have regard to any submission made by the association in accordance with the notice.

10F. Review of proposed direction or amendment

- (1) An incorporated association to which a notice is given under section 10E may, not later than the end of the period specified under section 10E(1)(c) or any extension of that period, apply to the State Administrative Tribunal for a review of the proposed direction or amendment.
- (2) If an application is so made, the Commissioner cannot give the direction or make the amendment unless —
- (a) the application results in the Commissioner's proposed action being confirmed; or
 - (b) the application is dismissed or struck out.

10G. Association to comply with direction

- (1) Subject to section 10F, an incorporated association must comply with a direction given to the association under section 10D(2) or a direction as amended under section 10D(4)(b).
- (2) A contract to which an incorporated association is a party is not illegal, void or unenforceable by reason only of a failure by the association to comply with a direction or notice under section 10D.

10H. Cancellation of incorporation under this Act

- (1) The registration or incorporation of an incorporated association as a prescribed body corporate automatically cancels the incorporation of the association under this Act.
- (2) Where an incorporated association becomes registered or incorporated as a prescribed body corporate, the body must notify the Commissioner in writing of the registration or incorporation within 14 days after it occurs.
Penalty: a fine of \$5 000.

10I. Provisions about the transition to incorporation under another law

- (1) In this section, a reference to a transfer of incorporation by an incorporated association is a reference to an incorporated association becoming registered or incorporated as a prescribed body corporate (the *body corporate*).

- (2) The transfer of incorporation by an incorporated association does not affect —
 - (a) the identity of the association which is to be taken to be the same body before and after the transfer of incorporation; or
 - (b) any act, matter or thing done or omitted to be done, or any circumstance subsisting, before the transfer to the extent that the act, matter, thing, omission or circumstance has any relevance to the association after the transfer.
- (3) Without limiting subsection (2) —
 - (a) proceedings by or against an incorporated association subsisting immediately before the transfer of incorporation may be continued by or against the body corporate in the name of the incorporated association; and
 - (b) proceedings that might have been brought by or against an incorporated association immediately before the transfer of incorporation may be commenced by or against the body corporate.
- (4) Without limiting subsection (2), a transfer of incorporation does not affect —
 - (a) any obligation or liability incurred under this Act; or
 - (b) any penalty or forfeiture incurred in respect of any offence committed against this Act; or
 - (c) any investigation, proceeding or remedy in respect of any such obligation, liability, penalty or forfeiture,

and any such investigation, proceeding or remedy may be instituted, continued or enforced and any such penalty or forfeiture may be imposed as if section 10H had not been enacted.
- (5) This section has effect in relation to a matter concerning an incorporated association that is registered as a company under the Corporations Act only to the extent that the matter is not dealt with by that Act.

Debate ensued.

New Clause agreed to.

Clause 6.

Debate ensued.

Clause put and negatived.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Hon Sue Ellery moved, That the report be adopted.

Question - put and passed.

Hon Sue Ellery moved, That the Bill be now read a third time.

The Deputy President having reported that the Deputy Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

16. Order of Business

Ordered - That Orders of the Day be taken forthwith. (Leader of the Opposition).

17. Order of Business

Ordered - That Orders of the Day Nos 1, *Occupational Safety and Health Amendment Regulations (No. 5) 2010 - Disallowance*, 2, *Shire of Koorda Cemeteries Amendment Local Law 2010 - Disallowance*, 3, *Fish Resources Management Amendment Regulations (No. 6) 2010 - Disallowance*, 4, *City of Rockingham Dogs Amendment Local Law 2010 - Disallowance*, and 5, *Fish Resources Management Amendment Regulations (No. 7) 2010 - Disallowance*, be taken after Order of the Day No. 6, *Prohibited Behaviour Orders Bill 2010*. (Leader of the House).

18. Liquor Control Amendment Bill 2010

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

Debate resumed.

Question - put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 1 agreed to.

Clauses 2 to 15 agreed to.

Clause 16.

Debate ensued.

Clause agreed to.

Clauses 17 to 71 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Leader of the House representing the Minister for Racing and Gaming moved, That the Bill be now read a third time.

The Deputy President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

19. Order of Business

Ordered - That Motions for Disallowance No. 1 be taken forthwith. (Leader of the House).

20. Aboriginal Heritage (Abydos-Woodstock Protected Area) Variation Order 2010 - Disallowance

Hon Robin Chapple, pursuant to notice, moved -

That the *Aboriginal Heritage (Abydos-Woodstock Protected Area) Variation Order 2010* published in the *Gazette* on 12 October 2010 and tabled in the Legislative Council on 12 October 2010 under the *Aboriginal Heritage Act 1972*, be and is hereby disallowed.

Debate ensued.

Hon Robin Chapple sought leave to table a map in relation to a proposed rail line for the Roy Hill Iron Ore Project.

Leave denied.

Debate resumed.

Hon Robin Chapple sought leave to table a transcript from radio program *AM* on ABC radio in relation to recordings of CCC intercepts.

Leave denied.

Debate resumed.

Question - put and negatived.

21. Prohibited Behaviour Orders Bill 2010

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

The Deputy President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 8.

Debate resumed.

Hon Sally Talbot moved -

Page 7, line 7 — To delete “3 years” and insert —

1 year

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (14)

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

Hon Col Holt
 Hon Lynn MacLaren
 Hon Ljiljanna Ravlich
 Hon Sally Talbot
 Hon Ken Travers
 Hon Alison Xamon
 Hon Linda Savage (*Teller*)

Noes (17)

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

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.

Debate resumed.

Hon Sally Talbot moved -

Page 7, lines 16 to 18 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Debate resumed.

Question - That the clause stand as printed - put and passed.

Clause 9.

Debate ensued.

Hon Adele Farina moved -

Page 7, lines 26 and 27 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Debate resumed.

Question - That the clause stand as printed - put and passed.

Clause 10.

Debate ensued.

Clause agreed to.

Clause 11 agreed to.

Clause 12.

The Parliamentary Secretary representing the Attorney General moved -

Page 10, line 26 — To insert after “Division 1;” —

or

- (d) a youth community based order made under the *Young Offenders Act 1994* Part 7 Division 6; or
- (e) an intensive youth supervision order made under the *Young Offenders Act 1994* Part 7 Division 7;

Amendment - put and passed.

Hon Sally Talbot, by leave, moved -

Page 11, line 4 — To delete “6” and insert —

3

Page 11, lines 9 and 10 — To delete “at least 6 months and not more than 2 years” and insert —

at least one month and not more than 3 months

Debate ensued.

22. Questions Without Notice

Questions without notice were taken.

The Minister for Fisheries tabled Appendix 4 of the Department of Fisheries Annual Report 2009-10, in response to a question without notice asked by Hon Jon Ford. (Tabled paper 2887).

The Minister for Child Protection representing the Minister for Environment tabled, and by leave incorporated into Hansard, documents in relation to the terms of reference for the Western Australian Threatened Ecological Communities Scientific Committee, in response to a question without notice asked by Hon Sally Talbot. (Tabled paper 2888).

The Minister for Mines and Petroleum tabled documents in relation to possible contaminated sites referenced in the Department of Mines and Petroleum’s 2009-10 Annual Report, in response to question on notice No. 3011 asked by Hon Robin Chapple. (Tabled paper 2889).

The Leader of the House representing the Minister for Housing, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 2948 asked by Hon Adele Farina will be provided in due course.

The Leader of the House representing the Premier, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 2921 asked by Hon Sue Ellery will be provided in due course.

The Leader of the House representing the Premier, in accordance with Standing Order No. 138(d), advised that an answer to questions on notice Nos 2936, 2937 and 2939 asked by Hon Ken Travers will be provided in due course.

The Leader of the House representing the Minister for State Development, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 2897 asked by Hon Robin Chapple will be provided in due course.

The Leader of the House representing the Premier, in accordance with Standing Order No. 138(d), advised that an answer to question on notice No. 2899 asked by Hon Kate Doust will be provided in due course.

The Parliamentary Secretary representing the Minister for Mental Health tabled documents in relation to staff levels for the Child and Adolescent Mental Health Service, in response to question on notice No. 2982 asked by Hon Adele Farina. (Tabled paper 2890).

23. Prohibited Behaviour Orders Bill 2010

The President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

The Parliamentary Secretary representing the Attorney General moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Question - put and passed.

The Deputy President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

24. Suspension of Standing and Temporary Orders - Prohibited Behaviour Orders Bill 2010

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable the *Prohibited Behaviour Orders Bill 2010* to proceed through all remaining stages at this day's sitting.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

25. Suspension of Standing and Temporary Orders

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable —

(a) the House to sit beyond 6.00pm; and

(b) Members' Statements to be taken at 7.30pm.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

26. President's Ruling - Fair Trading Bill 2010

The President ruled as follows -

During the course of debate yesterday evening, the House considered and agreed to a range of amendments to the *Fair Trading Bill 2010*. The amendments arose from the Fifty-Sixth report of the Standing Committee on Uniform Legislation and Statutes Review.

Amongst the amendments proposed by the Committee was a recommended amendment to delete the note to Schedule 1 of the Bill. This amendment was listed on the Supplementary Notice Paper as amendment 10/S1.

The terms of the amendment as printed on the Supplementary Notice Paper were incorrect. The Committee had recommended that page 98, line 1 to page 349, line 10 be deleted, and these details were transposed correctly. However, this page and line range did not encompass the entirety of Schedule 1, which commenced on page 97 of the Bill. Despite this, the wording in the Supplementary Notice Paper was "To oppose the schedule", rather than the correct motion "To delete the lines".

As a consequence of this error, the incorrect motion was put by the Chair.

Members, I have reviewed the relevant documents pertaining to this part of the House's proceedings, and adjudge that, whilst the printing error in the Supplementary Notice Paper caused some minor irregularities in the proceedings, the clear intent and will of the Committee of the Whole House was that page 98, line 1 to page 349, line 10 be deleted.

Consequently, I rule that the records of the House be amended accordingly.

27. Order of Business

Ordered - That Order of the Day No. 6, *Prohibited Behaviour Orders Bill 2010*, be taken forthwith. (Leader of the House).

28. Prohibited Behaviour Orders Bill 2010

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 12.

Debate resumed on the amendments moved by Hon Sally Talbot as follows -

Page 11, line 4 — To delete "6" and insert —

3

Page 11, lines 9 and 10 — To delete "at least 6 months and not more than 2 years" and insert —

at least one month and not more than 3 months

Amendments - put and negatived.

Clause, as amended, agreed to.

Clause 13 agreed to.

Clause 14.

Hon Sally Talbot moved -

Page 12, lines 6 and 7 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Question - That the clause stand as printed - put and passed.

Clause 15 agreed to.

Clauses 16 and 17 agreed to.

Clause 18.

Debate ensued.

Clause agreed to.

Clause 19 agreed to.

Clauses 20 to 33 agreed to.

Clause 34.

The Parliamentary Secretary representing the Attorney General, by leave, moved -

Page 23, lines 25 and 26 — To delete “anything that identifies, or is capable of identifying”.

Page 23, line 27 — To insert before “a child” —

anything that identifies, or is capable of identifying,

Debate ensued.

Amendments - put and passed.

Hon Alison Xamon moved -

Page 23, line 27 — To delete “other than the constrained person”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (12)

Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

Hon Col Holt
Hon Ljiljana Ravlich
Hon Linda Savage
Hon Sally Talbot
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (15)

Hon Liz Behjat
 Hon Peter Collier
 Hon Wendy Duncan
 Hon Phil Edman
 Hon Brian Ellis
 Hon Nick Goiran
 Hon Nigel Hallett
 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.

The Parliamentary Secretary representing the Attorney General moved -

Page 24, line 1 — To delete “any” and insert —

anything that identifies, or is capable of identifying, an

Amendment - put and passed.

Hon Alison Xamon moved -

Page 24, line 2 — To delete “.” and insert —

; or

(d) any person other than the constrained person.

Debate ensued.

Amendment - put and negatived.

Hon Sally Talbot moved -

Page 24, lines 18 and 19 — To delete the lines.

Debate ensued.

Amendment - put and negatived.

Question - That the clause, as amended, be agreed to - put.

The Committee divided.

Ayes (15)

Hon Liz Behjat
 Hon Peter Collier
 Hon Wendy Duncan
 Hon Phil Edman
 Hon Brian Ellis
 Hon Nick Goiran
 Hon Nigel Hallett
 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*)

Noes (12)

Hon Helen Bullock
 Hon Robin Chapple
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford

Hon Col Holt
 Hon Ljiljanna Ravlich
 Hon Linda Savage
 Hon Sally Talbot
 Hon Alison Xamon
 Hon Ed Dermer (*Teller*)

Question thus passed.

Clause, as amended, agreed to.

Clauses 35 to 39 agreed to.

Clause 40.

Hon Sally Talbot, by leave, moved -

Page 27, line 21 — To delete “3 years” and insert —

one year

Page 27, after line 21 — To insert —

- (2) The Minister’s review will be informed by independent analysis and incorporate feedback from key community stakeholders.

Amendments - put and negatived.

Question - That the clause stand as printed - put and passed.

Clause 41 agreed to.

Clause 42.

The Parliamentary Secretary representing the Attorney General moved -

Page 28, line 12 — To delete “to a child.” and insert —

to —

- (a) a person who is under 18 years of age; or
- (b) a person who has reached 18 years of age but who committed the relevant offence referred to in the *Prohibited Behaviour Orders Act 2010* section 8(2)(a)(ii) while he or she was under 18 years of age.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 43 to 50 agreed to.

New Clause 41A.

The Parliamentary Secretary representing the Attorney General moved -

Page 28, after line 6 — To insert —

41A. Section 3 amended

In section 3(1) in the definition of *child*:

(a) after paragraph (c) insert:

(d) a boy or girl dealt with under section 20(3)(b);

(b) after each of paragraphs (a) and (c) insert:

and

New Clause - put and passed.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

Report adopted.

The Parliamentary Secretary representing the Attorney General moved, That the Bill be now read a third time.

The President having reported that the Deputy Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put.

The House divided.

Ayes (15)

Hon Liz Behjat
Hon Peter Collier
Hon Wendy Duncan
Hon Phil Edman
Hon Brian Ellis
Hon Nick Goiran
Hon Nigel Hallett
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*)

Noes (12)

Hon Helen Bullock
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Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

Hon Col Holt
Hon Ljiljanna Ravlich
Hon Linda Savage
Hon Sally Talbot
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Question thus passed.

Bill read a third time and passed.

29. Order of Business

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

30. Local Government Amendment (Regional Subsidiaries) Bill 2010

Hon Max Trenorden, pursuant to notice, moved -

That a Bill for "An Act to amend the *Local Government Act 1995*." be introduced and read a first time.

Question - put and passed.

Bill read a first time.

Hon Max Trenorden moved, That the Bill be now read a second time.

Debate stands adjourned.

31. Order of Business

Ordered - That Order of the Day No. 1, *Occupational Safety and Health Amendment Regulations (No. 5) 2010 - Disallowance*, be taken forthwith. (Leader of the House).

32. Occupational Safety and Health Amendment Regulations (No. 5) 2010 - Disallowance

Pursuant to SO 152(b) the following motion was moved *pro forma* by Hon Alison Xamon -

That the *Occupational Safety and Health Amendment Regulations (No. 5) 2010* published in the *Gazette* on 14 September 2010 and tabled in the Legislative Council on 21 September 2010 under the *Occupational Safety and Health Act 1984*, be and are hereby disallowed.

Debate ensued.

Question - put and negatived.

33. Message from His Excellency the Governor - Assent to Bills

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bills -

24 November 2010 - Message No. 125	Act No.
Environmental Protection Amendment Bill 2010	48 of 2010
Children and Community Services Amendment Bill 2010	49 of 2010
Misuse of Drugs Amendment Bill (No. 2) 2010	50 of 2010

34. Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010

The following Message from the Legislative Assembly was reported -

Mr President Message No. 158

The Legislative Assembly acquaints the Legislative Council that it has agreed to the *Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010* without amendment.

Hon G.A. Woodhams
Speaker
Legislative Assembly Chamber
Perth, 25 November 2010

35. Trade Measurement Legislation (Amendment and Expiry) Bill 2010

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 159

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Trade Measurement Legislation (Amendment and Expiry) Bill 2010*.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 25 November 2010

36. Fair Trading Bill 2010

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 160

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Fair Trading Bill 2010*.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 25 November 2010

37. Occupational Licensing National Law (WA) Bill 2010

The President reported the receipt of Message No. 155 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for Commerce moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House representing the Minister for Commerce moved, That the Bill be now read a second time.

Debate stands adjourned and Bill referred to the Standing Committee on Uniform Legislation and Statutes Review.

38. Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2010

The President reported the receipt of Message No. 157 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Minister for State Development moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House representing the Minister for State Development moved, That the Bill be now read a second time.

Debate stands adjourned.

39. Members' Statements

Statements were taken.

40. Prohibited Behaviour Orders Bill 2010

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 161

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Prohibited Behaviour Orders Bill 2010*.

Hon G.A. Woodhams

Speaker

Legislative Assembly Chamber

Perth, 25 November 2010

41. Suspension of Standing and Temporary Orders

The Leader of the House moved, without notice -

That so much of the Standing and Temporary Orders be suspended as to enable —

- (a) the House to meet on Thursday, 2 December 2010 at 10.00am; and
- (b) the business for that day to be as follows —
 - (i) Prayers;
 - (ii) *Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010* - all stages;
 - (iii) *Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2010* - all stages; and
 - (iv) Questions without Notice at a time to be determined by the President.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

42. Adjournment

The House adjourned at 8.10pm until Thursday, 2 December 2010 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher and Hon Giz Watson.

NIGEL LAKE

Acting Clerk of the Legislative Council

HON BARRY HOUSE

President of the Legislative Council