

WESTERN AUSTRALIA

## LEGISLATIVE COUNCIL

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### MINUTES OF PROCEEDINGS

No. 135

TUESDAY, 16 JUNE 2015

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#### 1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Orders.

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

#### 2. Statement by President — *Magna Carta*

The President made the following Statement —

On 15 June 2015, that is, yesterday, celebrations were held around the English-speaking world to commemorate the 800th anniversary of King John's signing of the *Magna Carta* at Runnymede, England, in 1215. In reality, the original *Magna Carta* was not signed by King John, but sealed with the King's seal and those of the great barons on that date.

For some scholars, the Latin for *Magna Carta* translates into "Great Charter" in recognition of the document's cultural, political and legal significance. For other scholars, *Magna Carta* simply means "Big Charter", given that King John issued two charters in 1215, one on a large piece of vellum, and the other on a small piece of vellum.

King John must have thought that the original version of the *Magna Carta* was significant, because he immediately petitioned the Pope to declare it void. Among other things, King John objected to the charter because his agreement to it was given while his barons had him under extreme duress. At the time, England was under a papal interdict placing everyone's souls in jeopardy and King John also needed to raise taxes in order to pay off his latest round of war debts. The Pope obliged King John less than two months later by declaring the *Magna Carta* a nullity and lifting the papal interdict.

Between 1215 and 1297, the *Magna Carta* was reissued four times, but without its enforcement clause, and was confirmed on about 55 occasions by different sovereigns until 1416. Some sovereigns chose to ignore it, but it has endured. Some of the clauses of the *Magna Carta* were later adopted into the statute books of most of the former colonies of the United Kingdom, including the constitutions of several American states. It has even been adopted expressly into the statute books by a number of Australian jurisdictions in their Imperial Acts Application Act. In Western Australia, the *Magna Carta* was part of the received law of Great Britain when the colony was established in 1829. A well-known clause in the *Magna Carta* considered by many as the progenitor of our present day liberties can be found in chapter 29, and reads —

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled ...but by lawful judgment of his peers, or by the law of the land.

...we will sell to no man, we will not deny or defer to any man either justice or right.

This chapter is the origin of the writ of *habeas corpus*. It demonstrates an early commitment to the rule of law by a reluctant absolute monarch whose personal creed was “by force and by will”.

For many, the *Magna Carta* is the forerunner of our modern liberal Westminster democracy. Its sentiments can be traced through such documents as English *Bill of Rights 1689*; the American Declaration of Independence; the *Bill of Rights 1791* of the United States of America; the *Universal Declaration of Human Rights 1948*; the European Convention on Human Rights 1951; and the United Kingdom’s *Human Rights Act 1998*. Notably, Eleanor Roosevelt, wife of President Franklin D. Roosevelt, who chaired the drafting committee of the 1948 *Universal Declaration of Human Rights*, called it the “*Magna Carta* for all mankind”, the concept being the expansion of the *Magna Carta* from a defined and then relatively small group of freemen within a kingdom to universal applicability.

For others, the *Magna Carta* is just an important moment in the journey of western civilisation. There has clearly been a long history of reverence for the *Magna Carta* and the king’s promise of access to justice. For most the significance of the *Magna Carta* is that it represents the idea of law by consent of those being governed and the civilising possibility of equality of justice as an answer to force and arbitrary rule by so-called divine right. These ideas were as noble in 1215 as they were during the Constitution debates and subsequent colonial referendums that gave birth to our federal system of government. Indeed, these ideas remain both noble and relevant in the twenty-first century.

In concluding, I advise Members that next week a display, which has been prepared by the State Records Office in honour of the 800th anniversary of the *Magna Carta*, will be installed in the Parliament House foyer. The display explores the development of representative democracy in Western Australia through historic state archives.

### **3. Statement by President — Departmental Surveys**

The President made the following Statement —

Today you have received both electronic and hardcopy versions of surveys of the Legislative Council and the Parliamentary Services Department. These surveys give Members the opportunity to comment on the services provided by the staff of the Department of the Legislative Council and the Parliamentary Services Department. I encourage Members to fill them out and return them to Chamber staff or complete the online versions via the link provided in the emails you will have received. The results of the surveys will appear in the annual reports, and the feedback that Members give will be used to improve the services you receive wherever possible.

### **4. Message from Her Excellency the Governor — Assent to Bill**

The President reported the receipt of a Message from Her Excellency the Governor assenting to the following Bill —

<b>26 May 2015 — Message No. 29</b>	<b>Act No.</b>
Taxation Legislation Amendment Bill 2015	15 of 2015

### **5. Petition**

Hon Robin Chapple presented a petition from 113 petitioners requesting the Legislative Council to introduce amendments and refer to a committee the *Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014*. (Tabled Paper 2965).

### **6. Ministerial Statement — New Model for Support for Engagement and Behaviour in Public Schools**

The Minister for Education made a Ministerial Statement with respect to the introduction of a new model of support for disengaged students and students with challenging behaviour in public schools.

## 7. Ministerial Statement — Clontarf Orphanage — Brother Francis Paul Keaney

The Minister for Child Protection made a Ministerial Statement with respect to information provided by the Minister for Transport on behalf of the Minister for Community Development in 1995 in relation to historical communications between the Secretary of the Child Welfare Department and the Archbishop of Perth in 1940.

## 8. Ministerial Statement — Standing Committee on Public Administration — Report No. 23 — Report on Recreational Hunting Systems — Government Response

The Minister for Mental Health representing the Minister for Environment made a Ministerial Statement with respect to the Government's Response to the recommendations contained in the Standing Committee on Public Administration — Report No. 23 — *Report on Recreational Hunting Systems*.

The Minister for Mental Health representing the Minister for Environment tabled the Government's Response to the Standing Committee on Public Administration — Report No. 23 — *Report on Recreational Hunting Systems*. (Tabled Paper 2931).

## 9. Papers

The following Papers were laid on the Table by —

### President

#### *Auditor General's Papers —*

Opinions on Ministerial Notifications (Report No. 9) (June 2015)  
(Deemed tabled 4/06/2015)..... 2917

Management of Adults on Bail (Report No. 10) (June 2015) (Deemed tabled 10/06/2015)..... 2918

#### *Reports —*

Office of the Inspector of Custodial Services — Report of an Announced Inspection  
of Banksia Hill Juvenile Detention Centre (Report No. 97) (April 2015) ..... 2919

### Leader of the House

#### *Regulations —*

Education Service Providers (Full Fee Overseas Students) Registration Act 1991  
(Education Service Providers (Full Fee Overseas Students) Registration Amendment  
Regulations 2015 G.G. 12/06/2015)..... 2920

Taxation Administration Act 2003 (Taxation Administration Amendment  
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Teacher Registration Act 2012 (Teacher Registration (Accreditation of Initial Teacher Education  
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(General) Amendment Regulations (No. 2) 2015 G.G. 12/06/2015) ..... 2922

#### *Reports —*

Gold Corporation — Statement of Corporate Intent (2015–2016)..... 2923

### Minister for Mental Health

#### *Leases —*

CALM Lease No. 1134/97 Between CALM Executive Body and Raymond Maxwell  
North for the purpose of a dam site for domestic purposes within a portion of  
State Forest No. 29 ..... 2924

CALM Lease No. 1490/97 — Between CALM Executive Body and Sporting Shooters  
Association of Australia (WA) INC for the purpose of shooting activities and  
associated recreational activities within a portion of State Forest No. 65..... 2925

CALM Lease No. 1907/97 — Between CALM Executive Body and Crown Castle  
Australia PTY LTD for an existing telecommunications facility located within  
a portion of State Forest No. 23 near Pinjarra ..... 2926

CALM Lease No. 2147/100 Between CALM Executive Body and Perth Dinghy Sailing Club for the purpose of a sailing clubhouse within Matilda Bay Reserve No. 17375 .....	2927
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*Local Laws —*

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*Reports —*

Government of Western Australia, Quarterly Financial Results Report (2014–2015) (March 2015) (Date received 4/06/2015) .....	2930
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**Attorney General**

*Regulations —*

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Evidence Act 1906 (Evidence (Prescribed Persons) Amendment Regulations 2015 G.G. 5/06/2015) ....	2933
Fines, Penalties and Infringement Notices Enforcement Act 1994 (Fines, Penalties and Infringement Notices Enforcement Amendment Regulations (No. 3) 2015 G.G. 12/06/2015) .....	2934
Fire and Emergency Services Act 1998 (Fire and Emergency Services Amendment Regulations 2015 G.G. 2/06/2015) .....	2935
Firearms Act 1973 (Firearms Amendment Regulations (No. 2) 2015 G.G. 2/06/2015) .....	2936
Pawnbrokers and Second-hand Dealers Act 1994 (Pawnbrokers and Second-hand Dealers Amendment Regulations 2015 G.G. 2/06/2015) .....	2937
Police Act 1892 (Police (Fees) Amendment Regulations 2015 G.G. 2/06/2015) .....	2938
Road Traffic Act 1974 (Road Traffic (Events on Roads) Amendment Regulations 2015 G.G. 2/06/2015) .....	2939
Security and Related Activities (Control) Act 1996 (Security and Related Activities (Control) Amendment Regulations 2015 G.G. 2/06/2015) .....	2940

*Rules —*

Workers' Compensation and Injury Management Act 1981 (Workers' Compensation and Injury Management Arbitration Amendment Rules 2015 G.G. 12/06/2015 and Workers' Compensation and Injury Management Conciliation Amendment Rules 2015 G.G. 12/06/2015) ..	2941
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**Minister for Agriculture and Food**

*Management Plans —*

Fish Resources Management Act 1994 (Esperance Rock Lobster Managed Fishery Management Plan Revocation Notice 2015 [1198] G.G. 29/05/2015, South Coast Crustacean Managed Fishery Management Plan 2015 [1198] G.G. 29/05/2015, West Coast Estuarine Managed Fishery Management Plan Amendment 2015 [1238] G.G. 2/06/2015 and Windy Harbour-Augusta Rock Lobster Managed Fishery Management Plan Revocation Notice 2015 [1198] G.G. 29/05/2015) .....	2942
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*Regulations —*

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**Minister for Housing**

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**Parliamentary Secretary representing the Minister for Transport***Regulations —*

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Rail Safety Act 2010 (Rail Safety Amendment Regulations 2015 G.G. 12/06/2015) .....	2947
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Transport Co-ordination Act 1966 (Transport (Country Taxi-car) Amendment Regulations 2015 G.G. 12/06/2015 and Transport Co-ordination Amendment Regulations (No. 2) 2015 G.G. 12/06/2015).....	2956
Western Australian Marine Act 1982 (W.A. Marine (Surveys and Certificates of Survey) Amendment Regulations 2015 G.G. 12/06/2015) .....	2957
Western Australian Photo Card Act 2014 (Western Australian Photo Card Amendment Regulations (No. 2) 2015 G.G. 12/06/2015).....	2958

**Parliamentary Secretary representing the Minister for Health***Regulations —*

Food Act 2008 (Food Amendment Regulations (No. 2) 2015 G.G. 19/05/2015) .....	2959
Health Act 1911 (Health (Pesticides) Amendment Regulations (No. 2) 2015 G.G. 19/05/2015 and Health (Rheumatic Heart Disease Register of Western Australia) Regulations 2015 G.G. 19/05/2015) .....	2960
Hospitals and Health Services Act 1927 (Hospitals (Services Charges) Amendment Regulations (No. 3) 2015 G.G. 2/06/2015).....	2961
Radiation Safety Act 1975 (Radiation Safety (General) Amendment Regulations 2015 G.G. 19/05/2015 and Radiation Safety (Qualifications) Amendment Regulations 2015 G.G. 19/05/2015) .....	2962
Rottnest Island Authority Act 1987 (Rottnest Island Amendment Regulations 2015 G.G. 5/06/2015).....	2963
Tobacco Products Control Act 2006 (Tobacco Products Control Amendment Regulations (No. 3) 2015 G.G. 19/05/2015) .....	2964

**10. Standing Committee on Public Administration — Report No. 25 — Report on the Patient Assisted Travel Scheme in Western Australia**

Hon Liz Behjat presented Report No. 25 of the Standing Committee on Public Administration, *Report on the Patient Assisted Travel Scheme in Western Australia*. (Tabled Paper 2966).

### 11. Evidence Amendment Bill 2015

The Attorney General: To move on the next day of sitting —

That a Bill for “An Act to amend the *Evidence Act 1906*.” be introduced and read a first time.

### 12. Order of Business

Ordered — That Orders of the Day Nos 1, *Shire of Trayning Public Places and Local Government Property Local Law 2014 — Disallowance*, and 2, *City of Gosnells Cat Local Law 2014 — Disallowance*, be taken after Order of the Day No. 11, *Rail Safety National Law (WA) Bill 2014*. (Leader of the House).

### 13. Estimates of Revenue and Expenditure — Consolidated Fund Estimates 2015–2016

The Order of the Day having been read for the adjourned debate on the motion of the Minister for Mental Health representing the Treasurer as follows —

That pursuant to Standing Order 69(1) the Legislative Council take note of Tabled Paper 2877A–E (2015–2016 Budget Statements), laid upon the Table of the House on Thursday, 14 May 2015.

Debate resumed.

On the motion of Hon Samantha Rowe the debate was adjourned to the next sitting.

### 14. Loan Bill 2015

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

Debate resumed.

### 15. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Minister for Health tabled documents in relation to the Western Australian Patient Transport Strategy 2015–2018, in response to a question without notice asked by Hon Adele Farina. (Tabled Paper 2967).

The Minister for Aboriginal Affairs, by leave incorporated into *Hansard*, information in relation to sites containing artefact scatters removed from the heritage register since 1 January 2011, in response to question without notice No. 673 asked by Hon Robin Chapple.

The Minister for Education, by leave incorporated into *Hansard*, information in relation to the Information and Communications Technologies Division and the Statewide Planning and Delivery Division of the Department of Education, in response to question without notice No. 609 asked by Hon Sue Ellery.

The Leader of the House representing the Minister for Training and Workforce Development tabled documents in relation to the total number of courses offered by the South West Institute of Technology in semester one of 2014 and 2015, in response to question on notice No. 2976 asked by Hon Adele Farina. (Tabled Paper 2968).

The Leader of the House representing the Minister for Training and Workforce Development tabled documents in relation to courses provided at each of the campuses of the South West Institute of Technology as at 31 March 2014 and 31 March 2015, in response to question on notice No. 3078 asked by Hon Adele Farina. (Tabled Paper 2969).

The Leader of the House representing the Minister for Training and Workforce Development tabled documents in relation to fees collected and received by the South West Institute of Technology, in response to question on notice No. 3134 asked by Hon Adele Farina. (Tabled Paper 2970).

The Leader of the House representing the Minister for Training and Workforce Development tabled documents in relation to State training provider student enrolment numbers for 2014 and 2015, in response to question on notice No. 3106 asked by Hon Stephen Dawson. (Tabled Paper 2971).

The Minister for Aboriginal Affairs tabled documents in relation to redacted letters from the Minister for Aboriginal Affairs to the Aboriginal Cultural Materials Committee, in response to a question without notice asked by Hon Robin Chapple. (Tabled Paper 2972).

The Minister for Child Protection tabled documents in relation to Working With Children Check Division full-time equivalent from 30 June 2013 to 30 April 2015, in response to question on notice No. 3054 asked by Hon Stephen Dawson. (Tabled Paper 2973).

The Minister for Child Protection tabled documents in relation to Hardship Utility Grant Scheme applications processed by the Department for Child Protection and Family Support in January, February and March 2015, in response to question on notice No. 3058 asked by Hon Stephen Dawson. (Tabled Paper 2974).

The Minister for Child Protection tabled documents in relation to Hardship Utility Grant Scheme application details for the years 2012–2013, 2013–2014 and 2014–2015, in response to question on notice No. 3010 asked by Hon Adele Farina. (Tabled Paper 2975).

The Minister for Mental Health on behalf of the Parliamentary Secretary representing the Minister for Health tabled documents in relation to elective surgery waiting times at each hospital in the South West region for 2012–2013 and 2013–2014, in response to question on notice No. 3117 asked by Hon Adele Farina. (Tabled Paper 2976).

The Minister for Mental Health on behalf of the Parliamentary Secretary representing the Minister for Health tabled documents in relation to the total number of staff at each hospital in the South West region by head count and full-time equivalent, in response to question on notice No. 3124 asked by Hon Adele Farina. (Tabled Paper 2977).

The Minister for Mental Health on behalf of the Parliamentary Secretary representing the Minister for Health tabled documents in relation to dental services in the South West Region as at 1 July in 2012, 2013 and 2014, in response to question on notice No. 3126 asked by Hon Adele Farina. (Tabled Paper 2978).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to prescribed burns in the South West forest regions of Swan, Central and Warren in each of the next three years, in response to question on notice No. 3110 asked by Hon Lynn MacLaren. (Tabled Paper 2979).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to the number of fire fighters located at South West locations during the 2012–2013, 2013–2014 and 2014–2015 fire seasons, in response to question on notice No. 3063 asked by Hon Adele Farina. (Tabled Paper 2980).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to improvements completed in South West national parks in 2012–2013, 2013–2014 and 2014–2015, in response to question on notice No. 3064 asked by Hon Adele Farina. (Tabled Paper 2981).

The Minister for Mental Health tabled documents in relation to staffing at the South Metropolitan Health Service, Mental Health from 1 January to 1 April 2015, in response to question on notice No. 3040 asked by Hon Stephen Dawson. (Tabled Paper 2982).

The Attorney General representing the Minister for Police tabled documents in relation to the South West Police District full-time equivalents; clandestine labs closed down in 2013–2014 and 2014–2015 and offenders charged with drug offences, in response to question on notice No. 3083 asked by Hon Adele Farina. (Tabled Paper 2983).

The Attorney General representing the Minister for Police tabled documents in relation to the rate of offences against the person in Bunbury, Harvey, Collie, Busselton, Margaret River and Manjimup in 2014, in response to question on notice No. 3084 asked by Hon Adele Farina. (Tabled Paper 2984).

The Minister for Housing tabled documents in relation to the Department of Housing data for tenants that have vacated following the issue of termination notices under section 64 of the *Residential Tenancies Act 1987* for 2011–2012, 2012–2013, 2013–2014 and 2014 to 30 April 2015, in response to question on notice No. 3107 asked by Hon Lynn MacLaren. (Tabled Paper 2985).

The Minister for Housing tabled documents in relation to additional social housing stock for the years 2011–2012, 2012–2013, 2013–2014 and 2014–2015, in response to question on notice No. 3109 asked by Hon Adele Farina. (Tabled Paper 2986).

The Minister for Housing tabled documents in relation to the Department of Housing's vacant residential dwellings as at 30 April 2015, in response to question on notice No. 3112 asked by Hon Adele Farina. (Tabled Paper 2987).

The Minister for Housing representing the Minister for Regional Development tabled documents in relation to the SuperTowns Development Project Fund and other Royalties for Regions funding details in 2011–2012, in response to question on notice No. 3026 asked by Hon Darren West. (Tabled Paper 2988).

The Parliamentary Secretary representing the Minister for Science tabled, and by leave incorporated into Hansard, documents in relation to 2015–2016 State Budget Science Statement funding allocations, in response to a question without notice asked by Hon Kate Doust. (Tabled Paper 2989).

## **16. Loan Bill 2015**

Debate resumed on the second reading of this Bill (*see item 14 above*).

Hon Sue Ellery sought leave to continue her remarks at a later stage of this day's sitting.

Leave granted.

Debate resumed.

Hon Stephen Dawson sought leave to continue his remarks at a later stage of this day's sitting.

Leave granted.

Debate resumed.

Hon Alanna Clohesy sought leave to continue her remarks at a later stage of this day's sitting.

Leave granted.

On the motion of the Leader of the House the debate was adjourned to a later stage of this day's sitting.

## **17. Suspension of Standing and Temporary Orders**

The Leader of the House moved, without notice —

- (1) That the House at its rising adjourn until Wednesday, 17 June 2015 at 2.00pm.
- (2) That so much of the Temporary and Standing Orders be suspended as to vary the order of business and sitting times to provide that no consideration of Committee Reports be taken on Wednesday, 17 June 2015.

The motion requiring the concurrence of an absolute majority.

Question — put.

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

## **18. Order of Business**

Ordered — That Order of the Day No. 16, *Loan Bill 2015*, be taken forthwith. (Leader of the House).

## **19. Loan Bill 2015**

Debate resumed on the second reading of this Bill (*see item 16 above*).

*Interruption pursuant to order.*

## **20. Members' Statements**

Statements were taken.



**21. Adjournment**

The Council adjourned at 10.02pm until Wednesday, 17 June 2015 at 2.00pm.

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

Attendance: Present all Members except Hon Lynn MacLaren (*leave of absence*).

**NIGEL PRATT**

Clerk of the Legislative Council

**HON BARRY HOUSE**

President of the Legislative Council