

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 42

THURSDAY, MARCH 6 2003

1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

2. Paper

The following Paper was laid on the Table by -

Parliamentary Secretary to the Minister for Planning and Infrastructure

Ministerial Approvals -

Western Australian Land Authority Act 1992 - Harvest Lakes (Atwell) - Civil and
Landscaping Works..... 794

3. Standing Committee on Legislation - Sentence Administration Bill 2002 and the Sentencing Legislation Amendment and Repeal Bill 2002 - Extension of Reporting Time

Hon Giz Watson presented a Report of the Standing Committee on Legislation in relation to seeking an extension of time from Thursday, March 20 2003 to Tuesday, May 6 2003. (Tabled paper 795).

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

Question - put and passed.

4. Perth Urban Rail Development - Tabling of Questions and Referral to Standing Committee on Public Administration and Finance

Hon Peter Foss, pursuant to notice, moved -

- (1) That the Parliamentary Secretary to the Minister for Planning and Infrastructure do -
 - (a) table in the House at the next sitting day three calendar days after the making of this order, full and complete answers to all the questions of which notice was given with respect to the Perth Urban Rail Development Proposal for the hearing by the Estimates Committee for the 2002-2003 Budget together with all the documents requested by those questions;

- (b) attend before the Standing Committee on Public Administration and Finance at its next meeting after such tabling and thereafter and with such other witnesses as directed by that Committee in order that the Committee may satisfy itself as to the adequacy of such answers and tabling, and on any other matters arising out of those answers or which as a result of its inquiries the Standing Committee consider appropriate to inquire into.
- (2) The Standing Committee do generally inquire into and maintain Parliamentary supervision over the Perth Urban Rail Development and report to the House; and
- (3) The Standing Committee do report to the House -
 - (a) with respect to the compliance of the Parliamentary Secretary with part (1)(a) of this order no later than three sitting days after the making of this order;
 - (b) with respect to compliance with part (1)(b) of this order, and any other matters related thereto, no later than December 3 2002; and
 - (c) otherwise, as the Committee deems fit from time to time.

Interruption of Debate [SO 195].

5. Consideration of Committee Reports

The Order of the Day having been read for the consideration of Committee reports.

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Standing Committee on Environment and Public Affairs - Fourth Report - The Petition Objecting to the Proposal to Establish a Sewage Pumping Station in Heseltine Park, Glenleigh Road, Busselton

Hon Jim Scott moved, That the Report be noted.

Debate ensued.

Question - put and passed.

Standing Committee on Environment and Public Affairs - Sixth Report - Swimming Pool Fencing

Hon Christine Sharp moved, That the Report be noted.

Debate ensued.

Interruption of Debate [SO 61A].

The Deputy President resumed the Chair.

The Chairman of Committees reported that the Committee of the Whole House had considered the -

- (1) Standing Committee on Environment and Public Affairs - Fourth Report - The Petition Objecting to the Proposal to Establish a Sewage Pumping Station in Heseltine Park, Glenleigh Road, Busselton and had noted same.
- (2) Standing Committee on Environment and Public Affairs - Sixth Report - Swimming Pool Fencing and had made some progress.

Report adopted.

6. Environmental Protection Amendment Bill 2002

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

Debate resumed.

Extension of Time - Leave granted to Hon Bill Stretch to extend his speaking time.

Point of Order

Hon Simon O'Brien raised the following Point of Order -

Application of SO230A to Part 8 of the Environmental Protection Amendment Bill 2002.

Point of Order

Hon Tom Stephens raised the following Point of Order -

One more member from the opposition benches is listed to speak to the second reading debate. I wonder whether the Deputy President (Hon Kate Doust) is prepared to let that member speak now while this matter is considered and advice is sought by the Chair. It would be appreciated by the House if a ruling were given before I made my concluding remarks. If it is agreeable to the Chair and the House, perhaps the next speaker could be called.

Deputy President's Ruling

The Deputy President ruled as follows -

I thank Hon Tom Stephens and I thank Hon Simon O'Brien for raising those matters. Consideration must be given to the issues the member raised and a ruling will be provided later, hopefully in the near future. The second reading debate on this Bill will continue while we consider that matter and provide a ruling.

Debate resumed.

7. Questions Without Notice

Questions without notice were taken.

8. Environmental Protection Amendment Bill 2002

Debate resumed on the second reading of this Bill (cf item 6 above).

Deputy President's Ruling

The Deputy President ruled as follows -

Hon Simon O'Brien has asked me to rule on whether part 8 of the Bill is subject to Standing Order No 230A. My ruling is that part 8 falls outside Standing Order No 230A. My reasons are as follows.

A Bill is within the scope of the rule if, in its terms, it operates to give legislative effect to an agreement or scheme to which the State Government is a party or has undertaken to implement as part of state law. Part 8 does not operate in the way I have described. Clause 105 inserts in the parent Act a definition that refers to a bilateral agreement made between the Commonwealth and State Governments under a 1999 commonwealth Act. In other words, part 8 is concerned with intergovernmental agreements that are formed outside of the parent Act. If the subsequent amendments in part 8 are taken in the context of the parent Act, it will be seen that they are ministerial. They enable the authority, in the performance of its functions, to apply a provision or standard found, or referred to, in the bilateral agreement. I also note that part 8 imposes no obligation to comply with anything arising from the bilateral agreement; the authority may exercise a discretion. It is clear from the context in which the words "gives effect" are found in Standing Order No 230A(1)(a) that they refer to legislative effect rather than, as here, operational or administrative implementation.

Debate resumed.

Question - put.

The House divided.

Ayes (13)

Hon Kim Chance
 Hon Robin Chapple
 Hon Sue Ellery
 Hon Adele Farina
 Hon Dee Margetts
 Hon Louise Pratt
 Hon Ljiljanna Ravlich

Hon Jim Scott
 Hon Christine Sharp
 Hon Tom Stephens
 Hon Ken Travers
 Hon Giz Watson
 Hon Ed Dermer (*Teller*)

Noes (12)

Hon Murray Criddle
 Hon John Fischer
 Hon Peter Foss
 Hon Ray Halligan
 Hon Frank Hough
 Hon Barry House

Hon Robyn McSweeney
 Hon Norman Moore
 Hon Simon O'Brien
 Hon Barbara Scott
 Hon Bill Stretch
 Hon Alan Cadby (*Teller*)

Question thus passed.

Ordered - That consideration of the Bill, in Committee, be made an Order of the Day for the next sitting.

9. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 5.33pm until Tuesday, March 11 2003 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Bruce Donaldson, Hon Paddy Embry, Hon Jon Ford and Hon Derrick Tomlinson.

L B MARQUET
 Clerk of the Legislative Council

HON JOHN COWDELL
 President of the Legislative Council