

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 203

WEDNESDAY, 14 MAY 2008

1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

2. Petition

Hon Simon O'Brien presented a petition, by delivery to the Clerk, [SO 130], from 90 petitioners requesting the Legislative Council to oppose export containerised lead concentrate through the port of Fremantle. (Tabled paper 3985).

3. Papers

The following Papers were laid on the Table by -

Minister for Child Protection

Reports -

Report of the Carers Advisory Council to the Minister for Seniors on Compliance with the *Carers Recognition Act 2004* - Building Tomorrow's Partnership Today (for the year ending 30 June 2007) (March 2008)..... 3983

Parliamentary Secretary representing the Deputy Premier

Reports -

Western Australia Treasury Corporation Quarterly Report (for the quarter ended 31 March 2008)..... 3984

4. Public Transport Authority Amendment Regulations 2008 - Disallowance

Hon Ray Halligan: To move on the next day of sitting -

That the *Public Transport Authority Amendment Regulations 2008* published in the *Gazette* on 29 February 2008 and tabled in the Legislative Council on 13 March 2008 under the *Public Transport Authority Act 2003*, be and are hereby disallowed.

5. **Aboriginal Child Health Survey**

Motion No. 57 having been called, debate resumed on the motion of Hon Barbara Scott as follows -

That this House -

- (1) Urges the State Government to take seriously the Western Australian Aboriginal Child Health Survey - Strengthening the Capacity of Aboriginal Children, Families and Communities (Volume 4);
- (2) Set some realistic and achievable time frames for the implementation of the recommended actions;
- (3) Establish an inter-government agency approach to prioritising the recommended actions; and
- (4) Ensure programs build capability in families and communities with Aboriginal and Torres Strait Islander children.

The Minister for Child Protection sought leave of the House for Hon Shelley Archer to continue her remarks at a later stage of this day's sitting.

Leave granted.

Point of Order

Hon Norman Moore raised the following Point of Order -

Mr President, I am not aware of any other Member who wishes to speak on this motion. If no other Member wishes to speak—I am surmising here—does that mean that the motion will be put, or does that mean that the motion will not be put until the next sitting of the House?

President's Ruling

The President ruled as follows -

If there are no other speakers, the question will be put, and it will go one way or the other. If Hon Shelley Archer is not here prior to when the debate ceases, then that is how the system will operate.

Debate resumed.

Question - put and passed.

6. **Alcoa - Supplementary Property Purchase Plan**

Motion No. 62 having been called, Hon Robyn McSweeney pursuant to notice, moved -

That given the serious concern expressed by landholders regarding the compensation processes related to the current Alcoa expansion, the Standing Committee on Environment and Public Affairs be required to conduct an inquiry into the fairness and just terms of the *Supplementary Property Purchase Program* (SPPP) and to report back by 14 August 2007.

Debate ensued.

Extension of time: Leave granted for Hon Paul Llewellyn to extend his speech.

Hon Paul Llewellyn, by leave, tabled question without notice No. 1526, a letter dated 19 December 2007 from Hon Hendy Cowan and a letter dated 25 January 2008 from the Minister for State Development to Mr Geoffrey Blythe regarding the *Supplementary Property Purchase Program*. (Tabled paper 3986).

Debate resumed.

Hon Robyn McSweeney sought leave of the House to withdraw the motion.

Leave denied.

Question - put.

The House divided.

Ayes (2)

Hon Paul Llewellyn

Hon Giz Watson (*Teller*)**Noes (27)**

Hon Ken Baston
 Hon Matt Benson-Lidholm
 Hon George Cash
 Hon Vincent Catania
 Hon Kim Chance
 Hon Peter Collier
 Hon Bruce Donaldson
 Hon Kate Doust
 Hon Wendy Duncan
 Hon Sue Ellery
 Hon Donna Faragher
 Hon Adele Farina
 Hon Anthony Fels
 Hon Jon Ford

Hon Nigel Hallett
 Hon Ray Halligan
 Hon Barry House
 Hon Robyn McSweeney
 Hon Sheila Mills
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Ljiljanna Ravlich
 Hon Barbara Scott
 Hon Sally Talbot
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Question thus negatived.

7. Questions Without Notice

Questions without notice were taken.

8. Consideration of Committee Reports and Ministerial Statements

Pursuant to Temporary Orders for the consideration of Committee Reports and Ministerial Statements.

In Committee

(Hon George Cash in the Chair)

Standing Committee on Public Administration - Report No. 6 - Interim Report in Relation to the Inquiry Into the Governance of Western Australia's Water Resources - Committee Report

The Order of the Day having been read, debate resumed on the motion of Hon Barry House, That the Report be noted.

Question - put and passed.

2005 Election Statistics Adjustment - Response by Acting Electoral Commissioner - Ministerial Statement

The Order of the Day having been called, Hon Norman Moore moved, That the Ministerial Statement be noted.

Question - put and passed.

Joint Standing Committee on the Corruption and Crime Commission - Report No. 31 - Inquiry into Legislative Amendments to the Corruption and Crime Commission Act 2003 - The Role of the Corruption and Crime Commission in Investigating Serious and Organised Crime in Western Australia - Committee Report

The Order of the Day having been called, Hon Ray Halligan moved, That the Report be noted.

Question - put and passed.

Finalists in the Western Australian Inventor of the Year Award - Ministerial Statement

The Order of the Day having been called, Hon Barry House moved, That the Ministerial Statement be noted.

Debate ensued.

Question - put and passed.

Interruption pursuant to Temporary Order.

The Acting President resumed the Chair.

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

- (1) Standing Committee on Public Administration - Sixth Report - Interim Report in Relation to the Inquiry Into the Governance of Western Australia's Water Resources and had noted same.
- (2) 2005 Election Statistics Adjustment - Response by Acting Electoral Commissioner - Ministerial Statement and had noted same.
- (3) Joint Standing Committee on the Corruption and Crime Commission - Thirty First Report - Inquiry into Legislative Amendments to the Corruption and Crime Commission Act 2003 - The Role of the Corruption and Crime Commission in Investigating Serious and Organised Crime in Western Australia and had noted same.
- (4) Finalists in the Western Australian Inventor of the Year Award - Ministerial Statement and had noted same.

Report adopted.

9. Order of Business

Ordered - That Order of the Day No. 604, *Select Committee into the Police Raid on the Sunday Times*, be taken after Order of the Day No. 605, *Fatal Accidents Amendment Bill 2008*. (Leader of the House).

10. Order of Business

Ordered - That Orders of the Day Nos 600, *Architects Amendment Regulations 2007 - Disallowance*, 607, *State Superannuation Amendment Regulations 2008 - Disallowance*, 608, *City of Nedlands - Fencing Local Laws 2007 - Disallowance*, 609, *City of Nedlands - Signs Local Law 2007 - Disallowance*, 610, *Swan Districts Hospital (Eveline Road Site) Amendment By-Laws 2008 - Disallowance*, 611, *Peel Health Services By-Laws 2008 - Disallowance*, 612, *Metropolitan Health Service By-Laws 2008 - Disallowance*, 613, *Fremantle Hospital Amendment By-Laws 2008 - Disallowance*, 614, *Bentley Hospital Amendment By-Laws 2008 - Disallowance*, 615, *Armada Kelmescott District Memorial Hospital Amendment By-Laws 2008 - Disallowance*, 616, *City of Fremantle - Local Law Relating to Outdoor Eating Areas Amendment Local Law 2007 - Disallowance*, 617, *Conservation and Land Management Amendment Regulations (No. 2) 2007 - Disallowance*, 618, *City of Joondalup - Local Government and Public Property Amendment Local Law (No. 2) 2007 - Disallowance*, and 619, *City of Cockburn - Parking and Parking Facilities Local Law 2007 - Disallowance*, be taken after Order of the Day No. 161, *ANZAC Day Amendment Bill 2005*. (Leader of the House).

11. Fatal Accidents Amendment Bill 2008

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 Minister for Child Protection moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

12. Select Committee into the Police Raid on the *Sunday Times*

The Order of the Day having been called, debate resumed on the motion of Hon Norman Moore as follows -

- (1) That a select committee of three Members be appointed, any two of whom constitute a quorum.
- (2) The committee and the proceedings of the committee are subject to chapter XXII of Standing Orders and is to be regarded for all purposes as a committee appointed under that chapter.
- (3) The committee is to inquire into and report on all circumstances surrounding the police raid on "The *Sunday Times*" on 30 April 2008.
- (4) The committee is to report by 12 August 2008.

Question - put.

The House divided.

Ayes (15)

Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Brian Ellis
Hon Donna Faragher
Hon Nigel Hallett
Hon Barry House
Hon Paul Llewellyn

Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Barbara Scott
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Noes (11)

Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

Hon Sheila Mills
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Question thus passed.

13. Heritage of Western Australia Act 1990 - Register of Heritage Places

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 323

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

"That this House resolves pursuant to Section 54(7) of the *Heritage of Western Australia Act 1990* that the property known as "The Cliffe" which was permanently entered into the Register of Heritage Places on 19 July 2005 (notice of which appears in the *Government Gazette*, 29 July 2005 at page 3365) should be removed from the Register of Heritage Places",

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

Hon F. Riebeling

Speaker

Legislative Assembly Chamber

Perth, 14 May 2008

Ordered - That consideration of Message No. 323 be made an Order of the Day for the next sitting.

14. Food Bill 2005

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

The Minister for Agriculture and Food 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.

15. Legal Profession Bill 2007

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

The Minister for Child Protection representing the Attorney General 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.

16. Community Protection (Offender Reporting) Amendment Bill 2007

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

Debate resumed.

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.

Question - put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

Debate ensued.

Clause agreed to.

Clauses 5 to 12 agreed to.

Clause 13.

The Minister for Regional Development moved -

Page 9, after line 13 — To insert —

“

- (4) Schedule 2 is amended in the item relating to *The Criminal Code* section 321A by deleting the description of offence and inserting instead —

“

Persistent sexual conduct with child under 16 (if the offence does not include a sexual act on any occasion when the child against whom the offence is committed is under 13)

” ”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

New Clause 4.

Hon Peter Collier moved -

Page 2, after line 11 — To insert —

“

4. Section 13A inserted

After section 13 the following section is inserted —

“

13A. Provision for declaration of child not a young reportable offender

- (1) If a court finds a child guilty of a Class 2 offence and the child receives no penalty pursuant to section 66 of the *Young Offenders Act 1994* and, but for the operation of this section, that child would become a young reportable offender, then the court may on application by that child declare that child not to be a young reportable offender.
- (2) The court may make the declaration, referred to in subsection (1), only if it is satisfied that the child who would otherwise become a young reportable offender does not pose a risk to the lives or the sexual safety of one or more persons, or persons generally.

”
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”
.

Debate ensued.

New Clause - put and negatived.

Title.

Debate ensued.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendment.

Ordered - That consideration of the Committee's Report be made an Order of the Day for the next sitting.

17. Acts Amendment (Consent to Medical Treatment) Bill 2006

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

The Acting President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 11.

Proposed Section 110S.

Debate resumed on the amendment of Hon Barbara Scott as follows -

Page 17, line 15 — To insert after “circumstances” —

“ clearly ”.

Amendment - put.

The Committee divided.

Ayes (3)

Hon Kate Doust
Hon Barbara Scott

Hon Ed Dermer (*Teller*)

Noes (25)

Hon Ken Baston
Hon Matt Benson-Lidholm
Hon George Cash
Hon Vincent Catania
Hon Kim Chance
Hon Peter Collier
Hon Sue Ellery
Hon Brian Ellis
Hon Donna Faragher
Hon Adele Farina
Hon Jon Ford
Hon Nigel Hallett
Hon Ray Halligan

Hon Barry House
Hon Paul Llewellyn
Hon Robyn McSweeney
Hon Sheila Mills
Hon Norman Moore
Hon Helen Morton
Hon Simon O’Brien
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

Interruption pursuant to Temporary Order.

The Acting President resumed the Chair.

The Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

18. Members’ Statements

Members’ statements were taken.

19. Adjournment

The House adjourned at 9.53pm until Thursday, 15 May 2008 at 10.00am.

Members present during the day’s proceedings

Attendance: Present all Members except Hon Shelley Archer, Hon Graham Giffard and Hon Batong Pham.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council