

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 109

WEDNESDAY, 18 FEBRUARY 2015

1. Meeting of Council

The Council assembled at 1.00pm pursuant to Temporary order.

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

2. President's Ruling — Questions without Notice — Redirections

The President ruled as follows —

Yesterday, during question time, Hon Adele Farina raised a point of order in relation to her question without notice C027. The Member directed this question to the Minister for Mental Health representing the Minister for Culture and the Arts. The Member has objected to her question being redirected by the Executive to the Minister for Mental Health representing the Minister for Environment and answered by the Minister in this representative capacity. I undertook to consider the matter and provide my ruling. Although Standing Order 104 gives Members the right to ask questions of Ministers and certain other Members, there is no corresponding obligation on those questioned to give answers. A corollary to this is that there is no Standing Order that can force a particular Member to give an answer in a particular representative capacity. I note that in the House of Commons, questions that are misdirected —

... are transferred by the clerks in the Table Office on the notification of the departments concerned.

A similar practice occurs in this House for the questions on notice process, in which the Executive advises our parliamentary officers when a question needs to be redirected. Although Legislative Council staff are not involved in the questions without notice process, I understand that redirections to other Ministers do occur.

Page 286 of the twenty-first edition of *Erskine May* states —

The Speaker has ruled that it is out of order to ask a Minister for his reasons for transferring a question. It is a long established principle that decisions on the transfer of questions rest with Ministers and it is not a matter in which the Chair seeks to intervene.

For those reasons I cannot uphold the point of order. However, I make the following observations, in the Parliament of Western Australia, the Executive publishes two documents that govern arrangements for ministerial responsibility and the representation in one House of Ministers who are Members of the other House. A document entitled “Administration of Departments, Authorities, Statutes and Votes”, approved by the Governor in Executive Council, notifies which Ministers of the Crown are responsible for the administration of specified departments, authorities, statutes and votes. The most recent version of this document was published in the *Gazette* on Tuesday, 9 December 2014. I note that this confirms that the Minister for Culture and the Arts is responsible for the administration of the *Maritime Archaeology Act 1973*.

The Minister for Culture and the Arts is a Member of the Legislative Assembly and is represented in this House by the Minister for Mental Health, in accordance with a directive from the Premier published on 9 February 2015. The purpose of the directive is to ascribe responsibility for the answering of questions, the tabling of papers and the carriage of Bills in each of the Houses to particular representative Ministers or Parliamentary Secretaries. In relation to questions, this directive provides guidance to members of each House when determining to whom questions should be directed. I note that the Minister for Mental Health also represents the Minister for Environment by reason of the same directive.

This House has no power to direct a Member of the other place. The question as to which representative Minister or Parliamentary Secretary gives an answer is a matter ultimately for the Ministry. The documents approved and published by the Governor in Executive Council and the Premier, to which I have referred, provide the necessary guidance. The accountability intended to be achieved by the questions procedure would be seriously eroded if Ministers in the other place provide answers to their representatives in this House that do not relate to the Minister's portfolio responsibilities.

3. Ministerial Statement — Statutory Review — Operation and Effectiveness of the 2008 Amendments to the Criminal Code and the Sentencing Act 1995

The Attorney General made a Ministerial Statement with respect to the statutory review of the operation and effectiveness of the 2008 amendments to the *Criminal Code* and the *Sentencing Act 1995*.

The Attorney General tabled the report on the review of the *Operation and Effectiveness of the 2008 Amendments to the Criminal Code and the Sentencing Act 1995*. (Tabled Paper 2480).

4. Paper

The following Paper was laid on the Table by —

President

Auditor General's Papers —

Regulation of Real Estate and Settlement Agents (Report No. 1) (February 2015)..... 2479

5. Disability Services

Motion No. 1 having been called, Hon Alanna Clohesy continued her introductory remarks in moving the motion as follows —

That this Council condemns the Barnett Government for its lack of leadership in the area of Disability Services and calls on the Government to put people before politics and adequately and sustainably fund services and operate trials and evaluations in a transparent and accountable way.

Debate ensued.

Point of Order

Hon Alanna Clohesy raised the following Point of Order —

I request that the Minister table the document from which she is reading, because that information would be useful to assist in the debate. I am quite sure that Members will find it informative and it will assist the Government in its claim that it is acting in a transparent way.

Deputy President's Ruling

The Deputy President ruled as follows —

I draw the Minister's attention to Standing Order 59(2), which states that at the conclusion of a speech in which a Member has quoted from a document, the document shall be tabled upon the request of any other Member unless the Member states that the document is a confidential document. Minister, I ask that you table the document.

The Minister for Disability Services tabled supplementary information from a question taken on notice during a hearing of the Standing Committee on Estimates and Financial Operations with the Disability Services Commission. (Tabled Paper 2481).

Debate resumed.

Interruption pursuant to order.

6. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Adele Farina in the Chair)

Joint Standing Committee on Delegated Legislation — Report No. 77 — Inquiry into a Proposed Template Waste Local Law

Hon Robin Chapple moved, That the Report be noted.

Debate ensued.

Question — put and passed.

Joint Standing Committee on Delegated Legislation — Report No. 78 — Annual Report 2014

Hon Robin Chapple moved, That the Report be noted.

Question — put and passed.

The Acting President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the —

- (1) Joint Standing Committee on Delegated Legislation — Report No. 77 — *Inquiry into a Proposed Template Waste Local Law* and had noted same.
- (2) Joint Standing Committee on Delegated Legislation — Report No. 78 — *Annual Report 2014* and had noted same.

Report adopted.

7. Order of Business

Ordered — That Orders of the Day Nos 1, *City of Fremantle Alfresco Dining Local Law 2014 — Disallowance*, 2, *Shire of Dardanup Keeping and Control of Cats Local Law 2014 — Disallowance*, and 3, *School Education Amendment Regulations 2014 — Disallowance*, be taken after Order of the Day No. 10, *Declared Places (Mentally Impaired Accused) Bill 2013*. (Leader of the House).

8. Road Traffic Legislation Amendment Bill 2014

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

The Attorney General representing the Minister for Road Safety 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.

9. Sentencing Amendment Bill 2014

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

Question — put and passed.

Bill read a third time and passed.

10. Alcohol and Drug Authority Amendment Bill 2014

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.

11. Questions Without Notice

Questions without notice were taken.

The Attorney General representing the Minister for Corrective Services tabled documents in relation to individual receptions to the prison system for fine defaults in 2014, in response to a question without notice asked by Hon Ljiljanna Ravlich. (Tabled Paper 2482).

The Minister for Education tabled documents in relation to the ten smallest primary schools, by area of land, in the Perth metropolitan area, in response to question on notice No. 2229 asked by Hon Ken Travers. (Tabled Paper 2483).

The Minister for Education tabled documents in relation to the ten smallest high schools, by area of land, in the Perth metropolitan area, in response to question on notice No. 2230 asked by Hon Ken Travers. (Tabled Paper 2484).

The Minister for Education tabled documents in relation to secondary school teachers and subjects taught in 2014, in response to question on notice No. 2189 asked by Hon Sally Talbot. (Tabled Paper 2485).

The Minister for Education tabled documents in relation to secondary school teachers and subjects taught in 2014, in response to question on notice No. 2190 asked by Hon Sally Talbot. (Tabled Paper 2486).

The Minister for Aboriginal Affairs tabled documents in relation to the name and population of each community in the West Kimberley, East Kimberley, Pilbara, Goldfields and Mid West, in response to question on notice No. 2261 asked by Hon Robin Chapple. (Tabled Paper 2487).

12. Alcohol and Drug Authority Amendment Bill 2014

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

The President left the Chair.

In Committee

(Hon Adele Farina in the Chair)

Clause 1.

Clause agreed to.

Clauses 2 to 6 agreed to.

Clause 7.

Hon Sue Ellery moved —

Page 4, line 21 — To insert after “Act” —

, and which shall be known as the Mental Health and Alcohol and Other Drugs Commission

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (11)

Hon Robin Chapple
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Adele Farina
 Hon Lynn MacLaren

Hon Amber-Jade Sanderson
 Hon Sally Talbot
 Hon Ken Travers
 Hon Darren West
 Hon Samantha Rowe (*Teller*)

Noes (20)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Jacqui Boydell
 Hon Jim Chown
 Hon Peter Collier
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Nick Goiran
 Hon Dave Grills
 Hon Nigel Hallett

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 Phil Edman (*Teller*)

Amendment thus negatived.

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

Clause 8.

Debate ensued.

Clause agreed to.

Clauses 9 to 18 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported without amendment.

Report adopted.

The Parliamentary Secretary representing the Premier 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.

13. Declared Places (Mentally Impaired Accused) Bill 2013

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

Debate resumed.

Interruption pursuant to Temporary Order.

14. Members' Statements

Statements were taken.

15. Adjournment

The Council adjourned at 6.37pm until Thursday, 19 February 2015 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members.

NIGEL PRATT

Clerk of the Legislative Council

HON BARRY HOUSE

President of the Legislative Council