

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 147

TUESDAY, 15 SEPTEMBER 2015

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. Papers

The following Papers were laid on the Table by —

President

Annual Reports —

Legislative Assembly, Department of the (2014-2015) (Date received 15/09/2015) 3260

Legislative Council, Department of the (2014-2015) (Date received 15/09/2015)..... 3261

Parliamentary Services Department (2014-2015) (Date received 15/09/2015) 3262

Leader of the House

Documents —

Land Tax Amendment Bill 2015 – Overview of State taxes and royalties 2014-15 3269

Orders —

School Education Act 1999 (Higher School Leaving Age Options Order
(No. 2) 2015 G.G. 11/09/2015) 3263

Regulations —

Gas Services Information Act 2012 (Gas Services Information Amendment
Regulations 2015 G.G. 8/09/2015)..... 3264

Minister for Mental Health

Local Laws —

Local Government Act 1995 (City of Canning Standing Orders Local Law 2015 G.G. 11/09/2015,
Shire of Exmouth Fencing Local Law 2015 G.G. 11/09/2015 and Shire of Exmouth Repeal
Local Law 2015 G.G. 11/09/2015) 3265

Attorney General

Annual Reports —

Construction Industry Long Service Leave Scheme (2014-2015)
(Date received 10/09/2015)..... 3266

Technology and Industry Advisory Council (2014-2015) (Date received 10/09/2015)..... 3267

Minister for Agriculture and Food*Regulations —*

Mining Act 1978 (Mining Amendment Regulations (No. 4) 2015 G.G. 11/09/2015)..... 3268

3. Order of Business

Ordered — That Order of the Day Nos 1, *City of Fremantle Plastic Bag Reduction Local Law 2015 — Disallowance*, and 2, *Regulation 6(1) of the Conservation and Land Management Amendment Regulations 2015 — Disallowance*, be taken after Order of the Day No. 6, *Criminal Code Amendment (Prevention of Lawful Activity) Bill 2015*. (Leader of the House).

4. Land Tax Amendment Bill 2015

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

Debate resumed.

The Leader of the House representing the Minister for Finance tabled a document in relation to the *Land Tax Amendment Bill 2015 — Overview of State Taxes and Royalties 2014–15*. (Tabled Paper 2407).

Debate resumed.

Question — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third reading of the Bill.

The Leader of the House representing the Minister for Finance moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

5. Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014

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 Adele Farina in the Chair)

Clause 1.

Debate ensued.

Point of Order

The Attorney General raised the following Point of Order —

We are dealing with questions on clause 1. We have had the second reading debate on the policy of the bill.

Chair's Ruling

The Chair ruled as follows —

The debate on clause 1 of the bill is not an opportunity to revisit a second reading contribution. The Hon Robin Chapple was referring to a number of clauses in the bill that impact on minors and that he is proposing to move amendments on, and he is using the opportunity of speaking on clause 1 to bring all those together. He does have some capacity to do that, but I will just remind Hon Robin Chapple to limit the debate and to be clear in his express words as to what he is doing.

Debate resumed.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

Hon Robin Chapple moved —

Page 3, lines 22 to 25 — To delete the lines.

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (2)

Hon Lynn MacLaren

Hon Robin Chapple (*Teller*)

Noes (30)

Hon Martin Aldridge
Hon Ken Baston
Hon Liz Behjat
Hon Jacqui Boyde
Hon Paul Brown
Hon Jim Chown
Hon Alanna Clohesy
Hon Peter Collier
Hon Stephen Dawson
Hon Kate Doust
Hon Sue Ellery
Hon Brian Ellis
Hon Donna Faragher
Hon Adele Farina
Hon Nick Goiran

Hon Dave Grills
Hon Alyssa Hayden
Hon Col Holt
Hon Peter Katsambanis
Hon Mark Lewis
Hon Rick Mazza
Hon Robyn McSweeney
Hon Michael Mischin
Hon Helen Morton
Hon Simon O'Brien
Hon Martin Pritchard
Hon Samantha Rowe
Hon Ken Travers
Hon Darren West
Hon Phil Edman (*Teller*)

Amendment thus negatived.

Question, That the clause stand as printed — put and passed.

New Clause 4A.

Hon Sue Ellery moved —

Page 3, after line 26 — To insert —

4A. Section 27 amended

After section 27(2) insert —

- (3) A person suffering from a mental impairment as defined in section 8 of the *Criminal Law (Mentally Impaired Accused) Act 1996* who is not relieved of criminal responsibility under subsection (1) or (2) for an offence under a provision listed in column 1 of the Table is nevertheless not subject to a minimum sentence requirement under the provisions listed in column 3 of the Table opposite that offence if, by reason of mental impairment, it would be manifestly unjust to apply the minimum sentence requirement to the person.

Table

Offence Provision	Description of Offence	Minimum sentence requirement provision
s. 279	Murder	s. 279(5A) and (6A)
s. 280	Manslaughter	s. 280(2) and (3)
s. 281	Unlawful assault causing death	s. 281(3) and (4)
s. 283	Attempt to unlawfully kill	s. 283(2) and (3)
s. 294	Act intended to cause grievous bodily harm or prevent arrest	s. 294(2) and (3)
s. 297	Grievous bodily harm	s. 297(5) and (6)
s. 320	Child under 13, sexual offences against	s. 320(7) and (8)
s. 321	Child of or over 13 and under 16, sexual offences against	s. 321(14) and (15)
s. 324	Aggravated indecent assault	s. 324(3) and (4)
s. 325	Sexual penetration without consent	s. 325(2) and (3)
s. 326	Aggravated sexual penetration without consent	s. 326(2) and (3)
s. 327	Sexual coercion	s. 327(2) and (3)
s. 328	Aggravated sexual coercion	s. 328(2) and (3)
s. 330	Incapable person, sexual offences against	s. 330(10) and (11)
s. 401	Burglary	s. 401(4) and (5)

Debate ensued.

The Leader of the House moved, That the Chair report progress and seek to sit again at a later stage of this day's sitting.

Question — put and passed.

The President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again at a later stage of this day's sitting.

Ordered — That the Committee of the Whole House sit again at a later stage of this day's sitting.

6. Questions Without Notice

Questions without notice were taken.

The Minister for Education tabled documents in relation to Languages Other Than English (LOTE) offered at Western Australian public schools as at 9 September 2015, in response to a question without notice asked by Hon Sue Ellery. (Tabled Paper 3270).

The Minister for Education tabled documents in relation to qualifications delivered by schools in the South West Education Region, in response to question on notice No. 3342 asked by Hon Adele Farina. (Tabled Paper 3271).

The Leader of the House representing the Minister for Sport and Recreation tabled documents in relation to a list of Active Community Sporting and Recreation Facilities Grants Annual and Forward Planning Grants as at 2 September 2015, in response to question on notice No. 3318 asked by Hon Adele Farina. (Tabled Paper 3272).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to Department of Parks and Wildlife full-time equivalent positions, per division in 2013 and the number of reductions of full-time equivalent positions in 2014 and 2015, in response to question on notice No. 3332 asked by Hon Lynn MacLaren. (Tabled Paper 3273).

The Minister for Agriculture and Food representing the Minister for Mines and Petroleum tabled documents in relation to a list of bonds that still exist over current mining operations, over non-operating mining operations and unconditional performance bonds, in response to question on notice No. 3290 asked by Hon Robin Chapple. (Tabled Paper 3274).

The Minister for Housing representing the Minister for Lands, in accordance with Standing Order No. 108(2), advised that an answer to question on notice No. 3278 asked by Hon Lynn MacLaren will be provided by 15 October 2015.

7. Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014

Resumption of consideration of this Bill in Committee of the Whole House (*see item 5 above*).

The President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Debate resumed on the amendment of Hon Sue Ellery as follows —

Page 3, after line 26 — To insert —

4A. Section 27 amended

After section 27(2) insert —

- (3) A person suffering from a mental impairment as defined in section 8 of the *Criminal Law (Mentally Impaired Accused) Act 1996* who is not relieved of criminal responsibility under subsection (1) or (2) for an offence under a provision listed in column 1 of the Table is nevertheless not subject to a minimum sentence requirement under the provisions listed in column 3 of the Table opposite that offence if, by reason of mental impairment, it would be manifestly unjust to apply the minimum sentence requirement to the person.

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Offence Provision	Description of Offence	Minimum sentence requirement provision
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s. 283	Attempt to unlawfully kill	s. 283(2) and (3)
s. 294	Act intended to cause grievous bodily harm or prevent arrest	s. 294(2) and (3)
s. 297	Grievous bodily harm	s. 297(5) and (6)
s. 320	Child under 13, sexual offences against	s. 320(7) and (8)
s. 321	Child of or over 13 and under 16, sexual offences against	s. 321(14) and (15)
s. 324	Aggravated indecent assault	s. 324(3) and (4)
s. 325	Sexual penetration without consent	s. 325(2) and (3)
s. 326	Aggravated sexual penetration without consent	s. 326(2) and (3)
s. 327	Sexual coercion	s. 327(2) and (3)
s. 328	Aggravated sexual coercion	s. 328(2) and (3)
s. 330	Incapable person, sexual offences against	s.330(10) and (11)
s. 401	Burglary	s. 401(4) and (5)

Amendment — put.

The Committee divided.

Ayes (11)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Stephen Dawson
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina

Hon Lynn MacLaren
Hon Martin Pritchard
Hon Ken Travers
Hon Darren West
Hon Samantha Rowe (*Teller*)

Noes (20)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Peter Collier
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Nick Goiran

Hon Dave Grills
 Hon Alyssa Hayden
 Hon Col Holt
 Hon Peter Katsambanis
 Hon Mark Lewis
 Hon Rick Mazza
 Hon Robyn McSweeney
 Hon Michael Mischin
 Hon Helen Morton
 Hon Phil Edman (*Teller*)

Proposed New Clause put and negatived.

Clause 5.

Hon Robin Chapple moved —

Page 4, line 15 to page 5, line 5 — To delete the lines.

Debate ensued.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 6.

Hon Robin Chapple moved —

Page 5, line 20 to page 6, line 8 — To delete the lines.

Debate ensued.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 7.

Hon Robin Chapple moved —

Page 6, line 19 to page 7, line 5 — To delete the lines.

Debate ensued.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 8.

Hon Robin Chapple moved —

Page 8, lines 1 to 19 — To delete the lines.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 9.

Hon Robin Chapple moved —

Page 10, lines 5 to 22 — To delete the lines.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 10.

Hon Robin Chapple moved —

Page 11, line 15 to page 12, line 10 — To delete the lines.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Debate ensued.

Clauses 11 to 20 agreed to.

Clause 21.

Debate ensued.

Hon Robin Chapple moved —

Page 27, lines 15 to 25 — To delete the lines.

Amendment — put and negatived.

Hon Robin Chapple moved —

Page 27, line 33 to page 28, line 9 — To delete the lines.

Amendment — put and negatived.

Debate ensued.

Hon Robin Chapple moved —

Page 28, lines 15 to 21 — To delete the lines.

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 22.

Debate ensued.

Hon Robin Chapple moved —

Page 28, line 30 — To delete “fifth” and insert —

first

Amendment — put and negatived.

Question, That the clause stand as printed — put and passed.

Clause 23 agreed to.

Clause 24.

Debate ensued.

Clause agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Attorney General moved, That the Bill be read a third time.

The Acting President announced 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.

8. Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015

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

Debate resumed.

Hon Kate Doust moved, without notice —

(1) That the *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015* be discharged and referred to the Standing Committee on Legislation for consideration and report no later than 10 November 2015.

(2) That the Committee shall not inquire into the policy of the Bill.

Debate ensued.

The Attorney General tabled a Supplementary Explanatory Memorandum relating to the Bill. (Tabled Paper 3275).

The Attorney General tabled correspondence relating to the *Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill 2015*. (Tabled Paper 3276).

Question — put and passed.

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

9. Members' Statements

Statements were taken.

10. Adjournment

The Council adjourned at 9.52pm until Wednesday, 16 September 2015 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Nigel Hallett, Hon Amber-Jade Sanderson and Hon Sally Talbot.

NIGEL PRATT

Clerk of the Legislative Council

HON BARRY HOUSE

President of the Legislative Council