

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 145

WEDNESDAY, 9 SEPTEMBER 2015

1. Meeting of Council

The Council assembled at 1.00pm pursuant to Temporary Orders.

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

2. Statement by President — Death of Professor Geoffrey Bolton

The President made the following Statement —

On behalf of the Parliament I wish to take this opportunity to acknowledge the contribution to the Parliament of Professor Geoffrey Bolton who passed away last week at the age of 83. Geoffrey Bolton has for many years been regarded as Western Australia's leading historian. His publications include his landmark history of *Western Australia Land of Vision and Mirage: Western Australia since 1826* published in 2007 and his biography of Sir Paul Hasluck the first Western Australian to become Governor-General of Australia. Over the years Professor Bolton contributed significantly to the development of the history of the parliament. He served for several years on the Parliamentary History Advisory Committee. In this regard, perhaps his most substantial and lasting contribution to the Parliament came in collaboration with Emeritus Professor David Black with his pioneering *Biographical Register of Members of the Parliament of Western Australia 1870-1930* and *Biographical Register of Members of the Parliament of Western Australia 1930-2010*. These were both published by the Parliament as part of its long standing Parliamentary History Project. The Register is to be maintained and updated in perpetuity with the collaboration of the Parliamentary Library and the Parliamentary History Advisory Committee.

3. Statement by President — Presiding Officer tabling petition

The President made the following Statement —

I am about to take the unusual step today of tabling a petition in this House from the President's Chair. There is a precedent for this practice in the Legislative Council of Western Australia. In 1996 former President Hon Clive Griffiths tabled a petition relating to Jandakot Airport which was within his electorate. Petitions have also been tabled by Presidents of the Legislative Council via the now discontinued practice of delivery of the petition to the Clerk. Hon Clive Griffiths and former President Hon John Cowdell tabled petitions in this way.

The Standing Orders do not preclude me as President from presenting a petition. I note that the common practice in other jurisdictions is for the presiding officer to table a petition through another Member. However, given that a Member in presenting a petition is acting as a conduit to facilitate its presentation to the House and does so as a representative for that Region (a role I still retain without affecting my objectivity and impartiality from the Chair), I see no impediment to tabling a petition relating to my electorate from the Chair.

4. Petitions

Hon Barry House presented a petition from 1958 petitioners requesting the Legislative Council to request the State Government to implement a more effective prescribed burning programme in the South West region. (Tabled Paper 3241).

Hon Lynn MacLaren presented a petition from 399 petitioners requesting the Legislative Council to oppose the conversion of part of Hakea Prison men's facility into a remand facility for women. (Tabled Paper 3242).

5. Ministerial Statement — National Child Protection Week

The Minister for Child Protection made a Ministerial Statement with respect to National Child Protection Week and the Department for Child Protection and Family Support's *As Eye See It* Photography Exhibition.

6. Ministerial Statement — Lost Time Injuries and Diseases

The Minister for Commerce made a Ministerial Statement with respect to data regarding the "WA Key OSH Statistics" Work Related Lost Time Injuries and Diseases in WA 2013-2014 preliminary data report published by WorkSafe.

7. Paper

The following Paper was laid on the Table by —

Minister for Mental Health

Annual Reports —

Local Government Standards Panel (2014-2015) (Date received 9/09/2015) 3237

Attorney General

Annual Reports —

State Witness Protection Program (2014-2015) (Date received 08/09/2015) 3238

Witness Identity Protection Certificates (2014-2015) (Date received 08/09/2015) 3239

Minister for Agriculture and Food

Annual Reports —

Perth Market Authority (2015) (Date received 08/09/2015) 3240

8. Fiona Stanley Hospital

Motion No. 1 having been called, for the adjourned debate on the motion of Hon Amber-Jade Sanderson as follows —

That the Council condemns the Government for its mismanagement of the establishment of Fiona Stanley Hospital and calls on the Government to release all details of its dealings with Serco on the Fiona Stanley Hospital contract.

Debate resumed.

Interruption pursuant to order.

9. 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 the Corruption and Crime Commission — Report No. 19 — Parliamentary Inspector's report on misconduct and related issues in the Corruption and Crime Commission

The Minister for Mental Health moved, That consideration be postponed until the next sitting.

Question — put and passed.

**Standing Committee on Environment and Public Affairs — Report No. 41 — Petition 42:
Request to repeal the *Environmental Protection (Environmentally Sensitive Areas) Notice 2005***

Debate resumed on the motion of Hon Stephen Dawson, That the Report be noted.

10. Questions Without Notice

Questions without notice were taken.

Point of Order

Hon Sue Ellery raised the following Point of Order —

The point of order goes to the Standing Order about reference to imputations of Members. Number one, it was absolutely unnecessary. There is no Standing Order for that, but there is a Standing Order about making imputations of Members' motivations and the Minister just breached it.

President's Ruling

The President ruled as follows —

Standing Order 45 refers to imputations and personal reflections. It states —

All imputations of improper motives and all personal reflections on Members shall be considered highly disorderly.

A lot of things are said in this Chamber and across the Chamber that people may take offence at from time to time. Some people may take offence when others might not. Where a remark is personally directed to an individual, I think it would clearly be disorderly. In this instance, I do not think the Minister made a personal remark aimed at any particular Member. For that reason, I do not consider it disorderly.

The Minister for Aboriginal Affairs tabled documents in relation to Minutes of the Aboriginal Cultural Materials Committee from January 2013 to June 2015, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 3243).

The Parliamentary Secretary representing the Minister for Transport tabled documents in relation to the Department of Transport's Alternative Practical Driving Assessment Trial, in response to a question without notice asked by Hon Darren West. (Tabled Paper 3244).

The Minister for Child Protection tabled documents in relation to the Freedom from Fear Action Plan 2015, in response to a question without notice asked by Hon Alanna Clohesy. (Tabled Paper 3245).

The Minister for Aboriginal Affairs tabled documents in relation to native title sites that have been deemed to no longer be native title sites by the Department of Aboriginal Affairs, in response to question on notice No. 3194 asked by Hon Robin Chapple. (Tabled Paper 3246).

The Minister for Aboriginal Affairs tabled documents in relation to the length of Aboriginal Cultural Materials Committee meetings from March 2011 to June 2015, in response to question on notice No. 3195 asked by Hon Robin Chapple. (Tabled Paper 3247).

The Minister for Aboriginal Affairs tabled documents in relation to Department of Aboriginal Affairs registered heritage sites, in response to question on notice No. 3201 asked by Hon Robin Chapple. (Tabled Paper 3248).

The Minister for Aboriginal Affairs tabled documents in relation to section 18 applications recommended for refusal by the Aboriginal Cultural Materials Committee, in response to question on notice No. 3267 asked by Hon Robin Chapple. (Tabled Paper 3249).

The Minister for Education tabled documents in relation to Certificate II and above courses provided by South West public schools from 2013 to 2015, in response to question on notice No. 3207 asked by Hon Adele Farina. (Tabled Paper 3250).

The Minister for Education tabled documents in relation to average funding per student for each Western Australia public school in 2015, in response to question on notice No. 3203 asked by Hon Sue Ellery. (Tabled Paper 3251).

The Minister for Mental Health tabled documents in relation to a letter from Dr Chris Whitaker to the Environmental Protection Authority concerning Roe Highway Stage 8, in response to a question without notice asked by Hon Lynn MacLaren. (Tabled Paper 3252).

11. Distinguished Visitors

The President drew attention to the presence in the gallery of a former Member of the Legislative Council, Murray Nixon, and, on behalf of Honourable Members, extended a warm welcome to him.

12. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports (*see item 9 above*).

In Committee

(Hon Adele Farina in the Chair)

Joint Standing Committee on the Corruption and Crime Commission — Report No. 19 — Parliamentary Inspector's report on misconduct and related issues in the Corruption and Crime Commission

Minister for Mental Health moved, That consideration be postponed to the next sitting.

Question — put and passed.

Standing Committee on Environment and Public Affairs — Report No. 41 — Petition 42: Request to repeal the *Environmental Protection (Environmentally Sensitive Areas) Notice 2005*

Debate resumed on the motion of Hon Stephen Dawson, That the report be noted.

Hon Simon O'Brien moved, That consideration be postponed to the next sitting.

Question — put and passed.

Interruption pursuant to order.

The President resumed the Chair.

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

- (1) Joint Standing Committee on the Corruption and Crime Commission — Report No. 19 — Parliamentary Inspector's report on misconduct and related issues in the Corruption and Crime Commission, and postponed consideration to the next sitting.
- (2) Standing Committee on Environment and Public Affairs — Report No. 41 — Petition 42: Request to repeal the *Environmental Protection (Environmentally Sensitive Areas) Notice 2005*, made progress, and seeks to sit again.

Report adopted.

13. Rail Safety National Law (WA) Bill 2014

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 115

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Rail Safety National Law (WA) Bill 2014*.

Ms W.M. Duncan

Deputy Speaker

Legislative Assembly Chamber

Perth, 8 September 2015

14. Partial revocation of State Forest Nos 14, 22, 23, 39, 49 and 65

The following Message from the Legislative Assembly was reported —

Mr President

Message No. 116

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution —

That the proposal for the partial revocation of State Forest No. 14, 22, 23, 39, 49 and 65, laid on the Table of the Legislative Assembly on Tuesday 11 August 2015, by command of Her Excellency the Governor, be carried out.

and requests the Legislative Council to agree to a similar resolution.

Mr P. Abetz
 Acting Speaker
 Legislative Assembly Chamber
 Perth, 9 September 2015

Ordered — That consideration of Message No. 116 be made an Order of the Day for the next sitting.

15. Order of Business

Ordered — That Order of the Day Nos 1, *City of Fremantle Plastic Bag Reduction Local Law 2015 — Disallowance*, 2, *Regulation 6(1) of the Conservation and Land Management Amendment Regulations 2015 — Disallowance*, 3, *Shire of Mount Marshall Health Local Law 2014 — Disallowance*, and 4, *Shire of Mukinbudin Health Local Law 2014 — Disallowance*, be taken after Order of the Day No. 17, *Land Tax Amendment Bill 2015*. (Leader of the House).

16. Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014

The Order of the Day having been read for the adjourned debate on the second reading of this Bill, debate resumed on the motion of Hon Lynn MacLaren, as follows —

That the *Criminal Law Amendment (Home Burglary and Other Offences) Bill 2014* be discharged and the Bill be referred to the Standing Committee on Legislation for consideration and report not later than 31 December 2015.

President's Ruling

The President ruled as follows —

Members will recall that last night a point of order was raised. I have a ruling on that point of order.

As I understand the point of order, it related to the issue of relevance to the remarks being made by Hon Robin Chapple in speaking to the referral motion. Members are aware that a debate on a referral motion is a relatively narrow debate. It is not an invitation to repeat or augment a Member's contribution on the second reading debate, which is a debate about the policy of the bill. In speaking to a referral motion the Member must confine their argument to elucidating reasons for or against the referral proposition.

I have had the opportunity to consult the uncorrected *Hansard* from last night. My ruling is that there is no point of order. On this occasion the Member was referring to the fact that a petition had been tabled that included a request for this House to make amendments to the bill with a view to improving it. A referral to a committee of this House may be one means by which the House could be assisted in formulating those amendments.

Debate resumed.

Question — put.

The Council divided.

Ayes (2)

Hon Robin Chapple

Hon Lynn MacLaren (*Teller*)

Noes (29)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Adele Farina
 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 Martin Pritchard
 Hon Samantha Rowe
 Hon Sally Talbot
 Hon Ken Travers
 Hon Phil Edman (*Teller*)

Question thus negatived.

Debate resumed.

Question — put.

The Council divided.

Ayes (28)

Hon Martin Aldridge
 Hon Ken Baston
 Hon Liz Behjat
 Hon Jacqui Boydell
 Hon Paul Brown
 Hon Jim Chown
 Hon Alanna Clohesy
 Hon Peter Collier
 Hon Stephen Dawson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Brian Ellis
 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 Martin Pritchard
 Hon Samantha Rowe
 Hon Sally Talbot
 Hon Ken Travers
 Hon Phil Edman (*Teller*)

Noes (2)

Hon Robin Chapple

Hon Lynn MacLaren (*Teller*)

Question thus passed.

Bill read a second time.

Interruption pursuant to order.

17. Members' Statements

Statements were taken.

18. Adjournment

The Council adjourned at 6.30pm until Thursday, 10 September 2015 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Donna Faragher, Hon Nick Goiran and Hon Amber-Jade Sanderson (leave of absence).

NIGEL PRATT
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council