

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 169

TUESDAY, 13 NOVEMBER 2007

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### 1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

### 2. Messages from His Excellency the Governor - Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor assenting to the following Bills -

<b>26 October 2007 - Message No. 34</b>	<b>Act No.</b>
Wills Amendment Bill 2006	27 of 2007
Fish Resources Management Amendment Bill 2007	28 of 2007
<b>31 October 2007 - Message No. 35</b>	<b>Act No.</b>
Child Support (Adoption of Laws) Amendment Bill 2007	29 of 2007

### 3. Statement by President - Deputy Clerk - Appointment

The President made the following Statement -

It is with great pleasure I announce that the Governor, His Excellency Dr Ken Michael AC in Executive Council, has approved the appointment of Mr Nigel Rodney Lake as Deputy Clerk of the Legislative Council. Nigel is well regarded in Parliament.

Nigel commenced his career in the Joint House Committee in 1989. In 1991 he was appointed to the Legislative Council, then in 1995 was appointed as an officer of the Legislative Assembly. Nigel was appointed the Sergeant-at-Arms in 2000 and became the Clerk Assistant (Procedure) and Sergeant-at-Arms in 2002.

I congratulate Mr Lake on his appointment.

### 4. Petitions

Hon Graham Giffard presented a petition from 2 774 residents of Western Australia requesting the Legislative Council support maintaining Western Australia as a Genetically Modified (GM) Free Zone. (Tabled paper 3463).

Hon Barbara Scott presented a petition from 49 residents of Western Australia requesting the Legislative Council oppose the commercial sexual exploitation of women, men, girls and boys in relation to the *Prostitution Amendment Bill 2007*. (Tabled paper 3464).

## 5. Papers

The following Papers were laid on the Table by -

### **President**

#### *Joint Standing Committee on the Corruption and Crime Commission -*

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 (Deemed tabled 09/11/2007) ..... 3462

#### *Letters -*

Letter from Mr Malcolm McCusker QC to the President of the Legislative Council in relation to the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations and a letter from The President of the Legislative Council to Mr Malcolm McCusker QC in response..... 3450

#### *Reports -*

Inspector of Custodial Services - Report of an Announced Inspection of Hakea Prison (Report No. 45) (September 2007) (Date received 04/10/2007) ..... 3451

Inspector of Custodial Services - Report into the Announced Inspection of Broome Regional Prison (Report No. 46) (October 2007) (Date received 12/10/2007)..... 3452

Inspector of Custodial Services - Report into the Announced Inspection of Karnet Prison Farm (Report No. 47) (October 2007) (Date received 12/10/2007)..... 3453

### **Leader of the House**

#### *Directions -*

Water Corporations Act 1995 - Ministerial Direction to Water Corporation (Water forever advertising campaign)..... 3454

### **Minister for Regional Development**

#### *Addendums -*

Amendment to the Department of Fisheries Annual Report (2006-2007) ..... 3455

#### *Reports -*

Western Australia Police - Quarterly Report under Section 54(2) of the Terrorism (Preventative Detention) Act 2006 (ending 30 September 2007) ..... 3456

#### *Reviews -*

Road Safety Council - 2005 Annual Review of Arriving Safely (June 2007) ..... 3457

### **Minister for Child Protection**

#### *Addendums -*

Amendment to the Mentally Accused Review Board 2007 Annual Report..... 3458

### **Parliamentary Secretary representing the Deputy Premier**

#### *Reports -*

Western Australia Treasury Corporation Quarterly Report (for the quarter ended 30 September 2007) (Deemed tabled 05/11/2007) ..... 3459

**Parliamentary Secretary representing the Minister for Planning and Infrastructure***Annual Reports -*

State Records Commission (2006-2007) (Date received 29/10/2007)..... 3460

**Parliamentary Secretary representing the Minister for the Environment***Annual Reports -*

Conservation Commission (2006-2007) (Date received 02/11/2007)..... 3461

**6. Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Special Report - Matters of Privilege raised before the Committee**

Hon Murray Criddle presented the Special Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to Matters of Privilege raised before the Committee. (Tabled paper 3465).

Hon Murray Criddle moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

**7. Disclosure of Committee Proceedings - Referral to Standing Committee on Procedure and Privilege**

Hon Murray Criddle moved, without notice -

That -

- (1) The Standing Committee on Procedure and Privileges inquire into and report on -
  - (a) whether articles appearing in *The West Australian* newspaper on Wednesday, 7 November 2007, and Thursday, 8 November 2007, disclosed the private proceedings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations;
  - (b) if so, whether such disclosure constitutes a breach of the privileges, or is a contempt, of this House;
  - (c) if the Committee so finds, what penalty, if any, the House might impose for the breach or contempt; and
  - (d) any other relevant matter arising from the Committee's investigation.
- (2) The Committee have access to documents set out in Appendix 1 of the Special Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to Matters of Privilege raised before the Committee.

*Statement by President*

Members, Hon Murray Criddle has moved a motion without notice dealing with a matter of privilege. Standing Order 155 deals with the procedure for raising a matter of privilege. However, I should point out that subclause (10) of that order states -

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.

The motion moved without notice by Hon Murray Criddle is a proceeding dealing with a matter of privilege reported from a committee. The motion having been moved, I will read it out and invite Hon Murray Criddle to continue with his remarks. However, our current Standing Orders are silent in respect of how we are to deal with these matters, because Standing Order 155 is the Standing Order that relates to privilege, and I have just read out the exception. Therefore, it is up to the House to decide how we should proceed, bearing in mind

that it is a tradition of this House that we give matters relating to privilege precedence over other matters. Therefore, there are a number of alternatives that the House may consider. The House may deal with the matter now, or the matter may be adjourned. If the matter is adjourned straight out, it will become an order of the day. The matter will then be subject to how the House proceeds to deal with that order of the day, noting that, traditionally, these matters have been given precedence. It will then be incumbent upon the Leader of the House to give consideration to that, if the matter is adjourned in that manner. Alternatively, the House may consider adjourning the matter to a later stage of this day's sitting, or placing it on tomorrow's notice paper, or something along those lines. There may be a number of other alternatives.

*The President left the Chair at 3.49pm*

*The President resumed the Chair at 3.57pm*

The Leader of the House moved without notice -

That the motion become an Order of the Day for a later stage of this day's sitting.

Question - put and passed.

#### **8. Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Report**

Hon Murray Criddle presented the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations. (Tabled paper 3466).

Hon Murray Criddle moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

Hon Murray Criddle, by leave, made a short statement in relation to the report.

#### **9. Town of Claremont Standing Orders Local Law 2007 - Disallowance**

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

That the *Town of Claremont Standing Orders Local Law 2007* published in the *Gazette* on 23 August 2007 and tabled in the Legislative Council on 5 September 2007 under the *Local Government Act 1995*, be and is hereby disallowed.

#### **10. Local Government (Rules of Conduct) Regulations 2007 - Disallowance**

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

That the *Local Government (Rules of Conduct) Regulations 2007* published in the *Gazette* on 21 August 2007 and tabled in the Legislative Council on 5 September 2007 under the *Local Government Act 1995*, be and are hereby disallowed.

#### **11. Non-Coronial Post-Mortem Examinations Code of Practice 2007 - Disallowance**

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

That the *Non-Coronial Post-Mortem Examinations Code of Practice 2007* published in the *Gazette* on 24 August 2007 and tabled in the Legislative Council on 5 September 2007 under the *Human Tissue and Transplant Act 1982*, be and is hereby disallowed.

#### **12. Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations Report - Notice of Motion**

Hon Murray Criddle: To move on the next day of sitting -

That the recommendations contained in the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations be adopted and agreed to.

### **13. Chris Read - Disclosure Regarding OSCAR Project**

Hon Helen Morton: To move on the next day of sitting -

That this House directs the Public Administration Committee to inquire into matters following disclosure by Mr Chris Read in 1999 of inappropriate practices regarding the OSCAR project whilst he was working at the Office of the Ombudsman. In particular, the Committee should consider —

- (1) Contractual arrangements with Mr Chris Read whilst he was working in the Ombudsman's Office.
- (2) Circumstances relating to the transfer of Mr Read from the Ombudsman's Office to the Department of Premier and Cabinet.
- (3) Actions taken by various government departments in relation to Mr Read regarding this matter.
- (4) Legislative changes necessary to ensure that people who work in the Ombudsman's Office have access to objective and impartial investigation and, if appropriate, redress relating to internal administrative decisions.

### **14. Matter of Urgency - Educational Services - Disparity**

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, that this House expresses its concern at the growing disparity with the delivery of educational services in country districts compared with metropolitan districts within Western Australia.

Yours sincerely

Hon Peter Collier

Member for North Metropolitan Region

Four members having risen in support.

Hon Peter Collier moved the motion.

Debate ensued.

### **15. Questions Without Notice**

Questions without notice were taken.

The Minister for Child Protection tabled, and by leave incorporated into Hansard, a list of dates that the Child Death Review Committee met, in response to a question without notice asked by Hon Robyn McSweeney. (Tabled paper 3467).

The Leader of the House representing the Minister for Energy tabled documents in relation to a statement of claim from Dr van der Mye, in response to question on notice No. 5539 asked by Hon Norman Moore. (Tabled paper 3468).

### **16. Matter of Urgency - Educational Services - Disparity**

Debate resumed on the motion of Hon Peter Collier (cf item 14 above).

Motion lapsed.

## 17. Order of Business

Ordered - That Orders of the Day Nos 484, *Mooring Amendment Regulations 2007*, 485, *Rights in Water and Irrigation Amendment Regulations 2007*, 486, *City of Armadale - Signs Local Law 2007*, 489, *Rights in Water and Irrigation Amendment Regulations 2007*, 490, *Rights in Water and Irrigation Amendment Regulations 2007*, 509, *Shire of Menzies - Dogs Local Law 2007*, 510, *Shire of Northampton - Health Local Laws 2007*, 511, *Shire of Goomalling - Refuse Disposal Facilities Local Law 2007*, 512, *Shire of Goomalling - Local Law Relating to Fencing 2007*, 513, *Shire of Goomalling - Management and Control of Goomalling Cemetery Local Law 2007*, 514, *Shire of Goomalling - Health Local Laws 2007*, 515, *Poisons Amendment Regulations (No. 2) 2007*, 516, *Gene Technology Regulations 2007* and 517, *Occupational Therapists Regulations 2007*, be taken after Order of the Day No. 499, *State Supply Commission Amendment Bill 2007*. (Leader of the House).

## 18. Environmental Protection Amendment Regulations 2007 - Disallowance - Discharge from Notice Paper

Hon Ray Halligan moved, without notice -

That Order of the Day No. 487, *Environmental Protection Amendment Regulations 2007 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

## 19. Settlement Agents Amendment Regulations (No. 2) 2007 - Disallowance - Discharge from Notice Paper

Hon Ray Halligan moved, without notice -

That Order of the Day No. 505, *Settlement Agents Amendment Regulations (No. 2) 2007 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

## 20. Chiropractors Amendment Regulations 2007 - Disallowance - Discharge from Notice Paper

Hon Ray Halligan moved, without notice -

That Order of the Day No. 518, *Chiropractors Amendment Regulations 2007 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

## 21. Perry Lakes Redevelopment Amendment Regulations 2007 - Disallowance - Discharge from Notice Paper

Hon Ray Halligan moved, without notice -

That Order of the Day No. 519, *Perry Lakes Redevelopment Amendment Regulations 2007 - Disallowance*, be discharged from the Notice Paper

Question - put and passed.

## 22. City of Bunbury - Private Property Amendment Local Law 2007 - Disallowance - Discharge from Notice Paper

Hon Ray Halligan moved, without notice -

That Order of the Day No. 520, *City of Bunbury - Private Property Amendment Local Law 2007 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

### 23. Order of Business

Ordered - That the Order of the Day - *Disclosure of Committee Proceedings - Referral to Standing Committee on Procedure and Privilege*, be taken forthwith (cf item 7 above). (Leader of the House).

### 24. Disclosure of Committee Proceedings - Referral to Standing Committee on Procedure and Privilege

The Order of the Day having been called, debate ensued on the motion of Hon Murray Criddle as follows -

That -

- (1) The Standing Committee on Procedure and Privileges inquire into and report on -
  - (a) whether articles appearing in *The West Australian* newspaper on Wednesday, 7 November 2007, and Thursday, 8 November 2007, disclosed the private proceedings of the Select Committee of Privilege on a matter arising in the Standing Committee on Estimates and Financial Operations;
  - (b) if so, whether such disclosure constitutes a breach of the privileges, or is a contempt, of this House;
  - (c) if the Committee so finds, what penalty, if any, the House might impose for the breach or contempt; and
  - (d) any other relevant matter arising from the Committee's investigation.
- (2) The Committee have access to documents set out in Appendix 1 of the Special Report of the Select Committee of Privilege on a matter arising in the Standing Committee on Estimates and Financial Operations in relation to Matters of Privilege raised before the Committee.

Question - put and passed.

### 25. Trans-Tasman Mutual Recognition (Western Australia) Bill 2005

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

The Acting President left the Chair.

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#### In Committee

(Hon Ray Halligan in the Chair)

Clause 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clause 7 agreed to.

Title.

The Minister for Agriculture and Food moved -

Page 1, line 8 — To delete “the enactment of this Act” and insert instead —

“ **25 October 2007** ”.

Amendment - put and passed.

Title as amended agreed to.

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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.

**26. Surrogacy Bill 2007**

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 Barbara Scott to extend her speaking time.

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

**27. Standing Committee on Environment and Public Affairs - Appointment of Member**

The Leader of the House moved, without notice -

That Hon Sheila Mills be appointed to the Standing Committee on Environment and Public Affairs.

Question - put and passed.

**28. Employment Dispute Resolution Bill 2007**

The Acting President reported the receipt of Message No. 260 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a second time.

Debate stands adjourned.

**29. Contractual Benefits Bill 2007**

The Acting President reported the receipt of Message No. 261 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Minister for Employment Protection moved, That the Bill be now read a second time.

Debate stands adjourned.



**30. Water Resources Legislation Amendment Bill 2006**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 262

The Legislative Assembly acquaints the Legislative Council that it has considered the amendments made by the Legislative Council in the *Water Resources Legislation Amendment Bill 2006*, has agreed to Amendments Nos 1 to 30; and has disagreed to Amendment No. 31 and substituted a new amendment in its place, as set for the in the Schedule annexed, in which the Legislative Assembly desires the Legislative Council's concurrence.

Mrs D.J. Guise

Acting Speaker

Legislative Assembly Chamber

Perth, 25 October 2007

Ordered - That consideration, in Committee, of Message No. 262 be made an Order of the Day for the next sitting.

**31. Adjournment**

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.32pm until Wednesday, 14 November 2007 at 4.00pm.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Matt Benson-Lidholm.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON NICK GRIFFITHS**  
President of the Legislative Council