

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 177

TUESDAY, 22 MARCH 2016

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. Message from Her Excellency the Governor — Assent to Bills

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

21 March 2016 — Message No. 7	Act No.
Western Australian Health Promotion Foundation Bill 2015	3 of 2016
Anzac Day Amendment Bill 2015	4 of 2016
Anzac Day Amendment Bill (No. 2) 2015	5 of 2016

3. Ministerial Statement — Retirement of Judge Crisford and Appointment of Judge O'Brien — Family Court of Western Australia

The Attorney General made a Ministerial Statement with respect to the retirement of Judge Crisford and the appointment of Judge O'Brien to the Family Court of Western Australia.

4. Papers

The following Papers were laid on the Table by —

Leader of the House

Regulations —

Electricity Corporations (Electricity Generation and Retail Corporation) Regulations 2013 —
Exemption 3911

Attorney General

Regulations —

Prisons Act 1981 (Prisons (Prison Officers Drug and Alcohol Testing) Regulations 2016
G.G. 18/03/2016)..... 3912
Young Offenders Act 1994 (Young Offenders (Custodial Officers Drug and Alcohol Testing)
Regulations 2016 G.G. 18/03/2016)..... 3913

Minister for Agriculture and Food

Management Plans —

Fish Resources Management Act 1994 (West Coast Rock Lobster Managed Fishery
Management Plan Amendment (No. 2) 2016 [1273] G.G. 14/03/2016) 3914

Regulations —

Fish Resources Management Act 1994 (Fish Resources Management Amendment Regulations (No. 3) 2016 G.G. 18/03/2016 and Fish Resources Management Amendment Regulations 2016 G.G. 18/03/2016).....	3915
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Reports —

Forest Products Commission of Western Australia Half Yearly Report (31 December 2015).....	3916
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5. President's Ruling — Matter of Privilege raised by Hon Sue Ellery MLC

The President ruled as follows —

On Thursday, 17 March 2016, Hon Sue Ellery raised a matter of privilege under Standing Order 93. The Standing Order requires me as President to rule on whether there is some substance to the matter. If there is, then I am required to refer the matter to the Standing Committee on Procedure and Privileges for its consideration. Determining whether there is some substance to a matter of privilege is one for my sole judgement as President based on the submission presented by the Member and any relevant documents.

In this task I am guided by previous rulings and the Standing Orders, which in Schedule 4 set out criteria to be taken into account when determining whether matters possibly involving contempt should be referred to the Standing Committee on Procedure and Privileges. The threshold question requires the Member raising a matter of privilege to present sufficient evidence to satisfy me that the matter should be referred.

The matter of privilege in this case was sufficiently outlined by Hon Sue Ellery in her speech last Thursday. The matters raised by Hon Sue Ellery concern the integrity of the Parliament's information gathering and accountability functions. Without pre-empting the view of the Procedure and Privileges Committee, I believe the matter of privilege can be summarised by the following statement.

In relation to Legislative Council question without notice 176 asked by the Leader of the Opposition, Hon Sue Ellery, and answered on 12 March 2014 by the Leader of the House, Hon Peter Collier, in his capacity as the Minister representing the Premier, firstly, did Ms Rachael Turnseck commit a contempt of this House; secondly, did Mr Stephen Home commit a contempt of this House; and, thirdly, did any other person or body commit a contempt of this House or any breach of its privileges?

I am satisfied under Standing Order 93(5) that this matter of privilege should be referred to the Procedure and Privileges Committee. I will formally write to the committee today to refer the matter.

6. Statement by President — Ministers and Parliamentary Secretaries answering Questions in a Representative Capacity

The President made the following Statement —

The responsibility of Ministers and Parliamentary Secretaries when answering questions in their representative capacities has again been raised. Under current arrangements, private Members may ask questions of Ministers of the Crown who are Members of the other place through questions to their representative Ministers or Parliamentary Secretaries in the Legislative Council. In circumstances in which the Parliamentary Secretary who is a Member of this House acts for their Minister in the other place or when another Minister in this House acts for a Minister in the other place, they do so in a representing capacity.

Ministers and Parliamentary Secretaries answering questions on behalf of the Minister they represent are responsible to this House for the answer that they give. When given in this place, it is their answer and they are responsible for its accuracy. However, the representative Minister or Parliamentary Secretary is not individually responsible in any legal or parliamentary sense for the department of state of the Minister they are representing. This is made clear by the practice for oral questions when questions are answered in a representative capacity. In these cases the Member asking the question is required to give some notice. This

is to enable the responsible Minister in the other place to approve any answer to be given by his or her representative in this House. This approval is provided by the responsible Minister signing the answer. When it is discovered that an answer given in any capacity is inaccurate, the Minister or Parliamentary Secretary has an obligation to correct the record at the earliest opportunity, and the usual practice is to also apologise to the House for the error.

I note that last Wednesday the Leader of the House, Hon Peter Collier, as the Minister representing the Premier, provided a corrected answer to a question asked by the Honourable Leader of the Opposition on 12 March 2014. This answer followed the tabling that day of the Corruption and Crime Commission “Report on the Investigation of Alleged Public Sector Misconduct in Relation to an Incident Involving the Hon. Troy Buswell that Occurred on 23 February 2014”.

7. Planning and Development Amendment Regulations 2015 — Disallowance — Discharge from Notice Paper

The Order of the Day having been called, Hon Lynn MacLaren moved, without notice —

That Order of the Day No. 2, *Planning and Development Amendment Regulations 2015 — Disallowance*, be discharged from the Notice Paper.

Question — put and passed.

8. Order of Business

Ordered — That Order of the Day No. 3, *Mental Health Regulations 2015 – Disallowance*, be taken after Order of the Day No. 13, *Genetically Modified Crops Free Areas Repeal Bill 2015*. (Leader of the House).

9. Pilbara Port Assets (Disposal) Bill 2015

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

Debate resumed.

Hon Jacqui Boydell moved, without notice —

That —

- (1) Order of the Day No. 20, the *Pilbara Port Assets (Disposal) Bill 2015*, be discharged and referred to the Standing Committee on Legislation for consideration (2) and report by no later than 17 May 2016.
- (2) That the Committee has the power to inquire into and report on the policy of the Bill.

Debate ensued.

10. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Minister for Training and Workforce Development, by leave incorporated into *Hansard*, information in relation to consultation with Members of Parliament in relation to proposed changes to TAFEs, in response to a question without notice asked by Hon Ken Travers.

The Minister for Education, by leave incorporated into *Hansard*, information in relation to full-time enrolments at public schools for the first census date of 2016, in response to a question without notice asked by Hon Sue Ellery.

The Minister for Education tabled documents in relation to school psychologist time allocated to each Education Support Centre based on enrolments for 2016, in response to question on notice No. 3780 asked by Hon Sue Ellery. (Tabled Paper 3917).

The Minister for Education tabled documents in relation to school psychologist FTE hours by school for the 2016 school year, in response to question on notice No. 3787 asked by Hon Sue Ellery. (Tabled Paper 3918).

The Minister for Child Protection tabled documents in relation to applications to the Hardship Utilities Grant Scheme received and approved in May 2015, in response to question on notice No. 3802 asked by Hon Stephen Dawson. (Tabled Paper 3919).

The Minister for Child Protection tabled documents in relation to applications to the Hardship Utilities Grant Scheme received and approved in November 2015, in response to question on notice No. 3805 asked by Hon Stephen Dawson. (Tabled Paper 3920).

The Minister for Child Protection tabled documents in relation to applications to the Hardship Utilities Grant Scheme processed in October, November and December 2015, in response to question on notice No. 3806 asked by Hon Stephen Dawson. (Tabled Paper 3921).

The Minister for Child Protection tabled documents in relation to applications to the Hardship Utilities Grant Scheme processed in July, August and September 2015, in response to question on notice No. 3807 asked by Hon Stephen Dawson. (Tabled Paper 3922).

The Minister for Agriculture and Food representing the Minister for Mines and Petroleum tabled documents in relation to mining projects put into care and maintenance since entering the Mining Rehabilitation Fund and their bonds being retired, in response to question on notice No. 3814 asked by Hon Robin Chapple. (Tabled Paper 3923).

11. Pilbara Port Assets (Disposal) Bill 2015

Debate resumed on the motion of Hon Jacqui Boydell (*see item 9 above*).

That —

- (1) Order of the Day No. 20, the *Pilbara Port Assets (Disposal) Bill 2015*, be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 17 May 2016.
- (2) That the Committee has the power to inquire into and report on the policy of the Bill.

Question — put and passed.

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

12. Order of Business

Ordered — That Order of the Day No. 19, *Co-operatives Amendment Bill 2015*, be taken forthwith. (Leader of the House).

13. Co-operatives 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 Minister for Commerce tabled a letter from Co-operatives WA to the Minister for Commerce regarding the Co-operatives Amendment Bill 2015. (Tabled Paper 3924).

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 Minister for Commerce moved, That the Bill be read a third time.

Question — put and passed.

Bill read a third time and passed.

14. Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2015

The Acting President reported the receipt of Message No. 142 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House representing the Premier moved, That the Bill be read a first time.

Question — put and passed.

Bill read a first time.

The Leader of the House representing the Premier moved, That the Bill be read a second time.

The Leader of the House representing the Premier tabled an Explanatory Memorandum relating to the Bill. (Tabled Paper 3925).

Debate stands adjourned.

15. Order of Business

Ordered — That Order of the Day No. 16, *Dangerous Sexual Offenders Legislation Amendment Bill 2015*, be taken forthwith. (Leader of the House).

16. Dangerous Sexual Offenders Legislation Amendment Bill 2015

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 Acting President left the Chair.

In Committee

(Hon Liz Behjat in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

The Attorney General moved, That the Deputy Chair report progress and seek to sit again.

Question — put and passed.

The President resumed the Chair.

The Deputy Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

17. Members' Statements

Statements were taken.

18. Adjournment

The Council adjourned at 9.55pm until Wednesday, 23 March 2016 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Paul Brown, Hon Kate Doust and Hon Phil Edman.

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council