

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 75

TUESDAY, 23 MARCH 2010

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

2. Electoral Commission - Filling of Vacancy

The Clerk of the Legislative Council reported the receipt of a letter from the Electoral Commissioner notifying of the election of Linda Rosemary Savage and read the following attached letter addressed to the Governor -

His Excellency Dr Ken Michael AC
Governor of Western Australia
Government House
PERTH WA 6000

Your Excellency

By notice dated 9 March 2010 you informed me of a vacancy in the East Metropolitan Region of the Legislative Council.

On Thursday 11 March 2010, I published the notices required by section 156C of the *Electoral Act 1907* in *The West Australian* and *The Australian*. Nominations for the vacancy closed at 12.00 noon on Monday 22 March 2010.

At the close of nominations, I had received nine formal nominations from qualified persons. A re-count was then conducted in accordance with section 156D(4) of the *Electoral Act 1907*.

Following the re-count and in accordance with section 156D(8)(a) of the *Electoral Act 1907*, I declared Linda Rosemary Savage to be elected as a member of the Legislative Council to fill the vacancy in the East Metropolitan Region.

I am pleased to inform you of the election of Ms Savage, as required by section 156D(8)(b) of the *Electoral Act 1907*.

Yours faithfully

Warwick Gately AM
ELECTORAL COMMISSIONER

22 March 2010

3. Swearing of Member - Linda Rosemary Savage

The President read the Commission authorising the President to administer an Oath or Affirmation for Linda Rosemary Savage.

Commission
authorising

THE HONOURABLE BARRY JOHN HOUSE

President of the Legislative Council
to administer the oath or affirmation of allegiance
to members of the Legislative Council

WESTERN AUSTRALIA

By His Excellency, Dr Ken Michael AC,
Governor of the State of Western Australia.

I, the Governor, acting under section 22 of the *Constitution Act 1889*, authorise you, the Honourable Barry John House, while you are the President of the Legislative Council, to administer the oath or affirmation of allegiance in Schedule E to that Act to members of the Legislative Council.

GIVEN under my hand and the Public Seal of the State on 22 May 2009.

GOD SAVE THE QUEEN!

The newly elected Member, Linda Rosemary Savage, made and subscribed the Affirmation of Allegiance before the President.

4. Death of Hon Sam Piantadosi - Motion of Condolence

The Leader of the House moved, without notice -

That this House expresses its deep regret at the death of Hon Sam Piantadosi, a former Member of the Legislative Council for the North Central Metropolitan province and North Metropolitan Region; and places on record its appreciation for his long public service, and tenders its profound sympathy to his wife and members of his family in their bereavement.

The motion was supported by several Members including the President and was carried in silence, Members standing in their places.

5. Statement by President - Proposed Temporary Orders

The President made the following Statement -

All Members would be aware that the Procedure and Privileges Committee is currently undertaking a review of our Standing Orders. The Committee is scheduled to report to the House in May, following which the House will need to consider the Committee's report. It would therefore seem likely that the current Standing Orders will apply until at least the winter recess.

In the interim, the Committee has considered a number of the Standing Orders that were previously adopted by the House as Sessional or Temporary Orders. As a consequence of that process, the Committee has agreed to a new set of proposed Temporary Orders to be considered by the House with a view to adopting these Temporary Orders for the remainder of the autumn sittings of the House.

Accordingly, I table for the information of Members a copy of these proposed Temporary Orders as agreed by the Procedure and Privileges Committee.

The President tabled the Proposed Temporary Orders. (Tabled paper 1825).

The Leader of the House moved, without notice -

That consideration of the tabled Proposed Temporary Orders be made an Order of the Day for the next sitting of the House.

Question - put and passed.

6. Statement by President - Parliament House - Storm Damage

The President made the following Statement -

I inform Members that yesterday and last night, there was considerable storm damage to Parliament House and the Legislative Council Committee Office. That means that Hansard in particular, and the Legislative Council committee staff, are operating under some difficulties today, and will be for the next few days. The Legislative Council Committee Office was evacuated and is temporarily unavailable. At this stage we are not sure how long it will take before it is available for normal activities. Members might note that there is a document on their desks that outlines some room changes for the committee meetings that will take place tomorrow. Also, in relation to the storm damage, on behalf of all Members I extend my thanks and appreciation to the many members of the parliamentary staff who have made a terrific commitment and have put in an enormous effort to address the damage that was caused to Parliament House and other buildings in this area that we lease for our activities.

7. Message from His Excellency the Governor - Assent to Bill

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bill -

9 March 2010 - Message No. 84

Act No.

Cross-border Justice Amendment Bill 2009

1 of 2010

8. Petitions

Hon Sue Ellery presented a petition, by delivery to the Clerk, [SO 130], from 3 923 petitioners requesting the Legislative Council oppose the proposed banning of cannabis smoking implements. (Tabled paper 1824).

Hon Sally Talbot presented a petition from 236 petitioners requesting the Legislative Council support the preservation of leased shack-site communities for alternative recreational holiday destinations for Western Australians. (Tabled paper 1826).

Hon Ed Dermer presented a petition from 154 petitioners requesting the Legislative Council support the preservation of leased shack-site communities for alternative recreational holiday destinations for Western Australians. (Tabled paper 1827).

Hon Michael Mischin presented a petition from 281 petitioners requesting the Legislative Council support the preservation of leased shack-site communities for alternative recreational holiday destinations for Western Australians. (Tabled paper 1828).

Hon Michael Mischin presented a petition from 462 petitioners requesting the Legislative Council support the preservation of leased shack-site communities for alternative recreational holiday destinations for Western Australians. (Tabled paper 1829).

Hon Ken Baston presented a petition from 677 petitioners requesting the Legislative Council support the development of safe boating facilities in Broome. (Tabled paper 1830).

9. Ministerial Statement - Cycle Instead Bikeweek 2010

The Minister for Transport made a Ministerial Statement with respect to the Cycle Instead Bikeweek 2010 initiative and the Government's shared investment in the State's bicycle network.

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

10. Ministerial Statement - Aboriginal Workforce Development Centre

The Minister for Training and Workforce Development made a Ministerial Statement with respect to the Aboriginal Workforce Development Centre and the Training Together - Working Together Initiative to build on employment opportunities for Aboriginal people.

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

11. Ministerial Statement - Winter Sprinkler Bans

The Parliamentary Secretary representing the Minister for Water made a Ministerial Statement with respect to an announcement by the Minister for Water with regard to a permanent winter sprinkler ban to commence 1 June and continue through until 31 August.

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

12. Papers

The following Papers were laid on the Table by -

President

Auditor General's Papers -

Planning and Management of Perth Arena (Report No. 1) (March 2010) 1784

Documents -

New Temporary Orders for the Legislative Council (March 2010)..... 1785

Joint Standing Committee on Treaties (Commonwealth of Australia) -

Treaties tabled on 9 and 10 March 2010 - (Agreement between Australia and the Czech Republic on Social Security (Canberra, 16 September 2009) - Exchange of Letters Amending the Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System (Canberra, 3 March 2010)..... 1786

Leader of the House

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Regulations -

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Reports -

Interstate and Overseas Travel undertaken by Members of Parliament Funded by the Imprest System (For the three months ended 30 September 2009) 1791

Interstate and Overseas Travel undertaken by Ministers, Members of Parliament and Officers on Official Business (For the three months ended 30 June 2009) 1792

Rules -

Lotteries Commission Act 1990 (Lotteries Commission (Monday and Wednesday Lotto) Amendment Rules 2010 G.G. 12/03/2010, Lotteries Commission (Oz Lotto) Amendment Rules 2010 G.G. 12/03/2010, Lotteries Commission (Powerball) Amendment Rules (No. 2) 2010 G.G. 12/03/2010, Lotteries Commission (Saturday Lotto) Amendment Rules 2010 G.G. 12/03/2010 and Lotteries Commission (Soccer Pools) Amendment Rules 2010 G.G. 12/03/2010..... 1793

Minister for Transport*Regulations -*

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Western Australian Marine Act 1982 (Navigable Waters Amendment Regulations 2010
G.G. 19/03/2010)..... 1795

Rules -

Dental Act 1939 (Dental Board Amendment Rules 2010 G.G. 05/03/2010)..... 1796

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State Emergency Management Committee (2008-2009) (Date received 16/03/2010)..... 1797

Local Laws -

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Amendment Local Law 2010 G.G. 05/03/2010 and Shire of Augusta-Margaret River
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Dog Act 1976 (Shire of Augusta-Margaret River Dogs Local Law 2010 G.G. 05/03/2010) 1799

Local Government Act 1995 (Shire of Goomalling Fencing Amendment Local Law 2010
G.G. 05/03/2010, Shire of Goomalling Local Government Property Amendment Local Law
2010 G.G. 05/03/2010 and Shire of Augusta-Margaret River Activities in Thoroughfares and
Public Places and Trading Local Law 2010 G.G. 05/03/2010)..... 1800

Local Government Act 1995 (Shire of Busselton Local Government Property Local Law 2010
G.G. 09/03/2010)..... 1801

Regulations -

Animal Welfare Act 2002 (Animal Welfare (General) Amendment Regulations 2010
G.G. 16/03/2010)..... 1802

Police Act 1892 (Police Force Amendment Regulations 2010 G.G. 12/03/2010) 1803

Weapons Act 1999 (Weapons Amendment Regulations 2010 G.G. 12/03/2010)..... 1804

Minister for Child Protection*Annual Reports -*

Co-operative Bulk Handling Group [CBH] 2009 (Date received 16/03/2010)..... 1805

Ministerial Approvals -

East Perth Redevelopment Act 1991 - Amalgamation of Lot Nos 500 and 100 East
Parade East Perth..... 1806

Regulations -

Chicken Meat Industry Act 1977 (Chicken Meat Industry Act Amendment Regulations 2010
G.G. 02/03/2010 and Participation in Growth Expansion) Amendment Regulations 2010
G.G. 02/03/2010)..... 1807

Reports -

Forest Products Commission (Half-Year report) (for the six months to
31 December 2009)..... 1808

Minister for Environment*Leases -*

CALM Lease No. 2068/97 - Between CALM and Mr Francesco Giuseppe Cavallo and
Mrs Rosa Cavallo - Portion of State forest No. 27..... 1809

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Joint Standing Committee on Delegated Legislation - Tabling of Subsidiary Legislation in the Legislative Council (Report No. 36) (Attorney General)	1810
Standing Committee on Uniform Legislation and Statute Review - Cross-Border Justice Amendment Bill 2009 (Report No. 40) (Attorney General)	1811
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Standing Committee on Uniform Legislation and Statute Review - Professional Standards Amendment Bill 2009 (Report No. 42) (Attorney General)	1813

Parliamentary Secretary representing the Treasurer*By-laws -*

Water Agencies (Powers) Act 1984 (Water Agencies (Water Use) By-laws 2010 G.G. 16/03/2010).....	1814
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Codes -

National Occupational Health and Safety Commission - National Code of Practice for Precast, Tilt-Up and Concrete Elements in Building Construction (February 2008)	1815
Occupational Safety and Health, Commission for - Code of Practice Safeguarding of Machinery and Plant (2009).....	1816
Occupational Safety and Health, Commission for - Tilt-Up and Precast Concrete Construction (2004).....	1817
Waste Management Association of Australia - Code of Practice for Safety and Health within the Waste Management and Recycling Industries	1818

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Water Agencies (Powers) Act 1984 (Water Agencies (Infringements) Amendment Regulations 2010 G.G. 16/03/2010)	1821
Workers' Compensation and Injury Management Act 1981 (Workers' Compensation and Injury Management Amendment Regulations 2010 G.G. 19/03/2010)	1822

Response to Reports -

Standing Committee on Environment and Public Affairs - Inquiry into Deep Sewerage in the Cockburn Area (Report No. 18) (Minister for Water)	1823
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13. Standing Committee on Legislation - Criminal Investigation Amendment Bill 2009 - Extension of Reporting Time

Hon Michael Mischin presented a Report of the Standing Committee on Legislation in relation to the *Criminal Investigation Amendment Bill 2009* seeking an extension of time to report from 25 March 2010 to 17 June 2010. (Tabled paper 1831).

Hon Michael Mischin moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

14. Joint Standing Committee on the Corruption and Crime Commission - Eighth Report - Corruption and Crime Commission Report on the Investigation of Alleged Public Sector Misconduct in Relation to the Activities of an Associate to a Judge of the District Court of Western Australia

Hon Nick Goiran presented the Eighth Report of the Joint Standing Committee on the Corruption and Crime Commission in relation to the *Corruption and Crime Commission Report on the Investigation of Alleged Public Sector Misconduct in Relation to the Activities of an Associate to a Judge of the District Court of Western Australia*. (Tabled paper 1832).

Hon Nick Goiran moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

15. Cross-border Justice Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Cross-border Justice Regulations 2009* published in the *Gazette* on 28 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Cross-border Justice Act 2008*, be and are hereby disallowed.

16. Betting Control Amendment Regulations (No. 4) 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Betting Control Amendment Regulations (No. 4) 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Betting Control Act 1954*, be and are hereby disallowed.

17. Casino Control Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Casino Control Amendment Regulations 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Casino Control Act 1984*, be and are hereby disallowed.

18. Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Casino Control Act 1984*, be and are hereby disallowed.

19. Gaming and Wagering Commission Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Gaming and Wagering Commission Amendment Regulations 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Gaming and Wagering Commission Act 1987*, be and are hereby disallowed.

20. Hospitals (Licensing and Conduct of Private Hospitals) Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Hospitals (Licensing and Conduct of Private Hospitals) Amendment Regulations 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed.

21. Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Hospitals (Licensing and Conduct of Private Psychiatric Hostels) Amendment Regulations 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Hospitals and Health Services Act 1927*, be and are hereby disallowed.

22. Racing and Wagering Western Australia Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Racing and Wagering Western Australia Amendment Regulations 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Racing and Wagering Western Australia Act 2003*, be and are hereby disallowed.

23. Racing Penalties (Appeals) Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Racing Penalties (Appeals) Amendment Regulations 2009* published in the *Gazette* on 30 October 2009 and tabled in the Legislative Council on 10 November 2009 under the *Racing Penalties (Appeals) Act 1990*, be and are hereby disallowed.

24. Waste Avoidance and Resource Recovery Levy Amendment Regulations 2009 - Disallowance

Hon Robin Chapple: To move on the next day of sitting -

That the *Waste Avoidance and Resource Recovery Levy Amendment Regulations 2009* published in the *Gazette* on 22 December 2009 and tabled in the Legislative Council on 3 March 2010 under the *Waste Avoidance and Resource Recovery Levy Act 2007*, be and are hereby disallowed.

25. Matter of Urgency - Occupational Safety and Health Laws - Resource Sector

The President read the following letter -

Dear Mr President

At today's sitting it is my intention to move under SO 72 that the Council consider, as a matter of urgency, the Government's failure to ensure that there is a clear jurisdiction and delineation of boundaries regarding occupational safety and health laws within the resource sector of Western Australia.

Yours sincerely

Hon Jon Ford

Member for Mining and Pastoral Region

Four members having risen in support.

Hon Jon Ford moved the motion.

Debate ensued.

26. Questions Without Notice

Questions without notice were taken.

The President left the Chair at 5.14pm

The President resumed the Chair at 5.16pm

The Minister for Child Protection tabled documents in relation to details of the Department for Child Protection's funded family and domestic violence services in response to question on notice No. 1941 asked by Hon Alison Xamon. (Tabled paper 1833).

27. Matter of Urgency - Occupational Safety and Health Laws - Resource Sector

Debate resumed on the motion of Hon Jon Ford (cf item 25 above).

Motion lapsed.

28. Order of Business

Ordered - That Orders of the Day Nos 1, *Taxi Amendment Regulations (No. 2) 2009 - Disallowance*, and 2, *City of Perth Standing Orders Local Law 2009 - Disallowance*, be taken after Order of the Day No. 9, *Working with Children (Criminal Record Checking) Amendment Bill 2009*. (Leader of the House).

29. Standardisation of Formatting Bill 2009

The Order of the Day having been read for the third reading of this Bill.

The Parliamentary Secretary representing the Attorney General 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.

30. Child Exploitation Material and Classification Legislation Amendment Bill 2009

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 Deputy President left the Chair.

In Committee

(Hon Max Trenorden in the Chair)

Clause 1.

Debate ensued.

The Parliamentary Secretary representing the Attorney General moved -

Page 2, line 3 — To insert after “*Child*” —

Pornography and

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 2 agreed to.

Clause 3.

Debate ensued.

Clause agreed to.

Clause 4.

The Parliamentary Secretary representing the Attorney General moved -

Page 3, line 12 — To delete “means” and insert —

means —

- (a) child pornography; or
- (b)

Debate ensued.

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

Page 3, line 16 — To delete the line.

Debate ensued.

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

Page 3, line 17 — To delete “a sexual” and insert —

an

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

Page 3, after line 19 — To insert —

child pornography means material that, in a way likely to offend a reasonable person, describes, depicts or represents a person, or part of a person, who is, or appears to be a child —

- (a) engaging in sexual activity; or
- (b) in a sexual context;

Debate ensued.

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

Page 4, line 4 — To delete “concerned” and insert —

involved

Debate ensued.

Amendment - put and passed.

The Parliamentary Secretary representing the Attorney General moved -

Page 4, line 6 — To delete “concerned” and insert —

involved

Amendment - put and passed.

Debate ensued.

The Parliamentary Secretary representing the Attorney General moved -

Page 5, after line 13 — To insert —

(1A) It is no defence to a charge of an offence under section 217, 218, 219 or 220 to prove that the accused person did not know the age of the child to whom the charge relates, or the age of the child described, depicted or represented in the material to which the charge relates, or believed that the child was of or over 16 years of age.

Amendment - put and passed.

Debate ensued.

Clause, as amended, agreed to.

Clauses 5 to 23 agreed to.

Clause 24.

The Parliamentary Secretary representing the Attorney General moved -

Page 15, line 20 — To delete “educational” and insert —

educational,

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 25 to 35 agreed to.

Title agreed to.

The Deputy 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.

31. Equal Opportunity Amendment Bill 2009

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

Debate ensued.

Interruption of Debate [SO 61(b)].

32. Appropriation (Consolidated Account) Recurrent 2007-08 and 2008-09 (Supplementary) Bill 2009

The President reported the receipt of Message No. 82 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

Debate stands adjourned.

33. Appropriation (Consolidated Account) Capital 2007-08 and 2008-09 (Supplementary) Bill 2009

The President reported the receipt of Message No. 83 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

Debate stands adjourned.

34. Treasurer's Advance Authorisation Bill 2010

The President reported the receipt of Message No. 85 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

Debate stands adjourned.

35. Road Traffic Amendment Bill 2010

The President reported the receipt of Message No. 86 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Energy representing the Minister for Police moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Energy representing the Minister for Police moved, That the Bill be now read a second time.

Debate stands adjourned.

36. Approvals and Related Reforms (No. 3) (Crown Land) Bill 2009

The President reported the receipt of Message No. 87 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Minister for Lands moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Minister for Lands moved, That the Bill be now read a second time.

Debate stands adjourned.

37. Aboriginal Housing Legislation Amendment Bill 2009

The President reported the receipt of Message No. 84 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Minister for Housing and Works moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

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

38. Adjournment

The Leader of the House moved, That the House do now adjourn.

Debate ensued.

Question - put and passed.

The House adjourned at 10.37pm until Wednesday, 24 March 2010 at 4.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Alyssa Hayden and Hon Ken Travers.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council