

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 192

TUESDAY, 29 NOVEMBER 2011

1. Meeting of Council

The Council assembled at 3.00pm pursuant to Temporary Orders.

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

2. Ministerial Statement - Agent General in London

The Leader of the House made a Ministerial Statement with respect to his continuing role as a Minister in the Government and his decision not to accept the position of Agent General in London.

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

3. Ministerial Statement - Local Content Report

The Minister for Commerce made a Ministerial Statement with respect to the State Government's second *Local Content Report*.

The Minister for Commerce tabled the State Government's second *Local Content Report (November 2011)*. (Tabled paper 4122).

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

4. Ministerial Statement - Modular Fabrication in the Resources Sector

The Minister for Commerce made a Ministerial Statement with respect to Modular Fabrication in the resources sector in Western Australia.

The Minister for Commerce tabled a document entitled *Modular Fabrication in the Resources Sector in Western Australia: Current Practices and Strategies for Improvement*. (Tabled paper 4123).

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

5. Ministerial Statement - Australian Training Awards

The Minister for Training and Workforce Development made a Ministerial Statement with respect to Western Australia's success at the Australian Training Awards.

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

6. Ministerial Statement - Disability Awareness Week

The Minister for Disability Services made a Ministerial Statement with respect to disability awareness week.

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

7. Papers

The following Papers were laid on the Table by -

President

Reports -

Parliamentary Commissioner for Administrative Investigations [Ombudsman] -
Planning for Children in Care: An Ombudsman's own motion investigation
into the administration of the care planning provisions of the Children and
Community Services Act 2004 4106

Leader of the House

Management Plans -

Fish Resources Management Act 1994 - Management Plans (West Coast Deep Sea
Crustacean Fishery (Interim) Management Plan Amendment 2011 [965] G.G. 22/11/2011)..... 4107

Regulations -

Fish Resources Management Act 1994 - Regulations (Fish Resources Management
Amendment Regulations (No. 13) 2011 G.G. 22/11/2011) 4108

Reports -

Report on the Remuneration of Judges, District Court Judges, Masters of the Supreme
Court, Magistrates and the Parliamentary Inspector of the Corruption and
Crime Commission (25 November 2011) 4109

Minister for Finance

Regulations -

Shipping and Pilotage Act 1967 (Navigable Waters Amendment Regulations (No. 2) 2011 G.G.
25/11/2011)..... 4110

Rail Safety Act 2010 (Rail Safety Amendment Regulations (No. 3) 2011 G.G. 22/11/2011)..... 4111

Minister for Energy

Annual Reports -

State Emergency Management Committee (2010-2011) (Date received 24/11/2011)..... 4112

Regulations -

Education Service Providers (Full Fee Overseas Students) Registration Act 1991
(Education Service Providers (Full Fee Overseas Students) Registration Amendment
Regulations 2011 G.G. 25/11/2011)..... 4113

Electricity Industry Act 2004 (Electricity Industry (Wholesale Electricity Market) Amendment
Regulations 2011 G.G. 25/11/2011)..... 4114

Higher Education Act 2004 (Higher Education Amendment Regulations 2011 G.G. 25/11/2011) 4115

Minister for Energy on behalf of the Minister for Child Protection*Annual Reports -*

Carers Advisory Council (2010-2011) (Date received 29/11/2011) 4116

Local Laws -

Local Government Act 1995 (Shire of Jerramungup Dust and Sand Local Law 2011 G.G. 22/11/2011)..... 4117

Regulations -

Biosecurity and Agriculture Management Act 2007 (Biosecurity and Agriculture Management (Declared Pest Account Rate Consultation) Regulations 2011 G.G. 22/11/2011)..... 4118

Minister for Mental Health*Annual Reports -*

Cockburn Sound Management Council (2010-2011) (Date received 29/11/2011)..... 4119

Marine Parks and Reserves Authority (2010-2011) (Date received 29/11/2011) 4120

Parliamentary Secretary to the Minister for Regional Development on behalf of the Parliamentary Secretary representing the Attorney General*Rules -*

Criminal Procedure Act 2004 (Criminal Procedure (District Court) Amendment Rules 2011 G.G. 25/11/2011)..... 4121

8. Business Names (Commonwealth Powers) Bill 2011

The Minister for Commerce: To move on the next day of sitting -

That a Bill for “An Act —

- to adopt the *Business Names Registration Act 2011* (Commonwealth) and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* (Commonwealth), and to refer certain matters relating to the registration and use of business names to the Parliament of the Commonwealth, for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and
 - to amend the *Business Names Act 1962* to effect the transition of the regulation of business names from the State to the Commonwealth; and
 - to make consequential amendments to various Acts,
- and for related purposes.” be introduced and read a first time.

9. Gas Services Information Bill 2011

The Minister for Energy: To move on the next day of sitting -

That a Bill for “An Act to provide for the establishment and operation of a gas bulletin board and the preparation and publication of a gas statement of opportunities, and for related purposes.” be introduced and read a first time.

10. Adoption Amendment Bill 2011

The Minister for Child Protection: To move on the next day of sitting -

That a Bill for “An Act to amend the *Adoption Act 1994*.” be introduced and read a first time.

11. Metropolitan Region Scheme Amendment No. 1203/41 - Perth Waterfront - Disallowance

Hon Ken Travers: To move on the next day of sitting -

That the *Metropolitan Region Scheme Amendment No. 1203/41 - Perth Waterfront* published in the *Gazette* on 14 October 2011 and tabled in the Legislative Council on 18 October 2011 under the *Planning and Development Act 2005*, be and is hereby disallowed.

12. Planning for Children in Care

Hon Sue Ellery: To move on the next day of sitting -

That this House notes the findings of the 'Planning for Children in Care: An Ombudsman's Own Motion Investigation into the administration of the care planning provisions of the *Children and Community Services Act 2004*' including widespread non-compliance with the Act and calls on the Minister for Child Protection to explain the discrepancy between that report and answers provided to the House.

13. Mr Neil Winzer - Reinstatement

Hon Max Trenorden: To move on the next day of sitting -

That the Legislative Council calls on the Public Sector Commissioner to -

- (a) conclude expeditiously the reinstatement of Mr Neil Winzer to the Western Australian Public Sector; and
- (b) apply to Mr Neil Winzer the rules of natural justice required when dealing with State public servants.

14. Order of Business

Ordered - That Orders of the Day Nos 1, *Shire of Derby/West Kimberley Waste Services Local Law 2011 - Disallowance*, and 2, *Shire of Kalamunda Keeping and Control of Animals and Nuisance Local Law 2011 - Disallowance*, be taken after Order of the Day No. 10, *Standing Committee on Procedure and Privileges - Report No. 22 - Review of the Standing Orders - Committee Report*. (Leader of the House).

15. Residential Tenancies Amendment Bill 2011

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Minister for Finance representing the Minister for Housing moved, That the report be adopted.

Question - put and passed.

Ordered - That the third reading of the Bill be made an Order of the Day for the next sitting.

16. Criminal Appeals Amendment (Double Jeopardy) Bill 2011

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

Question - put and passed.

Bill read a second time.

The 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.

The Parliamentary Secretary to the Premier on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 15, line 25 — To delete “person,” and insert —

officer,

Amendment - put and passed.

Debate resumed.

Clause, as amended, agreed to.

Clauses 5 to 11 agreed to.

New Clause 5A.

The Parliamentary Secretary to the Premier on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 17, after line 22 — To insert —

5A. Section 52 inserted

After section 51 insert:

52. Double jeopardy amendments to be reviewed

- (1) The Minister must carry out a review of the operation of the amendments made to this Act and *The Criminal Code* by the *Criminal Appeals Amendment (Double Jeopardy) Act 2011* as soon as practicable after the expiration of 5 years after the date on which the amendments come into operation.
- (2) The Minister must prepare a report based on the review and, as soon as practicable after the report is prepared and in any event not more than 18 months after the expiry of the period referred to in subsection (1), cause it to be laid before each House of Parliament.

New Clause - put and passed.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

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

17. Commercial Arbitration 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 President left the Chair.

In Committee

(Hon Ken Travers in the Chair)

Clause 1 agreed to.

Clauses 2 to 10 agreed to.

Clause 11.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 13, lines 11 to 16 — To delete the lines and insert —

- (5) A decision within the limits of the Court's authority on a matter entrusted by subsection (3) or (4) to the Court is final.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 12 agreed to.

Clause 13.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 15, lines 17 to 21 — To delete the lines and insert —

- (5) A decision of the Court under subsection (4) that is within the limits of the authority of the Court is final.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 14.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 16, lines 9 to 13 — To delete the lines and insert —

- (3) A decision of the Court under subsection (2) that is within the limits of the authority of the Court is final.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 15 agreed to.

Clause 16.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 18, lines 4 to 8 — To delete the lines and insert —

- (10) A decision of the Court under subsection (9) that is within the limits of the authority of the Court is final.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 17 to 27G agreed to.

Clause 27H.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 40, lines 9 to 13 — To delete the lines and insert —

- (5) An order of the Court under this section that is made within the limits of the authority of the Court is final.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 27I.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 41, lines 9 to 13 — To delete the lines and insert —

- (4) An order of the Court under this section that is made within the limits of the authority of the Court is final.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 27J to 44 agreed to.

Clause 45.

The Minister for Commerce on behalf of the Parliamentary Secretary representing the Attorney General moved -

Page 61, the Table item 14 the 1st row — To delete “14(4),” and insert —

14(3),

Amendment - put and passed.

Clause, as amended, agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

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

18. Local Government Amendment (Regional Subsidiaries) Bill 2010

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

The President left the Chair.

In Committee

(Hon Ken Travers in the Chair)

Clause 1.

Debate ensued.

19. Questions Without Notice

Questions without notice were taken.

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. 4856 asked by Hon Ken Travers will be provided on 1 December 2011.

The Minister for Finance representing the Minister for Corrective Services tabled documents in relation to Bandyup Women’s Prison and an outcare survey, in response to question on notice No. 4904 asked by Hon Giz Watson. (Tabled paper 4124).

The Minister for Finance representing the Treasurer tabled documents in relation to claims made under the *Motor Vehicle (Third Party Insurance) Act 1943* for 2007-08, 2008-09, 2009-10 and 2010-11, in response to question on notice No. 4859 asked by Hon Ken Travers. (Tabled paper 4125).

The Minister for Finance representing the Minister for Transport tabled documents in relation to recent road works and roadside clearing on the South Western Highway south of Manjimup towards Walpole, in response to question on notice No. 4898 asked by Hon Giz Watson. (Tabled paper 4126).

The Minister for Mental Health representing the Minister for Water tabled documents in relation to details of the Water Corporation’s restriction of supply notices and payment plans for 2009-10 and 2010-11, in response to question on notice No. 4886 asked by Hon Ljiljanna Ravlich. (Tabled paper 4127).

The Minister for Mental Health representing the Minister for Planning tabled documents in relation to traffic modelling at the Perth Waterfront Development, in response to question on notice No. 4874 asked by Hon Ken Travers. (Tabled paper 4128).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to staffing details at the Department of Environment and Conservation, in response to question on notice No. 4890 asked by Hon Sally Talbot. (Tabled paper 4129).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to Department of Environment and Conservation owned or leased properties as at October 2010 and October 2011, in response to question on notice No. 4891 asked by Hon Sally Talbot. (Tabled paper 4130).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to the appointment of Ms Elizabeth Carr to the Board of the Environmental Protection Authority, in response to question on notice No. 4958 asked by Hon Sally Talbot. (Tabled paper 4131).

The Minister for Mental Health representing the Minister for Environment tabled documents in relation to details of employees performing the functions of the Swan River Trust who are employed by the Department of Environment and Conservation, in response to question on notice No. 4960 asked by Hon Sally Talbot. (Tabled paper 4132).

20. Standing Committee on Procedure and Privileges - Report No. 23 - Reference from the House - Evidence and Public Interest Disclosure Legislation Amendment Bill 2011

The President presented Report No. 23 of the Standing Committee on Procedure and Privileges in relation to the *Reference from the House - Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*. (Tabled paper 4133).

The Deputy President moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

21. Local Government Amendment (Regional Subsidiaries) Bill 2010

The President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 1.

Debate resumed.

Clause agreed to.

Clauses 2 to 8 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

Hon Max Trenorden 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.

Bill read a third time and passed.

22. Legal Deposit Bill 2011

The President reported the receipt of Message No. 230 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Mental Health representing the Minister for Culture and the Arts moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Mental Health representing the Minister for Culture and the Arts moved, That the Bill be now read a second time.

Debate stands adjourned.

23. Local Government Amendment Bill 2011

The President reported the receipt of Message No. 231 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Local Government moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Local Government moved, That the Bill be now read a second time.

Debate stands adjourned.

24. Order of Business

Ordered - That Member's Statements be taken forthwith. (Leader of the House).

25. Members' Statements

Statements were taken.

26. Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 232

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendment made by the Legislative Council in the *Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011*.

Mr J.M. Francis

Acting Speaker

Legislative Assembly Chamber

Perth, 29 November 2011

27. Adjournment

The House adjourned at 8.24pm until Wednesday, 30 November 2011 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Michael Mischin.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council