

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 21

THURSDAY, OCTOBER 19 2000

1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

The President, Hon George Cash, took the Chair and read prayers.

2. Petition

Hon Giz Watson presented a petition from 40 residents of Western Australia opposing the sale of Sunset Hospital site, being part of A Class Reserve No. 1667, for private development or trade. (Table paper 395).

3. Papers

The following Papers were laid on the Table by -

Leader of the House

Annual Reports - 1999-2000 -

Ministry of Sport and Recreation (Date received 18/10/2000) 391

Minister for Transport

Annual Reports - 1999-2000 -

National Road Transport Commission (Date received 19/10/2000) 392

Office of the Public Sector Standards Commissioner (Date received 18/10/2000) 393

Annual Reports - Extension of Time - 1999-2000 -

Botanic Gardens & Parks Authority..... 394

4. Metropolitan Region Scheme Amendment No. 1024/33 - Sunset Hospital Site - Disallowance

Hon Giz Watson: To move on the next day of sitting -

That the *Sunset Hospital Metropolitan Region Scheme Amendment No. 1024/33 - Sunset Hospital Site* published in the *Gazette* on October 6 2000 and tabled in the Legislative Council on October 10 2000 under the *Metropolitan Region Town Planning Scheme Act 1959*, be and is hereby disallowed.

5. Extension of Sitting Hours

The Leader of the House moved, without notice -

That from Tuesday, November 7 2000 until Monday, December 18 2000 the House continue to sit until 11.00pm on Tuesday and Wednesday and 6.00pm on Thursday and that the House commence its sittings on Wednesday at 3.00pm and Thursday at 10.00am.

Debate ensued.

Question - put and passed.

6. Interests of Rural and Regional Western Australia - Failure of State Government

Motion No. 1 having been called.

Debate resumed on the motion of Hon Tom Stephens as follows -

That this House -

- (1) Condemns the State Government for its failure to safeguard and improve the interests of rural and regional Western Australia and its misplaced priorities.
- (2) Calls on the Government to amend its policies and give priority to the delivery of core Government services to all West Australians, especially in the areas of health, education, community safety and public transport.

Interruption of Debate - One hour having elapsed after the time fixed for the meeting of the House, the President announced that leave of the House would be necessary to enable the debate to continue.

Leave denied.

7. Order of Business

Ordered - That Orders of the Day Nos 44 and 45 be taken forthwith. (Leader of the House).

8. Standing Orders Committee - Report on the Treatment of Evidence of Standing Committees; and Report on SO 155, Procedure for Raising Matter of Privilege, and SO 134, Providing for a Right of Reply

The Orders of the Day having been read for the consideration of the Reports.

The President left the Chair.

In Committee

(The President in the Chair)

Standing Orders Committee - Report on the Treatment of Evidence of Standing Committees

Hon John Cowdell moved -

That Standing Orders Nos 322 to 325 be repealed and the following inserted instead, and that the House amend the Standing Orders accordingly -

322. "Evidence"

In this Chapter -

"**evidence**" is information provided to, or obtained by, a committee that relates to a matter under inquiry, and includes -

- (a) a written or oral submission;
- (b) any document whether or not it forms part of a submission;
- (c) information provided by a person who is not a witness.

323. Evidence may be disclosed or published
- (1) The proceedings of a committee when taking oral evidence are open to accredited news media representatives and the public.
- (2) Written evidence not subject to subclause (4) may be disclosed or published in a manner and to an extent (if any) determined by a committee of its own motion or so as to meet a request made by the person providing that evidence.
- When evidence may be taken in private session
- (3) Despite subclause (1), a committee may take oral evidence in private session of its own motion, or at the request of the witness, where it is satisfied that the nature of the evidence or the identity of the witness requires it.
- Private session evidence not to be disclosed or published
- (4) Evidence, including written evidence, taken under subclause (3) must not be disclosed or published except by leave of the House or the committee before which the evidence was given.
- Content of reports not affected
- (5) Subclause (4) does not prevent a committee from disclosing such evidence for the purpose of complying with any rule or order, or quoting or referring to such evidence in a report on the matter to which that evidence relates.

Debate ensued.

Question - put and passed.

Standing Orders Committee Report on SO 155, Procedure for Raising Matter of Privilege

Hon John Cowdell moved -

That Standing Orders 104 to 106 and 155 be repealed and the following new Standing Order 155 be inserted instead -

155. Procedure for raising matter of privilege

- (1) A member may raise a matter alleging a breach of privilege at any time without notice whether or not other business is under consideration at the time.
- (2) The member raising a matter of privilege under this order -
- (a) must move for the appointment of a select committee to consider and report on the matter raised; and
- (b) in speaking to that motion, do no more than state succinctly the facts and circumstances said to constitute or show that a breach of privilege has occurred; and
- (c) table any relevant document;
- (d) cannot speak for more than 10 minutes.
- (3) At the conclusion of the member's speech the matter is adjourned without question put.
- (4) At the next sitting, and despite any other rule or order, the order of the day for further consideration of the matter is to be taken immediately after Prayers at which time the President shall rule whether the matter is one affecting the privileges of the House under the *Parliamentary Privileges Act 1891*.
- (5) A ruling given under subclause (4) is final.

- (6) Where the President rules -
 - (a) that no matter of privilege is involved, the order of the day is discharged;
 - (b) that there is a matter of privilege, the order of the day is to be called forthwith and the question must be determined at that day's sitting.
- (7) Debate under subclause (6)(b) must not exceed 1 hour and no member may speak for more than 10 minutes.
- (8) Any committee appointed under this order has power to send for persons, papers, and records.
- (9) In this order, "**document**" has the meaning given to that expression in s 5 of the *Interpretation Act 1984*.
- (10) This order does not apply to proceedings taken under section 10 of the *Parliamentary Privileges Act 1891* or to proceedings dealing with a matter of privilege reported from a committee.

Question - put and passed.

Standing Order 134, Providing for a Right of Reply

The Schedule annexed to the Standing Orders Committee Report was as follows -

- (e) A petition that alleges, whether directly or by necessary inference, that a member of the Legislative Council or other person, in the course of a proceeding in Parliament has —
 - (i) attributed to the petitioner statements or acts that are denied by the petitioner; or
 - (ii) misrepresented the scope, purpose, or intent of any statement or act of the petitioner,
 and the President, on a reference from the committee to which it stands referred (the "**committee**"), rules that the petition —
 - (iii) is one to which SO 133 (c) (vii) applies; or
 - (iv) raises a matter of privilege,
 the committee shall not further deal with the petition where subparagraph (iii) applies or, where subparagraph (iv) applies, shall not deal further with the petition except in the manner prescribed in the succeeding paragraphs. The committee must make and report its determination under this paragraph not later than 7 sitting days of the day on which the petition stood referred.
- (f) For the purpose of its inquiry on a petition involving a matter of privilege, the committee is reconstituted by the appointment ex officio of the Leader of the House and the Leader of the Opposition or their respective nominees. The committee as so reconstituted may proceed to deal with the petition in the manner, and to the extent, as if it were a select committee of privilege appointed for the purpose and, unless otherwise ordered, shall report finally on the matter not later than 30 days of the day on which it was reconstituted.
- (g) Where the committee's findings sustain the prayer of a petition that is subject to paragraphs (e) (iv) and (f), the committee —
 - (i) having regard to the nature and severity of the harm caused to the petitioner or other person, shall recommend what action the House or a person might take in order to mitigate that harm;
 - (ii) where a breach of privilege or a contempt is found, shall recommend what penalty might be imposed by the House.
- (h) A member shall not sit as a member or as an ex officio member of the committee if —
 - (i) the member presented the petition; or

- (ii) the subject matter of the petition involves or relates to the conduct of that member,
and in either case a substitution must be made under SO 326A. Leave cannot be granted under SO 326 and, except as provided in this paragraph, no substitution can be made under SO 326A in relation to a committee reconstituted under paragraph (f).
- (i) A petition to which paragraph (e) (i) or (ii) applies but not paragraph (e) (iii) or (iv) may be dealt with as the committee thinks fit.

Hon John Cowdell moved -

To delete the Schedule to proposed Standing Order 134 and insert instead new Schedule as follows -

“

Schedule — SO 134

- (e) A petition that alleges, whether directly or by necessary inference, that a member of the Legislative Council or another person has, in the course of a proceeding in Parliament in the Legislative Council or in a committee —
 - (i) attributed to the petitioner statements or acts that are denied by the petitioner; or
 - (ii) misrepresented the scope, purpose, or intent of any statement or act of the petitioner,
 stands referred to the President on presentation.
- (f) The President must rule whether a petition referred under paragraph (e) is one —
 - (i) that is subject to SO 133(c)(vii); or
 - (ii) that raises a matter of privilege;
 - (iii) that is not subject to subparagraph (i) or (ii).
- (g) A petition that is ruled subject to paragraph (f)(i) must not be further considered.
- (h) A petition that is ruled subject to paragraph (f)(ii) stands referred to the Standing Orders Committee for inquiry and report.
- (i) A petition that is ruled subject to paragraph (f)(iii) stands referred to the *Constitutional Affairs Committee*.
- (j) For the purposes of paragraph (h), the Standing Orders Committee has power to send for persons, papers, and records and those powers necessary or incidental to conduct and conclude its inquiry and, unless otherwise ordered, the Standing Orders Committee must report finally to the House not later than 30 days from the day on which the petition was referred.
- (k) A member —
 - (i) who presented the petition; or
 - (ii) whose conduct is, or relates to, the subject matter of the petition,
 must not sit as a member of the Standing Orders Committee throughout its inquiry, and in either case a substitution of that member must be made under SO 326A. Except for this purpose, SO 326 and SO 326A do not apply to the constitution of the Standing Orders Committee.
- (l) Where the Standing Orders Committee finds that the petition shows that a breach of privilege or a contempt has been committed it may recommend,

having regard to any mitigating or aggravating factors, what penalty might be imposed by the House.

- (m) Where the Constitutional Affairs Committee sustains the prayer of a petition referred under paragraph (i) it may, having regard to the nature and severity of the harm caused to the petitioner or other person, recommend what action the House or a person might take in order to mitigate the effects or consequences of that harm.

”.

Debate ensued.

Question - put and passed.

Schedule, as amended, agreed to.

The President resumed the Chair.

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

- (1) Standing Orders Committee - Report on the Treatment of Evidence of Standing Committees and had agreed to same without amendment.
- (2) Standing Orders Committee - Report on SO 155, Procedure for Raising Matter of Privilege and had agreed to same without amendment.
- (3) Standing Orders Committee - Report on SO 134, Providing for a Right of Reply and had agreed to same with amendment.

Report adopted.

9. Ministerial Statement - Bronzewing Gold Mine Fatalities

The Minister for Mines, by leave, made a Ministerial Statement with respect to the progress being made into the investigation into the cause of the tragic triple mining fatality at Bronzewing Gold Mine on June 26 2000.

10. Order of Business

The Leader of the House moved -

That Orders of the Day Nos 11, 12, 13, 14 and 15 be taken before Order of the Day No. 1.

Debate ensued.

Question - put and passed.

11. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the amendment of Hon Graham Giffard as follows -

That the following words be added to the Address-in-Reply -

“ But regrets to inform Your Excellency that the policies of this Government have resulted in significant scope for improvement in the way that legislation and the public sector generally is being administered; and requests Your Excellency to call on the Government to address the ineffective management practices which are resulting in a waste of public monies. ”.

Amendment - put.

The House divided.

Ayes (13)

Hon Kim Chance
 Hon John Cowdell
 Hon Cheryl Davenport
 Hon Ed Dermer
 Hon Graham Giffard
 Hon Tom Helm
 Hon Helen Hodgson

Hon Norm Kelly
 Hon Jim Scott
 Hon Tom Stephens
 Hon Ken Travers
 Hon Giz Watson
 Hon Bob Thomas (*Teller*)

Noes (12)

Hon Murray Criddle
 Hon Bruce Donaldson
 Hon Ray Halligan
 Hon Barry House
 Hon Murray Montgomery
 Hon N F Moore

Hon Murray Nixon
 Hon Simon O'Brien
 Hon Greg Smith
 Hon W N Stretch
 Hon Derrick Tomlinson
 Hon Muriel Patterson (*Teller*)

Amendment thus passed.

Debate resumed on the Address-in-Reply, as amended.

Question - put and passed.

Ordered - That the Address be presented to His Excellency the Governor by the President and such members as may desire to accompany him.

12. Government Railways (Access) Amendment Bill 2000

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

The Minister for Transport moved, That the report be adopted.

Question - put and passed.

The Minister for Transport, by leave, moved, That the Bill be now read a third time.

The President having reported that the 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.

13. Transport Co-ordination Amendment Bill 1998

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

The President left the Chair.

In Committee

(Hon John Cowdell in the Chair)

Clause 13.

Debate resumed on the amendment of Hon Norm Kelly as follows -

Page 11, after line 23 - To insert the following new subclause -

“

- (2b) Without limiting subsection (1), the Governor may make regulations prescribing standards to be observed in the provision of passenger services by omnibuses including standards in respect of —
- (a) safety, comfort, maintenance and presentation of vehicles;
 - (b) management of those services;
 - (c) education and training;
 - (d) the competence of drivers; and
 - (e) the competence of the providers of those services.

”.

Amendment - put.

The Committee divided.

Ayes (12)

Hon Kim Chance
 Hon John Cowdell
 Hon Cheryl Davenport
 Hon Ed Dermer
 Hon Graham Giffard
 Hon Helen Hodgson

Hon Norm Kelly
 Hon Jim Scott
 Hon Tom Stephens
 Hon Ken Travers
 Hon Giz Watson
 Hon Bob Thomas (*Teller*)

Noes (13)

Hon Murray Criddle
 Hon D M Davies
 Hon Max Evans
 Hon Ray Halligan
 Hon Barry House
 Hon N F Moore
 Hon Mark Nevill

Hon Murray Nixon
 Hon Simon O'Brien
 Hon Greg Smith
 Hon W N Stretch
 Hon Derrick Tomlinson
 Hon Muriel Patterson (*Teller*)

Amendment thus negatived.

Clause agreed to.

Clause 14 agreed to.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day's sitting.

The Minister for Transport moved, That the report be adopted.

Question - put and passed.

The Minister for Transport moved, That the Bill be now read a third time.

The President having reported that the 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.

14. Fish Resources Management Amendment Bill 1999

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

Debate resumed.

15. Questions Without Notice

Questions without notice were asked by Hon Tom Stephens, Hon Kim Chance, Hon Jim Scott, Hon Norm Kelly, Hon Ljiljana Ravlich, Hon John Cowdell, Hon Tom Helm, Hon Giz Watson, Hon Greg Smith, Hon Cheryl Davenport, Hon Christine Sharp, Hon Bob Thomas, Hon Helen Hodgson, Hon Ken Travers, Hon Ed Dermer and Hon Graham Giffard.

The Attorney General tabled Rules from the Director General in relation to early release in response to a question without notice asked by Hon Graham Giffard. (Tabled paper 396).

The Leader of the House tabled documents in relation to temporary staff engaged through an employment agency since January 1 1999 for departments and agencies under the direction of the Minister for Fair Trading in response to question on notice 438 asked by Hon Ljiljana Ravlich. (Tabled paper 397).

The Leader of the House tabled documents in relation to all public agencies covered by the reporting requirements of Section 175 2E of the *Electoral Act 1907* in response to question on notice 616 asked by Hon John Cowdell. (Tabled paper 398).

The Leader of the House tabled documents in relation to debts written off for departments and agencies under the direction of the Minister for Lands in response to question on notice 858 asked by Hon Tom Stephens. (Tabled paper 399).

The Attorney General tabled documents in relation to disability service plans for agencies under the direction of the Minister for Health in response to question on notice 113 asked by Hon Ken Travers. (Tabled paper 400).

16. Fish Resources Management Amendment Bill 1999

Debate resumed on the second reading of this Bill (cf item 14 above).

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 Transport moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

17. Voluntary Euthanasia Bill 2000

Hon Norm Kelly pursuant to notice, moved -

That a Bill for "An Act in response to the widespread community support for a legalised form of voluntary euthanasia to replace current illegal and unregulated practices" be introduced and read a first time.

Question - put.

The House divided.

Ayes (22)

Hon Kim Chance
 Hon John Cowdell
 Hon Murray Criddle
 Hon Cheryl Davenport
 Hon D M Davies
 Hon Max Evans
 Hon Peter Foss
 Hon Graham Giffard
 Hon Ray Halligan
 Hon Tom Helm
 Hon Helen Hodgson

Hon Barry House
 Hon Norm Kelly
 Hon N F Moore
 Hon Simon O'Brien
 Hon Jim Scott
 Hon Christine Sharp
 Hon Greg Smith
 Hon W N Stretch
 Hon Derrick Tomlinson
 Hon Giz Watson
 Hon Muriel Patterson (*Teller*)

Noes (3)

Hon Ljiljana Ravlich
 Hon Tom Stephens

Hon Ed Dermer (*Teller*)

Question thus passed.

Bill read a first time.

Hon Norm Kelly moved, That the Bill be now read a second time.

On the motion of the Leader of the House the debate was adjourned to the next sitting.

18. Building Legislation Amendment Bill 2000

The President reported the receipt of Message No. 23 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House moved, That the Bill be now read a second time.

The Leader of the House tabled an Explanatory Memorandum relating to the Bill. (Tabled paper 401).

On the motion of Hon Ed Dermer the debate was adjourned to the next sitting.

19. Special Adjournment

The Leader of the House, moved without notice -

That the House, at its rising, adjourn until Tuesday, November 7 2000.

Question - put and passed.

20. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 5.48pm until Tuesday, November 7 2000 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all members except Hon Nick Griffiths and Hon Barbara Scott.

L B MARQUET
Clerk of the Legislative Council

HON GEORGE CASH
President of the Legislative Council