



LEGISLATIVE COUNCIL

TUESDAY, 29 AUGUST 2023

1.00pm

1. Meeting of Council

The Council assembled at 1.00pm pursuant to order.

The President, Hon Alanna Clohesy, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Statement by President — Photography in the Chamber

The President made the following Statement —

I have approved the presence of a photographer and camera operator in the press gallery this afternoon for the proceedings.

3. Statement by President — Conviction of James Hayward and disqualification as a Member of the Legislative Council

The President made the following Statement —

I have been advised by the District Court of Western Australia that on 28 August 2023 a judgement of conviction was entered against James Hayward for two offences on indictment under section 320(4) of the *Criminal Code*. A person convicted for these offences is subject to a penalty of up to 10 years imprisonment.

Section 32 of the *Constitution Acts Amendment Act 1899* provides for the disqualification of a Member of the Parliament of Western Australia in the event that the Member is convicted on indictment of an offence for which the indictable penalty is or includes —

- (a) imprisonment for life; or
- (b) imprisonment for more than 5 years.

Accordingly, I advise that James Hayward is disqualified from membership of the Legislative Council.

Furthermore, s 38 of the *Constitution Acts Amendment Act 1899* provides that the seat of a Member disqualified for membership of a House of the Parliament of Western Australia by section 32 shall thereupon become vacant.

The Leader of the House moved, without notice —

That a vacancy in the membership of the Legislative Council is declared by reason of Mr James Hayward being disqualified as a Member for the South West Region pursuant to sections 32 and 38 of the *Constitution Acts Amendment Act 1899*, following his being convicted for indictable offences in the District Court of Western Australia on Monday, 28 August 2023, for which the indictable penalty includes imprisonment for more than 5 years.

Debate ensued.

Question — put and passed.

4. Rights and privileges of a former Member of the Legislative Council

The Leader of the House sought leave to move a motion without notice to revoke the rights and privileges of a former Member of the Legislative Council.

Leave granted.

5. Rights and privileges of a former Member of the Legislative Council — Revocation

The Leader of the House, by leave, moved —

That the Legislative Council revokes any and all privileges granted by the Legislative Council to Mr James Hayward as a former Member.

Question — put and passed.

6. Message from His Excellency the Governor — Assent to Bill

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bill —

17 August 2023 — Message No. 22

Nickel (Agnew) Agreement Amendment Bill 2023

Act No.

17 of 2023

7. Petitions

Hon Dr Brad Pettitt presented an E-Petition from 734 petitioners requesting the Legislative Council to make recommendations to the Government in relation to the Western Australian Truth-Telling and Justice Commission. (Tabled Paper 2463).

Hon Dr Brad Pettitt presented a petition from 484 petitioners requesting the Legislative Council to recommend to the Government that the proposed Eastlink Highway construction be rejected. (Tabled Paper 2464).

Hon Kate Doust presented an E-Petition from 5,394 petitioners requesting the Legislative Council to oppose the *Abortion Legislation Reform Bill 2023* and adopt provisions from the contemporary Act in South Australia. (Tabled Paper 2465).

8. Papers

The following Papers were laid on the Table by —

President

Auditor General's Papers —

Financial Audit Results — Local Government 2021-22 (Report No. 3) (August 2023)

(Deemed tabled 23/08/2023).....2451

Leader of the House

Local Laws —

Local Government Act 1995 (City of Bayswater Health Local Laws 2023 G.G. 25/08/2023, City of Perth Repeal Local Law 2022 G.G. 18/08/2023 and Shire of Murray Bush Fire Brigades

Local Law 2023 G.G. 25/08/2023).....2452

Regulations —

Public Health Act 2016 (Public Health Amendment Regulations (No. 3) 2023)2453

Response to Reports —

Select Committee into Cannabis and Hemp — Medicinal cannabis and industrial hemp in Western Australia (March 2023) (Minister for Health).....2454

Minister for Emergency Services*Annual Reports —*

Corruption and Crime Commission — Surveillance Devices Act 1998 (2022-23)
(Date received 25/08/2023).....2455

Local Laws —

Bush Fires Act 1954 (Shire of Pingelly Bush Fire Brigades Local Law 2023 G.G. 22/08/2023).....2456

Response to Reports —

Standing Committee on Estimates and Financial Operations — Consideration of the 2021-22 Annual Reports (Report No. 89) (June 2023) (Treasurer).....2457

Minister for Agriculture and Food*Annual Reports —*

Land Surveyors Licensing Board of Western Australia (2022) (Date received 22/08/2023)2458

Directions —

Direction from the Minister for Planning on State Administrative Tribunal application — Austral Bricks (WA) PTY LTD and Shire of Serpentine Jarrahdale (DR 223 of 2022).....2459

Reports —

Landgate — Statement of Corporate Intent (2023-24).....2460

Response to Reports —

Standing Committee on Estimates and Financial Operations — Funding Homelessness Services in Western Australia (Report No. 88) (June 2023) (Minister for Homelessness).....2461

Parliamentary Secretary to the Attorney General*Schemes —*

Professional Standards Act 1997 (The Australian Computer Society Professional Standards Scheme (Extension) G.G. 25/08/2023 and The Law Society of New South Wales Professional Standards Scheme (Extension) G.G. 25/08/2023)2462

9. Order of Business

Ordered — That Orders of the Day Nos 1, *Shire of Wyalkatchem Bush Fire Brigades Local Law 2022 — Disallowance*, 2, *Shire of Wyalkatchem Cats Local Law 2022 — Disallowance*, 3, *Shire of Wyalkatchem Public Places and Local Government Property Local Law 2022 — Disallowance*, and, 4, *Aboriginal Cultural Heritage Amendment Regulations (No. 2) 2023 — Disallowance*, be taken after Order of the Day No. 12, *Liquor Control Amendment (Banned Drinkers Register) Bill 2023*. (Leader of the House).

10. Cognate Debate — Appropriation (Recurrent 2023–24) Bill 2023 and Appropriation (Capital 2023–24) Bill 2023

The Leader of the House sought leave of the Council to debate Order of the Day No. 8, *Appropriation (Recurrent 2023–24) Bill 2023* and Order of the Day No. 9, *Appropriation (Capital 2023–24) Bill 2023*, cognately [SO 127].

Leave granted.

11. Appropriation (Recurrent 2023–24) Bill 2023 and Appropriation (Capital 2023–24) Bill 2023

The Orders of the Day having been read for the adjourned debate on the second reading of these Bills.

Debate ensued.

Question — That the *Appropriation (Recurrent 2023–24) Bill 2023* be read a second time — put and passed.

Bill read a second time.

Question — That the *Appropriation (Capital 2023–24) Bill 2023* be read a second time — put and passed.

Bill read a second time.

Leave was granted to proceed forthwith to the third readings.

The Minister for Emergency Services representing the Treasurer moved, That the *Appropriation (Recurrent 2023–24) Bill 2023* be read a third time.

Question — put and passed.

Bill read a third time and passed.

The Minister for Emergency Services representing the Treasurer moved, That the *Appropriation (Capital 2023–24) Bill 2023* be read a third time.

Question — put and passed.

Bill read a third time and passed.

12. Abortion Legislation Reform Bill 2023

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

Debate ensued.

13. Questions Without Notice

Questions without notice were taken.

Hon Ben Dawkins, by leave, tabled documents in relation to a question without notice he asked of the Minister for Agriculture and Food representing the Minister for Planning. (Tabled Paper 2466).

The Leader of the House; Minister for Finance; Commerce; Women's Interests, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Wilson Tucker.

The Leader of the House representing the Minister for Health, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Donna Faragher.

Hon Ben Dawkins, by leave, tabled documents in relation to a question without notice he asked of the Parliamentary Secretary to the Minister for Industrial Relations. (Tabled Paper 2467).

Point of Order

The Parliamentary Secretary to the Attorney General raised the following Point of Order —

The Member's question appears to seek an opinion, including a legal opinion or interpretation. It contains argument and is not concise, all of which is in breach of Standing Order 105.

President's Ruling

The President ruled as follows —

Given the range of issues involved in your point of order, I will take the matter under advisement and report to the Chamber at a later date.

The Minister for Forestry, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Steve Martin.

The Minister for Emergency Services representing the Minister for State and Industry Development; Jobs and Trade, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Dr Brad Pettitt.

The Minister for Agriculture and Food representing the Minister for Planning by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Ben Dawkins.

The Minister for Agriculture and Food representing the Minister for Planning, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Ben Dawkins.

The Minister for Agriculture and Food representing the Minister For Housing, by leave, incorporated into *Hansard* a response to a question without notice asked by Hon Steve Martin.

14. Abortion Legislation Reform Bill 2023

Debate resumed on the second reading of this Bill (*see item 12 above*).

Interruption pursuant to order.

15. President's Ruling — Question without Notice

The President ruled as follows —

During today's Questions without Notice a point of order was raised by the Parliamentary Secretary representing the Minister for Industrial Relations in relation to a question asked by Hon Ben Dawkins regarding the *Workers Compensation and Injury Management Bill 2023*.

The question sought the Minister's response to matters contained in a legal opinion dated 16 June 2023 from the Australian Lawyers Alliance, which the Member tabled at the time of asking the question. The legal opinion considered aspects of the Bill.

The Parliamentary Secretary has objected to the question on the basis that:

- (a) it seeks an opinion, including a legal interpretation or opinion (Standing Order 105(1)(b)); and
- (b) it is not concise (Standing Order 105(1)(a)); and
- (c) it contains argument.

The third objection is not a ground of objection under the Standing Orders and so that particular objection is not sustained. The first two objections are upheld due to the length of the question and the fact that that the question expressly asks the Minister to respond to conclusions reached in a legal opinion. I therefore rule the question out of order.

I also make the observation that the question relates to a Bill that is currently before this House, and that the Member can avail himself of the committee stage of that Bill to further explore aspects of the matter that he seeks information on.

16. Members' Statements

Statements were taken.

17. Adjournment

The Council adjourned at 8.54pm until Wednesday, 30 August 2023 at 1.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Rosetta Sahanna.

SAM HASTINGS

Clerk of the Legislative Council

HON ALANNA CLOHESY MLC

President of the Legislative Council