

**LEGISLATIVE COUNCIL**

---

---

**MINUTES OF PROCEEDINGS**

**No. 227**

**THURSDAY, 23 AUGUST 2012**

---

---

**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. Ministerial Statement — Residential Parks Review Discussion Paper**

The Minister for Commerce made a Ministerial Statement with respect to the public release of the *Consultation Discussion Paper for the Statutory Review of the Residential Parks (Long-stay Tenants) Act 2006*.

The Minister for Commerce tabled the *Consultation Discussion Paper for the Statutory Review of the Residential Parks (Long-stay Tenants) Act 2006*. (Tabled Paper 4847).

**3. Paper**

The following Paper was laid on the Table by —

**Parliamentary Secretary representing the Premier on behalf of the Minister for Mental Health**

*Leases —*

Lease No.2197/97 between the Department of Environment and Conservation and the Commonwealth of Australia represented by Geoscience Australia for the purpose of a Geomagnetic Observatory within a 2.5 hectare portion of State forest No.65 ..... 4841

**4. City of Perth Standing Orders Amendment Local Law 2012 — Disallowance**

Hon Sally Talbot: To move on the next day of sitting —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Perth Standing Orders Amendment Local Law 2012* published in the *Gazette* on 29 May 2012 and tabled in the Council on 12 June 2012 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled Paper 4574)

**5. Industrial Relations (Equal Remuneration) Amendment Bill 2011**

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

Debate resumed.

Question — put.

The Council divided.

**Ayes (10)**

Hon Helen Bullock  
 Hon Robin Chapple  
 Hon Sue Ellery  
 Hon Lynn MacLaren  
 Hon Ljiljanna Ravlich

Hon Linda Savage  
 Hon Sally Talbot  
 Hon Giz Watson  
 Hon Alison Xamon  
 Hon Ed Dermer (*Teller*)

**Noes (15)**

Hon Peter Collier  
 Hon Mia Davies  
 Hon Phil Edman  
 Hon Brian Ellis  
 Hon Donna Faragher  
 Hon Philip Gardiner  
 Hon Nick Goiran  
 Hon Nigel Hallett

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

Question thus negated.

Bill defeated.

**6. Youth at Risk Programs**

Private Members' Business No. 1 having been called, Hon Phil Edman moved, without notice —

That the Council calls on the State Government to replicate successful youth at risk programs in known troubled areas across Western Australia.

Debate ensued.

*Motion lapsed.*

**7. Order of Business**

Ordered — That Orders of the Day Nos 1, *Women's and Children's Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 2, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 3, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 4, *Metropolitan Health Service Amendment By-laws (No. 2) 2011 — Disallowance*, 5, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 6, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 7, *Hospitals (Services Charges) Amendment Regulations (No. 7) 2011 — Disallowance*, 8, *Queen Elizabeth II Medical Centre (Delegated Site) Amendment By-laws (No. 2) 2011 — Disallowance*, 9, *Fremantle Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 10, *Osborne Park Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 11, *Royal Perth Hospital Amendment By-laws (No. 2) 2011 — Disallowance*, 12, *Women's and Children's Hospitals Amendment By-laws (No. 2) 2011 — Disallowance*, 13, *Liquor Control Amendment Regulations (No. 10) 2011 — Disallowance*, 14, *Town of Bassendean Repeal Local Law 2010 — Disallowance*, 15, *Town of Bassendean Dust and Sand Local Law 2011 — Disallowance*, 16, *Mindarie Regional Council Standing Orders Amendment Local Law 2012 — Disallowance*, and 17, *City of Bayswater Standing Orders Local Law 2012 — Disallowance*, be taken after Order of the Day No. 20, *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*. (Leader of the House).

**8. Revenue Laws Amendment Bill 2012**

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

*The Deputy President left the Chair at 12.29pm.*

*The Deputy President resumed the Chair at 12.37pm.*

Debate resumed.

Hon Ken Travers moved, without notice —

That Order of the Day No. 23, *Revenue Laws Amendment Bill 2012*, be discharged and referred to the Standing Committee on Legislation for the purpose of identifying if there are any Henry VIII clauses and to report back to the Council by Wednesday, 12 September 2012.

Debate ensued.

Hon Ken Travers, by leave, withdrew his motion.

Debate resumed.

Question — put and passed.

Bill read a second time.

Hon Ken Travers moved, without notice —

That Order of the Day No. 23, *Revenue Laws Amendment Bill 2012*, be discharged and referred to the Standing Committee on Legislation for the purpose of identifying if there are any Henry VIII clauses and to report back to the Council by Wednesday, 12 September 2012.

Question — put and passed.

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

### **9. Litter Amendment Bill 2011**

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 Brian Ellis in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clauses 5 to 10 agreed to.

Clause 11.

Debate ensued.

Clause agreed to.

Clauses 12 and 13 agreed to.

New Clause 14.

Hon Sally Talbot moved —

Page 7, after line 27 — To insert —

### **14. Review of Act**

- (1) The responsible Minister must carry out a review of the penalties, provisions and regulations introduced by the *Litter Amendment Act 2012* as soon as practicable after the expiry of 12 months from its commencement.
- (2) In the event of the review concluding that the measures have not reduced litter in Western Australia a range of alternative measures including a container deposit scheme will be considered by the responsible Minister.

- (3) The Minister must prepare a report based on the review and, as soon as is practicable after the report is prepared, must cause the report to be laid before each House of Parliament.

Debate ensued.

New Clause — put.

The Committee divided.

**Ayes (10)**

Hon Helen Bullock  
Hon Robin Chapple  
Hon Sue Ellery  
Hon Lynn MacLaren  
Hon Ljiljana Ravlich

Hon Linda Savage  
Hon Sally Talbot  
Hon Giz Watson  
Hon Alison Xamon  
Hon Ed Dermer (*Teller*)

**Noes (14)**

Hon Peter Collier  
Hon Mia Davies  
Hon Phil Edman  
Hon Brian Ellis  
Hon Donna Faragher  
Hon Nick Goiran  
Hon Nigel Hallett

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

New Clause thus negatived.

Title agreed to.

\_\_\_\_\_

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Parliamentary Secretary representing the Premier on behalf of the Minister for Mental Health representing the Minister for Environment moved, That the Bill be read a third time.

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

Question — put and passed.

Bill read a third time and passed

**10. Evidence and Public Interest Disclosure Legislation Amendment Bill 2011**

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

The Deputy President left the Chair.

\_\_\_\_\_

**In Committee**

(Hon Alyssa Hayden in the Chair)

Clause 1 agreed to.

Clauses 2 to 4 agreed to.

Clause 5.

The Attorney General moved —

Page 10, after line 19 — To insert —

*person acting judicially* does not include a member of a House of Parliament or a Committee of a House, or both Houses, of Parliament who, by law, has authority to hear, receive, and examine evidence;

*proceeding* does not include a proceeding before either House of Parliament or a Committee of either House, or both Houses, of Parliament, in which evidence is or may be given;

Debate ensued.

## 11. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Premier on behalf of the Parliamentary Secretary representing the Minister for Regional Development tabled, and by leave incorporated into Hansard, documents in relation to the Regional Development Council Action Agenda Scheme 2011, in response to a question without notice asked by Hon Helen Bullock. (Tabled Paper 4848).

The Attorney General on behalf of the Minister for Mental Health tabled documents in relation to the Suicide Prevention Strategy and current community action plan funding applications, in response to question on notice No. 5725 asked by Hon Alison Xamon. (Tabled Paper 4849).

### *Point of Order*

Hon Ken Travers raised the following Point of Order —

During question time, in both the answer given and in your comments there was a suggestion, and I seek your formal ruling on the issue of asking questions of the Parliamentary Secretary who represents the Leader of the National Party. Under Standing Order 103, questions may be asked of a Minister or Parliamentary Secretary relating to public affairs with which the Minister or Parliamentary Secretary is connected. Mr President, it would be my submission to you that when we have a leader of a political party that is formally recognised in the Parliament, matters as to the views and the position of that party are matters of public affairs to which that Minister is connected, particularly when they are the leader. In the same way, earlier this week I asked a question of the Premier about the view of the Liberal Party with respect to certain announcements that had been made by the Leader of the National Party.

My recollection—I have not been able to identify the specific questions—is that previously questions have been asked in this place of Ministers in their roles as leaders of the Liberal Party or the National Party about the views of their particular parties.

I finally conclude with the point that we are told that this is a different arrangement from that of normal governments whereby the view of the National Party may be different from the view of the Government. If that is the case, it is absolutely a matter of public importance and a public affair to which the Minister is connected as to whether their view is the same as that of the government and the other Ministers. That is why I think it is absolutely important that we have the capacity to be able to ask such questions. I believe Standing Order 103 provides for that, so I would certainly ask for your ruling, Mr President, as to what “*public affairs*” means in relation to a leader of a political party.

### *President’s Ruling*

The President ruled as follows —

The Legislative Council only recognises government and opposition or government and non-government; it does not recognise Members individually as Members of a political party. That is why I expressed my reservations about the question you asked and that was reflected in the answer provided by the Parliamentary Secretary. If there is anything further to add, I will consider that over the break and report to the next sitting of the House.

**12. Evidence and Public Interest Disclosure Legislation Amendment Bill 2011**

The President left the Chair.

Resumption of consideration of this Bill in Committee of the Whole House (*see item 10 above*).

---

**In Committee**

(Hon Alyssa Hayden in the Chair)

Clause 5.

Debate resumed on the amendment of the Attorney General as follows —

Page 10, after line 19 — To insert —

*person acting judicially* does not include a member of a House of Parliament or a Committee of a House, or both Houses, of Parliament who, by law, has authority to hear, receive, and examine evidence;

*proceeding* does not include a proceeding before either House of Parliament or a Committee of either House, or both Houses, of Parliament, in which evidence is or may be given;

Amendment — put.

The Committee divided.

**Ayes (18)**

Hon Robin Chapple  
 Hon Mia Davies  
 Hon Phil Edman  
 Hon Brian Ellis  
 Hon Donna Faragher  
 Hon Philip Gardiner  
 Hon Nick Goiran  
 Hon Nigel Hallett  
 Hon Alyssa Hayden

Hon Col Holt  
 Hon Lynn MacLaren  
 Hon Robyn McSweeney  
 Hon Michael Mischin  
 Hon Norman Moore  
 Hon Simon O'Brien  
 Hon Giz Watson  
 Hon Alison Xamon  
 Hon Ken Baston (*Teller*)

**Noes (6)**

Hon Helen Bullock  
 Hon Sue Ellery  
 Hon Ljiljana Ravlich

Hon Linda Savage  
 Hon Sally Talbot  
 Hon Ed Dermer (*Teller*)

Amendment thus passed.

Clause, as amended, agreed to.

Clauses 6 to 17 agreed to.

Title agreed to.

---

The President resumed the Chair.

Bill reported with amendment.

Ordered — That consideration of the Committee's Report be made an Order of the Day for the next sitting.

**13. Standing Committee on Procedure and Privileges — New Standing Order**

The Leader of the House moved, without notice —

That the Procedure and Privileges Committee be instructed to draft a Standing Order that shall reflect the provisions of sections 20I to 20M of the *Evidence Act 1906*, as proposed to be inserted by clause 5 of the *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*.

Debate ensued.

Question — put and passed.

**14. Order of Business**

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

**15. Members' Statements**

Statements were taken.

**16. Statement by President — Standing Orders — Interpretation**

The President made the following Statement —

Members, with regard to the past four contributions, and following question time today, I would like to make a couple of brief points. Firstly, Standing Order 191(1) states that where a report recommends action by, or seeks a response from, the Government, the responsible Minister or the Leader of the House shall provide its response in a certain time frame. So I think there may have been a bit of selective quotation of that Standing Order. The Minister for Finance has undertaken to clarify the status of that report, which I think is reasonable. I also undertook at question time to follow up if there is anything further to clarify in terms of public affairs and how that may relate to a member's responsibility to answer a question.

**17. Adjournment**

The Council adjourned at 5.58pm until Tuesday, 11 September 2012 at 3.00pm.

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

Attendance: Present all Members except Hon Liz Behjat, Hon Matt Benson-Lidholm, Hon Jim Chown, Hon Kate Doust, Hon Adele Farina, Hon Jon Ford, Hon Helen Morton and Hon Max Trenorden.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON BARRY HOUSE**  
President of the Legislative Council