

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 19

TUESDAY, OCTOBER 17 2000

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### 1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

### 2. Papers

The following Papers were laid on the Table by -

#### **President**

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#### **Leader of the House**

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**Parliamentary Secretary for Education***Annual Reports - 1999-2000 -*

Department of Education Services (Date received 16/10/2000) ..... 377

### **3. Standing Committee on Legislation - Sentencing Matrix Bill 1999 - Contingent Motion - Suppression Order**

Hon Bruce Donaldson: To move on the next day of sitting -

That contingent upon the presentation of a report of the Standing Committee on Legislation in relation to the *Sentencing Matrix Bill 1999*, I will move -

That pursuant to SO 324, it is ordered that the evidence taken in private by the Standing Committee on Legislation from Hon Peter Foss QC MLC, Attorney General, on July 28 1999 and September 13 2000 (including documents tabled during such private evidence) in relation to the *Sentencing Matrix Bill 1999* not be disclosed or published in any form or to any person without further order.

#### **4. Matter of Urgency - State Government's Response to the Crisis in Fuel Prices**

The President read the following letter -

At today's sitting it is my intention to move under SO 72 that the House, at its rising, adjourn until 9.00am on December 25 2000 for the purpose of discussing the State Government's response to the crisis in fuel prices.

Yours sincerely

Hon Tom Stephens  
Member for Mining and Pastoral Region

Four members having risen in support.

Hon Tom Stephens then moved, That the House at its rising adjourn until 9.00am on December 25 2000.

#### *Point of Order*

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

I ask you, Mr President, to consider and advise on Standing Order No 94. The substance of the Member's remarks seems to be the business of a Select Committee in another place, and a report which has apparently been produced by that committee. Can you advise, Mr President, whether that is within our ambit, because that report has not been tabled in this House.

#### *President's Ruling*

The President ruled as follows -

Standing Order No 94 reads -

No Member shall allude to any debate of the current session in the Assembly, or to any measure impending therein.

It would not be appropriate if the Leader of the Opposition were to recite at length debate in the Legislative Assembly. However, he is not doing that. He is commenting on a public document. That document just happened to be tabled in the Legislative Assembly last week, but is very much a public document.

Debate ensued.

*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.

#### **5. Spent Convictions (Act Amendment) Regulations 2000 - Disallowance - Discharge from Notice Paper**

Hon Tom Helm, by leave, moved, without notice -

That Order of the Day No. 1, *Spent Convictions (Act Amendment) Regulations 2000 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

#### **6. Order of Business**

Ordered - That Orders of the Day Nos 9, 10, 11, 12 and 13 be taken before Order of the Day No. 2. (Leader of the House).

## **7. 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. ”.

Debate resumed.

On the motion of Hon Tom Stephens the debate was adjourned to the next sitting.

## **8. Questions Without Notice**

Questions without notice were asked by Hon Tom Stephens, Hon Kim Chance, Hon Jim Scott, Hon Helen Hodgson, Hon Muriel Patterson, Hon John Cowdell, Hon Tom Helm, Hon Ljiljana Ravlich, Hon Giz Watson, Hon Norm Kelly, Hon Murray Montgomery, Hon Ed Dermer, Hon Bob Thomas, Hon Graham Giffard and Hon Ken Travers.

Hon Tom Helm, by leave, tabled documents in relation to alleged evidence of Liberal Party matters being performed from the Minister for Mines' Ministerial office in response to a question without notice he asked of the Minister for Mines. (Tabled paper 378).

The Minister for Transport tabled documents in relation to the cost benefit analysis report for the Business Information Processing Agencies Consortium's contract with Computer Sciences Corporation (Australia) Pty Ltd in response to question on notice 152 asked by Hon Ljiljana Ravlich. (Tabled paper 379).

The Minister for Transport 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 Seniors in response to question on notice 453 asked by Hon Ljiljana Ravlich. (Tabled paper 380).

The Minister for Transport tabled documents in relation to a revised report dated July 2000 for the financial comparison of Transperth diesel versus CNG buses in response to question on notice 784 asked by Hon Jim Scott (Tabled paper 381).

## **9. State Superannuation Bill 1999**

The Order of the Day having been read for the third reading of this Bill.

The Attorney General 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.

## **10. State Superannuation (Transitional and Consequential Provisions) Bill 1999**

The Order of the Day having been read for the third reading of this Bill.

The Attorney General 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.

**11. Rights in Water and Irrigation Amendment Bill 1999**

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

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**In Committee**

(Hon John Cowdell in the Chair)

Clause 51.

The Minister for Transport moved -

Page 78, lines 15 to 22 - To delete the lines and insert instead -

“

- (f) in the opinion of the Commission, the exercise of the power is necessary to prevent a serious inconsistency arising as a result of —
- (i) the approval of a plan, or the alteration, revocation or substitution of a plan, under Part III Division 3D Subdivision 2; or
  - (ii) the making, amendment or repeal of relevant local by-laws;

”.

Amendment agreed to.

The Minister for Transport moved -

Page 78, line 23 - To insert after “licensee” -

“

, or a person whose name is endorsed on the licence as a person with whom the licensee has an agreement referred to in clause 30,

”.

Page 78, line 31 - To insert after “licence” -

“ or of an agreement referred to in clause 30 ”.

Page 78, line 33 - To insert after “transfer” -

“ or agreement ”.

Debate ensued.

Amendments agreed to.

The Minister for Transport moved -

Page 79, lines 22 to 28 - To delete the lines and insert instead -

“

- (b) in the opinion of the Commission, the exercise of the power is necessary due to a serious inconsistency, which cannot be resolved by an amendment under clause 24, arising as a result of —
- (i) the approval of a plan, or the alteration, revocation or substitution of a plan, under Part III Division 3D Subdivision 2; or

- (ii) the making, amendment or repeal of relevant local by-laws;

Amendment agreed to.

The Minister for Transport moved -

Page 79, line 29 - To insert after "licensee" -

“

or a person whose name is endorsed on the licence as a person with whom the licensee has an agreement referred to in clause 30,

”.

Amendment agreed to.

The Minister for Transport moved -

Page 81, line 20 - To insert after "entitlements" -

“ **and agreements with licensees to take water** ”.

Page 81, line 28 - To insert after "may" -

“ transfer ”.

Page 81, line 29 - To delete "transfer".

Page 81, line 29 - To delete "to another person".

Page 81, line 30 - To delete "transfer".

Debate ensued.

Amendments agreed to.

The Minister for Transport moved -

Page 82, lines 8 to 16 - To delete the clause and insert instead -

“

**30. Agreements with licensees to take water**

- (1) Subject to this Division, the holder of a licence may enter into an agreement with another person ("**the third party**") relating to the taking of water under the licence by the third party for a limited period of time.
- (2) An agreement referred to in subclause (1) is of no effect to the extent that a relevant local by-law prohibits such agreements in relation to licences, licences of a particular kind or in particular circumstances.
- (3) An agreement referred to in subclause (1) is of no effect unless —
  - (a) it is entered into with a person who holds, or is eligible in terms of clause 3 to hold, a licence of the same kind;
  - (b) it has been approved by the Commission; and
  - (c) the licence is endorsed in accordance with clause 36(d).
- (4) Subject to clauses (2) and (3)(a), the grant or undertaking to grant approval under clause (3)(b) is at the discretion of the Commission.
- (5) In exercising that discretion the Commission is to have regard to all matters that it considers relevant, including those set out in clause (7)(2).

- (6) If the Commission would approve an agreement referred to in subclause (1) but for the fact that the third party is not a person who is eligible in terms of clause 3 to hold such a licence, the Commission may undertake to approve the agreement if the third party becomes a person who is eligible to hold the licence within the period of time specified in the undertaking.
- (7) Without limiting subclause (4), the Commission may refuse to approve an agreement, or to undertake to approve an agreement, if the third party is a person who has committed an offence against this Act.

”.

Page 83, line 10 - To insert after “entitlement” -

“ or of an agreement referred to in clause 30 ”.

Page 83, line 29 - To insert after “licence” -

“ , or of an agreement referred to in clause 30, ”.

Page 85, lines 1 to 9 - To delete the clause and insert instead -

“

### **36. Endorsement and record of dealings**

The Commission must —

- (a) in the case of the transfer of a licence, endorse on the licence as licensee the name of the person to whom the licence has been transferred;
- (b) in the case of the transfer of a water entitlement under a licence to a person who does not hold a licence of the same kind, issue a licence to the person to whom a water entitlement has been transferred endorsed with such particulars as the Commission thinks fit relating to the transfer;
- (c) in the case of the transfer of a water entitlement under a licence to a person who holds a licence of the same kind, endorse on the licences affected such particulars as it thinks fit relating to the transfer; and
- (d) in the case of an agreement referred to in clause 30 between the holder of a licence and a third party relating to the taking of water under the licence by the third party, endorse on the licence the name of the third party, the period of the agreement and any other particulars it thinks fit relating to the agreement.

”.

Page 86, lines 13 to 20 - To delete the lines.

Amendments agreed to.

The Minister for Transport moved -

Page 86, line 26 to page 87, line 28 - To delete the lines.

Debate ensued.

Amendment agreed to.

The Minister for Transport moved -

Page 89, lines 16 to 20 - To delete the lines.

Amendment agreed to.

The Minister for Transport moved -

Page 89, line 30 - To insert after "29" -

" , 38 or 41 ".

Amendment agreed to.

The Minister for Transport moved -

Page 90, line 21 - To insert after "licensee" -

"

and a person whose name is endorsed on a licence as a person with whom the licensee has an agreement referred to in clause 30

".

Page 90, line 21 - To insert after "must" -

" , to the extent that it is under his or her power to do so, ".

Page 91, line 9 - To insert after "licensee" -

"

, or a person whose name is endorsed on a licence as a person with whom a licensee has an agreement referred to in clause 30,

".

Page 91, line 13 - To delete "licensee" and insert instead -

" person ".

Page 91, line 20 - To delete "licensee" and insert instead -

" person ".

Page 93, after line 4 - To insert the following new subclause -

"

6. An agreement referred to in clause 30, including a prohibition or restriction on any such agreement.

".

Amendments agreed to.

On the question, That the clause, as amended, be agreed to.

Debate ensued.

Question - put and passed.

Clauses 52 to 63 agreed to.

Clause 64.

Hon Giz Watson moved -

Page 99, line 17 - To delete "A" and insert instead -

" Any ".

Debate ensued.

Amendment - put and negatived.

The Minister for Transport moved -

Page 100, line 2 - To insert after "licence" -

" , or an agreement referred to in clause 30 of Schedule 1 ".



Amendment agreed to.

The Minister for Transport moved -

Page 100, line 7 - To insert after “transferred” -

“ or a person who is a party to the agreement ”.

Amendment agreed to.

The Minister for Transport moved -

Page 100, lines 23 to 26 - To delete proposed section 26GJ.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 65 to 68 agreed to.

Clause 69.

The Minister for Transport moved -

Page 101, line 18 to page 105, line 17 - To delete the clause.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 70 to 85 agreed to.

New Clause.

Hon Norm Kelly moved -

Page 51, after line 24 - To insert the following new clause -

“

**45. Section 26K amended**

Section 26K(3) is amended by inserting after “legislation” the following —

“

and section 42 of that Act applies to such an order as if the order were a regulation

”.  
”.

Debate ensued.

New clause agreed to.

New Clause.

Hon Giz Watson moved -

Page 110, after line 18 - To insert the following new clause -

“

**80. Standing to bring proceedings in respect of breach of this Act**

- (1) Any person may bring proceedings in the Supreme Court for an order to remedy or restrain a breach or a threatened breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.

- (2) Proceedings under this section may be brought by a person on his or her own behalf or on behalf of himself or herself and on behalf of other persons (with their consent), or a body corporate or unincorporated (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.
- (3) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.

”.

Debate ensued.

Question - put.

The Committee divided.

**Ayes (12)**

Hon Kim Chance  
 Hon John Cowdell  
 Hon Cheryl Davenport  
 Hon Ed Dermer  
 Hon Helen Hodgson  
 Hon Norm Kelly

Hon Ljiljana Ravlich  
 Hon Jim Scott  
 Hon Tom Stephens  
 Hon Ken Travers  
 Hon Giz Watson  
 Hon Bob Thomas (*Teller*)

**Noes (11)**

Hon Murray Criddle  
 Hon D M Davies  
 Hon Bruce Donaldson  
 Hon Peter Foss  
 Hon Ray Halligan  
 Hon Barry House

Hon Murray Montgomery  
 Hon Murray Nixon  
 Hon W N Stretch  
 Hon Derrick Tomlinson  
 Hon Muriel Patterson (*Teller*)

Question thus passed.

New clause agreed to.

Title agreed to.

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The 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.

**12. Government Railways (Access) Amendment Bill 2000**

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.

The President left the Chair.

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**In Committee**

(Hon John Cowdell in the Chair)

Clause 1.

Debate ensued.

The Minister for Transport moved -

Page 2, line 3 - To delete “*Government*”.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 2.

The Minister for Transport moved -

Page 2, lines 6 to 13 - To delete the words after “which” and insert instead -

“ it receives the Royal Assent ”.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 3.

The Minister for Transport moved -

Page 3, line 4 - To delete “*Government*”.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 4 and 5 agreed to.

Clause 6.

Hon Tom Stephens moved -

Page 4, lines 18 and 19 - To delete the lines and insert instead -

“

- (2) On submitting the request to the Commissioner, the Minister may advise the Commissioner of any

”.

Debate ensued.

Amendment agreed to.

Hon Tom Stephens moved -

Page 5, lines 23 to 27 - To delete the lines.

Debate ensued.

Amendment - put and negatived.

On the question, That the clause, as amended, be agreed to.

Debate ensued.

*Interruption of Debate* [SO 61(c)].

### **13. Land Administration Amendment Bill 2000**

The President reported the receipt of Message No. 18 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.

On the motion of Hon Bob Thomas the debate was adjourned to the next sitting.

**14. Acts Amendment (Iron Ore Agreements) Bill 2000**

The President reported the receipt of Message No. 21 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.

On the motion of Hon Bob Thomas the debate was adjourned to the next sitting.

**15. Universities Legislation Amendment Bill 2000**

The President reported the receipt of Message No. 22 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Minister for Education moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Minister for Education moved, That the Bill be now read a second time.

On the motion of Hon Bob Thomas the debate was adjourned to the next sitting.

**16. Adjournment**

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.43pm until Wednesday, October 18 2000 at 4.00pm.

**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