

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 131

THURSDAY, 2 DECEMBER 2010

1. Meeting of Council

The Council assembled at 10.00am pursuant to resolution of the House.

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

2. Petitions

Hon Matt Benson-Lidholm presented a petition, by delivery to the Clerk, [SO 130], from 27 petitioners requesting the Legislative Council investigate ways to ensure a competitive rail system in relation to the Tier 3 Narrow Gauge Rail Lines in the Wheatbelt. (Tabled paper 2892).

Hon Wendy Duncan presented a petition from 14 petitioners requesting the Legislative Council investigate the current charges that Wyndham (new town) residents must pay to the Water Corporation and whether there is any reimbursement that residents who pay these rates can be offered in lieu of services received by the Water Corporation. (Tabled paper 2893).

3. Paper

The following Paper was laid on the Table by -

Parliamentary Secretary representing the Treasurer

Reports -

Economic Regulation Authority - Final Report - Inquiry into the Chicken Meat
Industry Act 1977 (1 November 2010) (Deemed tabled 29/11/10) 2891

4. Leave of Absence - Hon Giz Watson

Hon Alison Xamon moved, without notice -

That leave be granted to Hon Giz Watson for six sitting days due to urgent personal business.

Question - put and passed.

5. Fish Resources Management Amendment Regulations (No. 7) 2010 - Disallowance - Discharge from Notice Paper

Hon Robin Chapple moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 4, *Fish Resources Management Amendment Regulations (No. 7) 2010 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

6. Fish Resources Management Amendment Regulations (No. 6) 2010 - Disallowance - Discharge from Notice Paper

Hon Robin Chapple moved, without notice -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, Order of the Day No. 2, *Fish Resources Management Amendment Regulations (No. 6) 2010 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

7. Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010

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

Debate resumed.

8. Questions Without Notice

Questions without notice were taken.

The Minister for Mines and Petroleum tabled documents in relation to details of the nature of accidents, injuries and the level of resulting environmental impact reported in the Department of Mines and Petroleum's Annual Report 2009-10, in response to question on notice No. 3012 asked by Hon Robin Chapple. (Tabled paper 2894).

The Minister for Mines and Petroleum tabled the Department of Mines and Petroleum's policies and procedures in relation to the prevention and deterrence of officers and employees releasing or disclosing information in an unlawful manner, in response to question on notice No. 3027 asked by Hon Robin Chapple. (Tabled paper 2895).

The Minister for Energy representing the Minister for Education tabled, and by leave incorporated into Hansard, documents in relation to the Aboriginal Education Strategy, in response to a question without notice asked by Hon Matt Benson-Lidholm. (Tabled paper 2896).

The Minister for Training and Workforce Development tabled documents in relation to the qualifications achieved by Challenger TAFE students studying at the Australian Centre for Energy and Process Training, in response to question on notice No. 3006 asked by Hon Alison Xamon. (Tabled paper 2897).

The Minister for Energy representing the Minister for Education tabled documents in relation to funding for school and language centres providing English as a second language for children of 457 visa holders, in response to question on notice No. 3009 asked by Hon Alison Xamon. (Tabled paper 2898).

The Parliamentary Secretary representing the Treasurer on behalf of the Minister for Child Protection representing the Minister for Environment tabled documents in relation to reserve proposals for the Forest Management Plan 2004-2013, in response to question without notice No. 2803 asked by Hon Giz Watson. (Tabled paper 2899).

9. Petition

Hon Ken Travers presented a petition from 4 petitioners requesting the Legislative Council investigate the process for awarding government contracts for Transperth bus services. (Tabled paper 2900).

10. Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010

Debate resumed on the second reading of this Bill (cf item 7 above).

Want of Quorum

There not being a quorum present, the Deputy President gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Hon Robin Chapple moved, without notice -

That the *Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010* be discharged and referred to the Standing Committee on Legislation for consideration and report not later than Tuesday, 15 February 2011.

Debate ensued.

Point of Order

Hon Jon Ford raised the following Point of Order -

Mr Deputy President, in regards to your ruling, or instruction, could you point to the Standing Order that states that the Honourable Member does not have the right of reply? We are moving away from what we are talking about in substance now, but my recollection of the practice of the House is that the Member moving a referral motion, as with other motions, gets a right of reply. This is very important. If Mr Deputy President does not feel comfortable with making that ruling, I am quite happy to accept a ruling from the President at a later stage that will clarify the position, because it is very important to the House.

Deputy President's Ruling

The Deputy President ruled as follows -

Members, we have before the House a motion moved without notice by Hon Robin Chapple that the *Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010* be discharged and referred to the Standing Committee on Legislation for consideration and that it report not later than Tuesday, 15 February 2011. Hon Robin Chapple spoke to that motion and, after speeches by other Members in support of or against that motion, has sought to reply. The question is whether Hon Robin Chapple has a right of reply. I refer to Standing Order 89 of the Standing Orders of the Legislative Council, which reads —

A reply shall be allowed to a Member who has made a substantive motion to the Council, or moved any reading of a Bill, but not to a Member who has moved an amendment or the previous question.

The question is whether the motion before the House to refer the bill to a committee is a substantive motion. I have had referred to me a ruling of this House on 31 October 2006. The subject matter at that time was the *Betting and Racing Legislation Amendment Bill 2006* and the motion before the House was to refer the bill to a committee. The motion was moved by Hon Barry House, as he then was. The Deputy President who had charge of the matter and made a ruling on the issue was Hon Ken Travers. He ruled at first instance that it was a procedural motion and he was unsure as to whether the Honourable Member had a right of reply. He left the chair for a few minutes to seek further advice on the matter. Proceedings were suspended for seven minutes. Upon his return, the Deputy President, as Hon Ken Travers was at the time, advised that he had considered the issue and, in his view, the Member had moved a procedural motion and only substantive motions have a right of reply, and so he put the question to the House. Consistent with that ruling, I will put the question. Hon Robin Chapple does not have a right of reply in accordance with Standing Order 89.

Point of Order

Hon Jon Ford raised the following Point of Order -

In more recent times there has been a different practice in this House in regards to having a right of reply. It seems to me that in recent times these types of motions have been seen as substantive and therefore the Member is given a right of reply. In the interests of clarifying this point now, if that is your ruling, Mr Deputy President, I move to object to it and would like the House to make a decision on it.

Deputy President's Ruling

The Deputy President ruled as follows -

Members, given the claim that there is a conflict between precedents and the nature of the issue, I propose to leave the chair and consult with the President. I will leave the chair until the ringing of the bells.

The Deputy President left the Chair at 3.53pm

The President resumed the Chair at 4.15pm

President's Ruling

The President ruled as follows -

Members, Hon Robin Chapple moved a motion to refer the *Iron Ore Agreements Legislation Amendment Bill (No. 2) 2010* to the Standing Committee on Legislation. Debate ensued on that matter, and Hon Robin Chapple sought right of reply during that debate. It was denied after discussion at the Chair between the Deputy President (Hon Michael Mischin) and the Clerk. Hon Jon Ford then took a point of order to clarify the situation. After a couple of minutes the Deputy President gave the ruling that, based on Standing Order 89 and written precedents, Hon Robin Chapple did not have right of reply. This ruling is correct and is further backed up by some information I have from *Odgers' Australian Senate Practice, Eleventh Edition, 2004*. In respect of right of reply, it states on page 215 —

A senator who has moved a substantive motion may speak in reply, and this reply closes the debate (SO 192). There is no right of reply in relation to a procedural motion or in relation to an amendment.

The point was made about other instances in recent times in which this may not have been the case. I do not deny that they may have happened, but they should not have, and such instances do not follow our Standing Orders. They are inconsistent with our Standing Orders and established formal practice. Therefore, I rule that there is no point of order and I resume the debate by immediately putting the question that Hon Robin Chapple's motion be agreed to.

Question - put.

The House divided.

Ayes (2)

Hon Robin Chapple

Hon Alison Xamon (*Teller*)

Noes (27)

Hon Liz Behjat
Hon Matt Benson-Lidholm
Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Ed Dermer
Hon Kate Doust
Hon Wendy Duncan
Hon Sue Ellery
Hon Brian Ellis
Hon Adele Farina
Hon Jon Ford
Hon Philip Gardiner
Hon Nick Goiran

Hon Nigel Hallett
Hon Alyssa Hayden
Hon Col Holt
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Ljiljanna Ravlich
Hon Linda Savage
Hon Sally Talbot
Hon Ken Travers
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Question thus negatived.

Debate resumed.

Hon Ljiljanna Ravlich, by leave, tabled and incorporated into Hansard, a document containing tables in relation to the under-utilization of the steel fabrication sector. (Tabled paper 2901).

Debate resumed.

Want of Quorum

There not being a quorum present, the President gave instructions for the ringing of the Bells.

A quorum being formed, the debate continued.

Question - put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Helen Morton in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 49 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Leader of the House representing the Minister for State Development 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.

Question - put and passed.

Bill read a third time and passed.

11. Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2010

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.

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

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

Question - put and passed.

Bill read a third time and passed.

12. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until a date and time to be fixed by the President.

Question - put and passed.

13. Adjournment

The House adjourned at 10.42pm until a date and time to be fixed by the President.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher, Hon Lynn MacLaren, Hon Robyn McSweeney and Hon Giz Watson.

NIGEL LAKE

Acting Clerk of the Legislative Council

HON BARRY HOUSE

President of the Legislative Council