

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 232

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

THURSDAY, 18 OCTOBER 2012

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Petition

Dangerous Driving Bickley Road – Mr A.J. Waddell presented a petition from 33 persons requesting that Legislative Assembly urges the State Government and the Minister for Police to increase police resources, and take any other steps necessary, to stop dangerous driving and hoon behaviour on and around Bickley Road, Kenwick (P. 662).

3. Expiration of Notice of Motion

The Speaker advised members that Private Members' Business Notice of Motion No. 2, notice of which was given on 29 September 2011 and renewed for a further 30 sitting days on 3 May 2012, would be removed and would not appear on the next Notice Paper.

4. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Local Government on engagement with the local government sector to improve the capacity within the sector to better plan and deliver services to the community.

The Minister for Culture and the Arts on the State Library of Western Australia successfully acquiring Mary Anne Friend's historical diary.

5. Grievances

The Speaker called for grievances which were then made.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Minister for Agriculture and Food –

Agriculture and Food, Minister for – Letter from the Minister for Agriculture and Food to the Commonwealth Minister for Agriculture, Fisheries and Forestry on fruit fly control, 27 September 2012 (5468).

6. Joint Standing Committee on Delegated Legislation

Mr P.T. Miles, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – City of Vincent Dogs Amendment Local Law No. 2 2012, Report No. 58 (5469).

Mr P.T. Miles spoke on the report.

7. Community Development and Justice Standing Committee

Mr A.P. O'Gorman, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Community Development and Justice Standing Committee – Annual Report 2011–2012, Report No. 11 (5470).

Mr A.P. O'Gorman spoke on the report.

8. Restoration of Bill

Dr J.M. Woollard, pursuant to notice, moved,

That the Liquor Control Amendment Bill 2011 be restored to the point it reached prior to its removal from the Notice Paper on Tuesday, 16 October 2012.

Question put and passed.

9. Variation to the Order of Business

Ordered, That Legislative Council Message No. 202 be next considered.

10. Joint Standing Committee on Audit

Legislative Council Message No. 202.

The Message was as follows –

The Legislative Council acquaints the Legislative Assembly that in response to Legislative Assembly Message No. 235 it has disagreed to the amendments made by the Legislative Assembly to Legislative Council Message No. 179.

CONSIDERATION IN DETAIL

The Leader of the House moved,

That the House agrees to the resolution of the Legislative Council referred to in Legislative Council Message No. 179 dated 1 September 2011.

Question put and passed and the Legislative Council acquainted accordingly.

11. Retirement Villages Amendment Bill 2012

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

The Parliamentary Secretary representing the Minister for Commerce moved, That the debate be adjourned.

Question put and passed.

12. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

The Order of the Day for the further consideration in detail of the bill was read.

CONSIDERATION IN DETAIL

Clause 4.

Debate ensued.

Debate interrupted by the Chair and adjourned until a later stage of this day's sitting.

13. Members' Statements

The Acting Speaker called for members' statements which were then made.

14. Questions

Questions without Notice were taken.

Questions on Notice Nos 8701 and 8703 were answered.

15. Additional Information

The Minister for Regional Development provided additional information relating to Question without Notice No. 610 from Mr M. McGowan.

The Minister for Environment provided additional information relating to Question on Notice No. 8572 from Mr B.S. Wyatt.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Minister for Environment –

Environment, Minister for – Further information to the answer provided to Question on Notice No. 8572 (5471).

16. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 2 be resumed.

17. Criminal Law Amendment (Out-of-Control Gatherings) Bill 2012

The Order of the Day for the further consideration in detail of the bill was read.

CONSIDERATION IN DETAIL

Clauses 4 to 9 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Police moved, That the bill be now read a third time.

Debate ensued.

Question put.

The Assembly divided.

Ayes (41)

Mr P. Abetz	Mrs L.M. Harvey	Mr C.C. Porter
Mr F.A. Alban	Mr A.P. Jacob	Mr D.T. Redman
Ms L.L. Baker	Dr G.G. Jacobs	Mrs M.H. Roberts
Mr C.J. Barnett	Mr W.J. Johnston	Ms R. Saffioti
Mr I.C. Blayney	Mr A. Krsticevic	Mr M.W. Sutherland
Mr I.M. Britza	Mr F.M. Logan	Mr C.J. Tallentire
Mr T.R. Buswell	Mr W.R. Marmion	Mr P.C. Tinley
Dr A.D. Buti	Mrs C.A. Martin	Mr A.J. Waddell
Mr G.M. Castrilli	Mr M. McGowan	Mr T.K. Waldron
Mr R.H. Cook	Mr J.E. McGrath	Mr P.B. Watson
Mr M.J. Cowper	Mr P.T. Miles	Dr J.M. Woollard
Mr J.H.D. Day	Ms A.R. Mitchell	Mr B.S. Wyatt
Mr J.M. Francis	Mr M.P. Murray	Mr A.J. Simpson (<i>Teller</i>)
Mr B.J. Grylls	Dr M.D. Nahan	

Noes (2)

Dr E. Constable	Ms A.S. Carles (<i>Teller</i>)
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Question thus passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

18. Personal Explanation

Dr A.D. Buti made a personal explanation on a statement he had made regarding the Royalties for Regions Program.

19. Criminal Investigation (Covert Powers) Bill 2011

Message No. 245 dated 18 October 2012 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to *Criminal Investigation (Covert Powers) Bill 2011* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Criminal Investigation (Covert Powers) Bill 2011.

No. 1

Page 2, after line 14 — To insert —

authorising officer, for a law enforcement agency, means —

- (a) in relation to the Police Force or the fisheries department — the Commissioner of Police;
- (b) in relation to the Australian Crime Commission — the Chief Executive Officer of the Australian Crime Commission;

No. 2

Page 2, line 15 — To delete the line and insert —

chief officer, of a law enforcement agency, means —

No. 3

Page 5, after line 28 — To insert —

Corruption and Crime Commission means the Corruption and Crime Commission established under the *Corruption and Crime Commission Act 2003*;

No. 4

Page 6, lines 12 to 14 — To delete the lines.

No. 5

Page 6, lines 26 and 27 — To delete the lines and insert —

- (b) an offence not covered by paragraph (a) that is prescribed for the purposes of this definition, being an offence under any of the following Acts —
 - (i) the *Classification (Publications, Films and Computer Games) Enforcement Act 1996*;
 - (ii) *The Criminal Code*;
 - (iii) the *Firearms Act 1973*;
 - (iv) the *Fish Resources Management Act 1994*;
 - (v) the *Misuse of Drugs Act 1981*;
 - (vi) the *Prostitution Act 2000*;
 - (vii) the *Weapons Act 1999*;

No. 6

Page 8, line 19 — To delete “chief officer of” and insert —

authorising officer for

No. 7

Page 9, line 2 — To delete “chief” and insert —

authorising

No. 8

Page 9, line 14 — To delete “chief” and insert —

authorising

No. 9

Page 9, line 21 — To delete “chief” and insert —

authorising

No. 10

Page 9, line 23 — To delete “chief” and insert —

authorising

No. 11

Page 9, line 27 — To delete “chief” and insert —

authorising

No. 12

Page 10, line 4 — To delete “chief” and insert —

authorising

No. 13

Page 10, line 10 — To delete “chief” and insert —

authorising

No. 14

Page 10, line 33 — To insert after “have” —

been

No. 15

Page 11, line 11 — To delete “chief” and insert —

authorising

No. 16

Page 11, line 15 — To delete “chief” and insert —

authorising

No. 17

Page 11, line 20 — To delete “chief” and insert —

authorising

No. 18

Page 11, line 27 — To delete “chief” and insert —

authorising

No. 19

Page 12, line 12 — To delete “chief” and insert —

authorising

No. 20

Page 12, line 23 — To delete “chief” and insert —

authorising

No. 21

Page 12, line 27 — To delete “chief” and insert —

authorising

No. 22

Page 13, line 18 — To delete “be” and insert —

be, or is likely to be,

No. 23

Page 14, lines 28 to 30 — To delete the lines and insert —

- (8) The authorising officer must, as soon as practicable after granting an urgent authority, make a record in writing of the particulars referred to in subsection (6) relating to the authority.

No. 24

Page 15, line 6 — To delete “chief” and insert —

authorising

No. 25

Page 15, line 7 — To delete “chief” and insert —

authorising

No. 26

Page 15, line 11 — To delete “chief” and insert —

authorising

No. 27

Page 15, line 16 — To delete “chief” and insert —

authorising

No. 28

Page 16, line 4 — To delete “chief” and insert —

authorising

No. 29

Page 16, line 30 — To delete “chief” and insert —

authorising

No. 30

Page 17, line 5 — To delete “chief” and insert —

authorising

No. 31

Page 17, line 7 — To delete “chief” and insert —

authorising

No. 32

Page 17, line 11 — To delete “chief” and insert —

authorising

No. 33

Page 17, line 15 — To delete “chief” and insert —

authorising

No. 34

Page 17, line 24 — To delete “chief” and insert —

authorising

No. 35

Page 18, line 11 — To delete “chief” and insert —

authorising

No. 36

Page 19, lines 16 to 18 — To delete the lines and insert —

- (6) The authorising officer must, as soon as practicable after making an urgent variation of authority, make a record in writing of the particulars referred to in subsection (5) relating to the variation of authority.

No. 37

Page 19, line 20 — To delete “chief” and insert —

authorising

No. 38

Page 19, line 23 — To delete “chief” and insert —

authorising

No. 39

Page 20, line 17 — To delete “jurisdictions specified in the authority; or” and insert —

jurisdictions; or

No. 40

Page 20, lines 18 and 19 — To delete “jurisdictions specified in the authority,” and insert —

jurisdictions,

No. 41

Page 21, line 7 — To insert after “hours” —

(or any longer period that the authorising officer may, in exceptional circumstances, allow)

No. 42

Page 21, line 8 — To delete “chief” and insert —

authorising

No. 43

Page 21, line 11 — To delete “chief” and insert —

authorising

No. 44

Page 21, line 12 — To delete “chief” and insert —

authorising

No. 45

Page 21, line 14 — To delete “chief” and insert —

authorising

No. 46

Page 21, line 17 — To delete “chief” and insert —

authorising

No. 47

Page 21, line 22 — To delete “chief” and insert —

authorising

No. 48

Page 22, line 30 — To delete “chief” and insert —

authorising

No. 49

Page 23, line 3 — To delete “A chief” and insert —

An authorising

No. 50

Page 23, line 4 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 51

Page 23, line 10 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 52

Page 23, line 10 — To delete “chief” and insert —

authorising

No. 53

Page 23, line 12 — To delete “Parliamentary Commissioner’s” and insert —

Corruption and Crime Commission’s

No. 54

Page 26, line 1 — To delete “chief officer of” and insert —

authorising officer for

No. 55

Page 26, line 8 — To delete “chief” and insert —

authorising

No. 56

Page 28, lines 26 and 27 — To delete “an authorised operation” and insert —

a controlled operation for which an authority is or was in force

No. 57

Page 29, after line 11 — To insert —

- (ca) for the purpose of seeking legal advice; or
- (cb) to a government agency for the purposes of a law enforcement operation conducted by that agency or for intelligence-gathering purposes; or

No. 58

Page 30, after line 8 — To insert —

- (g) details (to the extent known) of any loss of or serious damage to property, or any personal injuries, occurring as an indirect result of the operation;
- (h) information as to whether —
 - (i) in the course of the operation, any participant engaged in unlawful conduct (other than controlled conduct that the participant was authorised to engage in for the purposes of the operation); and
 - (ii) any unlawful conduct (other than controlled conduct) was engaged in during the operation; and
 - (iii) any person is, because of section 31, not criminally responsible for ancillary conduct (as defined in that section); and
 - (iv) any variations were made to an authority for the operation; and
 - (v) any of those variations were to extend the period of validity of the authority; and
 - (vi) any retrospective authority was granted in respect of the operation; and
 - (vii) any urgent authority was granted in respect of the operation; and
 - (viii) any conditions of an authority for the operation were breached.

No. 59

Page 30, line 12 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 60

Page 30, line 18 — To delete “chief officer,” and insert —

authorising officer for the agency,

No. 61

Page 30, line 20 — To delete “chief officer,” and insert —

authorising officer for the agency,

No. 62

Page 30, line 24 — To delete “chief officer; and” and insert —

authorising officer for the agency; and

No. 63

Page 30, lines 25 and 26 — To delete “chief officer; and” and insert —

authorising officer for the agency; and

No. 64

Page 30, line 29 — To delete “chief officer,” and insert —

authorising officer for the agency,

No. 65

Page 31, line 11 — To delete “chief officer” and insert —

authorising officer for the agency

No. 66

Page 31, line 16 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 67

Page 31, line 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 68

Page 32, lines 14 to 16 — To delete the lines and insert —

- (3) The Minister must —
 - (a) exclude information from the report if satisfied on the advice of the chief officer of any of the grounds set out in subsection (2); and
 - (b) insert a statement to the effect that information has been excluded from the report under paragraph (a).

No. 69

Page 32, lines 22 and 23 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 70

Page 33, lines 10 and 11 — To delete “chief officer;” and insert —

authorising officer for the agency;

No. 71

Page 35, line 20 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 72

Page 35, lines 25 to 28 — To delete the lines and insert —

- (2) For the purposes of an inspection under this section, the Corruption and Crime Commission —
 - (a) after notifying the chief officer of the law enforcement agency, may enter at any reasonable time premises occupied by the agency; and
 - (b) is entitled to have full and free access at all reasonable times to all records of the law enforcement agency that are relevant to the inspection; and
 - (c) may require a person employed or engaged in the law enforcement agency to give the Corruption and Crime Commission any information that the Corruption and Crime Commission considers necessary, being information that is in the person’s possession, or to which the person has access, and that is relevant to the inspection.
- (2A) The Corruption and Crime Commission may delegate to an officer of the Commission (as defined in the *Corruption and Crime Commission Act 2003* section 3(1)) a power or duty of the Corruption and Crime Commission under this section and, for that purpose, the *Corruption and Crime Commission Act 2003* section 185(3) to (6) apply as if the delegation were a delegation under section 185.

No. 73

Page 35, lines 30 and 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 74

Page 35, line 31 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 75

Page 36, line 1 — To delete “Parliamentary Commissioner” and insert —

Corruption and Crime Commission

No. 76

Page 37, lines 3 to 12 — To delete the lines and insert —

senior officer means —

- (a) in relation to an authorising officer or chief officer who is the Commissioner of Police — a police officer of or above the rank of Commander; or
 - (b) in relation to an authorising officer or chief officer who is the Chief Executive Officer of the Australian Crime Commission —
 - (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or
 - (ii) a person holding a prescribed office in the Australian Crime Commission;
- or
- (c) in relation to a chief officer who is the chief executive officer of the fisheries department — a fisheries officer holding a prescribed office in the department.

No. 77

Page 37, line 14 — To delete “of a” and insert —

of an authorising officer or

No. 78

Page 37, line 16 — To delete “chief officer of” and insert —

authorising officer for, or chief officer of,

No. 79

Page 37, lines 17 and 18 — To delete “of the agency any of the chief officer’s” and insert —

any of his or her

No. 80

Page 40, line 14 — To delete “chief officer of” and insert —

authorising officer for

No. 81

Page 41, line 2 — To delete “chief” and insert —

authorising

No. 82

Page 41, line 30 — To delete “chief” and insert —

authorising

No. 83

Page 42, line 1 — To delete “chief” and insert —

authorising

No. 84

Page 42, line 5 — To delete “chief” and insert —

authorising

No. 85

Page 42, line 9 — To delete “chief” and insert —

authorising

No. 86

Page 42, line 15 — To delete “chief” and insert —

authorising

No. 87

Page 43, line 27 — To delete “chief” and insert —

authorising

No. 88

Page 44, line 2 — To delete “chief” and insert —

authorising

No. 89

Page 45, lines 13 to 15 — To delete the lines and insert —

- (7) The authorising officer must, as soon as practicable after granting an urgent authority, make a record in writing of the particulars referred to in subsection (5) relating to the authority.

No. 90

Page 45, line 30 — To delete “chief” and insert —

authorising

No. 91

Page 46, line 5 — To delete “chief” and insert —

authorising

No. 92

Page 46, line 11 — To delete “chief” and insert —

authorising

No. 93

Page 46, line 17 — To delete “chief” and insert —

authorising

No. 94

Page 47, lines 12 to 14 — To delete the lines and insert —

- (10) The authorising officer must, as soon as practicable after making an urgent variation of authority, make a record in writing of the particulars referred to in subsection (9) relating to the variation of authority.

No. 95

Page 47, line 16 — To delete “chief” and insert —

authorising

No. 96

Page 47, line 17 — To delete “chief” and insert —

authorising

No. 97

Page 47, line 20 — To delete “chief” and insert —

authorising

No. 98

Page 47, line 26 — To delete “chief” and insert —

authorising

No. 99

Page 48, line 2 — To delete “chief” and insert —

authorising

No. 100

Page 48, lines 25 to 27 — To delete the lines and insert —

- (9) The authorising officer must, as soon as practicable after making an urgent cancellation of authority, make a record in writing of the particulars referred to in subsection (8) relating to the cancellation of authority.

No. 101

Page 48, line 29 — To delete “chief” and insert —

authorising

No. 102

Page 48, line 30 — To delete “chief officer or a delegate of the chief” and insert —

authorising officer or a delegate of the authorising

No. 103

Page 49, line 5 — To delete “chief” and insert —

authorising

No. 104

Page 49, line 8 — To delete “chief” and insert —

authorising

No. 105

Page 50, line 18 — To delete “chief officer” and insert —

authorising officer for a law enforcement agency

No. 106

Page 50, line 26 — To insert after “officer” —

of the law enforcement agency

No. 107

Page 50, line 29 — To insert after “officer” —

of the law enforcement agency

No. 108

Page 51, lines 23 and 24 — To delete “an authority granted under section 48 authorises” and insert —

the authorising officer for a law enforcement agency grants an authority under section 48 authorising

No. 109

Page 51, line 25 — To delete “who grants the authority” and insert —

of the law enforcement agency

No. 110

Page 55, line 8 — To delete “chief officer of” and insert —

authorising officer for

No. 111

Page 55, line 10 — To insert after “officer” —

of the law enforcement agency

No. 112

Page 56, lines 22 and 23 — To delete “an authority granted under section 48 authorises” and insert —

the authorising officer for a law enforcement agency grants an authority under section 48 authorising

No. 113

Page 56, line 24 — To delete “who grants the authority” and insert —

of the law enforcement agency

No. 114

Page 61, line 11 — To delete “both Houses” and insert —

each House

No. 115

Page 61, lines 18 to 20 — To delete the lines and insert —

- (3) The Minister must —
- (a) exclude information from the report if satisfied on the advice of the chief officer of any of the grounds set out in subsection (2); and
 - (b) insert a statement to the effect that information has been excluded from the report under paragraph (a).

No. 116

Page 63, lines 15 to 22 — To delete the lines and insert —

- (a) in relation to an authorising officer or chief officer who is the Commissioner of Police — a police officer of or above the rank of superintendent; or
 - (b) in relation to an authorising officer or chief officer who is the Chief Executive Officer of the Australian Crime Commission —
 - (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or
 - (ii) a person holding a prescribed office in the Australian Crime Commission;
- or
- (c) in relation to a chief officer who is the chief executive officer of the fisheries department — a fisheries officer holding a prescribed office in the department; or

No. 117

Page 63, line 28 — To delete “of a” and insert —

of an authorising officer or

No. 118

Page 64, line 1 — To delete “A chief officer of” and insert —

An authorising officer for, or chief officer of,

No. 119

Page 64, line 2 — To delete “of the agency any of the chief officer’s” and insert —

any of his or her

No. 120

Page 65, lines 22 and 23 — To delete “or by either or both Houses of Parliament”.

No. 121

Page 65, after line 27 — To insert —

court proceeding means any criminal, civil or other proceeding before, or inquiry, reference or examination by, a court, and includes an arbitration;

No. 122

Page 66, after line 8 — To insert —

parliamentary committee means a committee or other body established by either or both Houses of Parliament to inquire into any matter;

parliamentary proceeding means any proceeding before, or inquiry, reference or examination by, a parliamentary committee;

No. 123

Page 66, lines 16 to 18 — To delete the lines and insert —

proceeding means a court proceeding or a parliamentary proceeding;

No. 124

Page 67, lines 12 to 18 — To delete the clause.

No. 125**New Clause 84A**

Page 70, after line 14 — To insert —

Division 2A — Provisions applicable to court proceeding

84A. Application of Division

- (1) This Division applies in relation to a court proceeding in which an operative is, or may be, required to give evidence obtained as an operative.
- (2) To remove any doubt, this Division does not affect the operation of the common law in relation to the protection of the identity of a person who is not an operative who gives or intends to give evidence in a court proceeding.

No. 126

Page 70, line 17 — To insert after “to a” —

court

No. 127

Page 72, lines 17 to 19 — To delete “(including any applications relating to the proceeding, such as those referred to in sections 86, 88 and 90)” and insert —

(including any application relating to the proceeding, such as an application for an order under paragraph (b) or an application under section 86 or 90)

No. 128

Page 77, after line 8 — To insert —

Division 2B — Provisions applicable to parliamentary proceeding

93A. Application of Division

This Division applies in relation to a parliamentary proceeding in which an operative is, or may be, required to give evidence obtained as an operative.

93B. Witness identity protection certificate to be given to Parliament

- (1) A witness identity protection certificate for an operative in relation to a parliamentary proceeding must be given —
 - (a) to the Clerk of the House of Parliament that established the parliamentary committee concerned; or
 - (b) if the parliamentary committee concerned was established by both Houses of Parliament, to the Clerk of each House of Parliament,
 before the operative gives evidence in the proceeding.
- (2) The certificate must be given at least 14 days before the day on which the operative is to give evidence, unless in the circumstances it is not reasonably practicable to do so.
- (3) The person who gives the certificate must give a copy of it to the operative before the day on which the operative is to give evidence.

93C. Effect of witness identity protection certificate

- (1) This section applies if a witness identity protection certificate for an operative is given in accordance with section 93B in relation to a parliamentary proceeding.
- (2) If this section applies —
 - (a) the operative may give evidence in the proceeding under the assumed name, or court name, stated in the certificate; and
 - (b) subject to any resolution passed under section 93D(4) —

- (i) a question must not be asked of a witness, including the operative, that may lead to the disclosure of the operative's true identity or where the operative lives; and
 - (ii) a witness, including the operative, cannot be required to (and must not) answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives; and
 - (iii) a person involved in the proceeding must not make a statement that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives.
- (3) For the purposes of subsection (2)(b)(iii), a person involved in a proceeding includes —
- (a) a member of the parliamentary committee; and
 - (b) a party to the proceeding; and
 - (c) a person given leave to be heard or make submissions in the proceeding; and
 - (d) a lawyer representing a person referred to in paragraph (b) or (c) or a lawyer assisting the parliamentary committee in the proceeding; and
 - (e) any other person assisting the parliamentary committee in the proceeding; and
 - (f) a person acting in the execution of any process or the enforcement of any order in the proceeding.
- (4) If this section applies, any evidence given by the operative in the proceeding must be given in private.

93D. Disclosure of operative's true identity or location despite certificate

- (1) In this section —
relevant House, in relation to a parliamentary committee, means —
- (a) if the parliamentary committee was established by a House of Parliament — that House; or
 - (b) if the parliamentary committee was established by both Houses of Parliament — each House.
- (2) This section applies if a witness identity protection certificate for an operative is given in accordance with section 93B in relation to a parliamentary proceeding.
- (3) The parliamentary committee may seek the authorisation of the relevant House —
- (a) to ask a question of a witness, including the operative, that may lead to the disclosure of the operative's true identity or where the operative lives; or
 - (b) to require a witness, including the operative, to answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives; or
 - (c) for a person involved in the proceeding to make a statement that discloses, or may lead to the disclosure of, the operative's true identity or where the operative lives.
- (4) The relevant House may pass a resolution authorising the doing of anything mentioned in subsection (3)(a), (b) or (c).

- (5) However, the relevant House must not pass a resolution unless satisfied about each of the following —
- (a) there is evidence that, if accepted, would substantially call into question the operative's credibility;
 - (b) it would be impracticable to test properly the credibility of the operative without allowing the risk of disclosure of, or disclosing, the operative's true identity or where the operative lives.

93E. Restrictions on content of reports to Parliament

If a witness identity protection certificate for an operative is given in accordance with section 93B in relation to a parliamentary proceeding, the parliamentary committee must not disclose in a report to a House of Parliament —

- (a) the operative's true identity or where the operative lives; or
- (b) information that may lead to the disclosure of the operative's identity or where the operative lives.

Division 2C — Other matters

No. 129

Page 77, lines 17 to 21 — To delete the lines and insert —

- (3) If the chief officer cancels the certificate —
- (a) after it has been filed in a court and before the matter has been finalised by the court, the chief officer must immediately give written notice to the court and each party to the proceeding that the certificate has been cancelled; or
 - (b) after it has been given to the Clerk of a House of Parliament and before the matter has been finalised by the parliamentary committee concerned, the chief officer must immediately give written notice to the Clerk that the certificate has been cancelled.

No. 130

Page 78, after line 23 — To insert —

- (3) Nothing in this section limits or otherwise affects the operation of the *Parliamentary Privileges Act 1891*.

No. 131

Page 81, line 8 — To delete the line and insert —

- (i) an SES employee as defined in the *Australian Crime Commission Act 2002* (Commonwealth) section 4(1); or

No. 132

Page 82, after line 6 — To insert —

101A. Review of Parts 2 and 3

- (1) The Minister must carry out a review of the operation and effectiveness of Parts 2 and 3 as soon as is practicable after the end of the period of 5 years beginning on the day on which this Act receives the Royal Assent.
- (2) The Minister must prepare a report based on the review and must cause the report to be laid before each House of Parliament as soon as is practicable after it is prepared and, in any event, not later than 18 months after the end of the period referred to in subsection (1).

No. 133

Page 84, after line 10 — To insert —

Part 7A — *Criminal Injuries Compensation Act 2003* amended**106A. Act amended**

This Part amends the *Criminal Injuries Compensation Act 2003*.

106B. Section 13 amended

In section 13(5) delete “section 27.” and insert:

section 27 or the *Criminal Investigation (Covert Powers) Act 2012* section 27, 31 or 34.

106C. Section 16 amended

In section 16(5) delete “section 27.” and insert:

section 27 or the *Criminal Investigation (Covert Powers) Act 2012* section 27, 31 or 34.

106D. Section 17 amended

In section 17(5) delete “section 27.” and insert:

section 27 or the *Criminal Investigation (Covert Powers) Act 2012* section 27, 31 or 34.

No. 134

Page 89, line 16 — To delete “34D” and insert —

34D or 34K

No. 135

Page 89, after line 21 — To insert —

Subdivision 1 — Terms used**No. 136**

Page 90, after line 13 — To insert —

court includes —

- (a) a tribunal or other body established or continued under a written law and having a power to obtain evidence or information;
- (b) a Royal Commission established under the *Royal Commissions Act 1968*;
- (c) a commission, board, committee or other body established by the Governor or by the Government of the State to inquire into any matter;

court proceedings means any proceedings in a court;

No. 137

Page 90, after line 17 — To insert —

parliamentary committee means a committee or other body established by either or both Houses of Parliament to inquire into any matter;

parliamentary proceedings means any proceedings before a parliamentary committee;

No. 138

Page 90, after line 25 — To insert —

proceedings means court proceedings or parliamentary proceedings;

No. 139

Page 91, after line 17 — To insert —

Subdivision 2 — Non-disclosure certificates for protected persons**No. 140**

Page 91, line 23 — To delete “court,” and insert —

court or in parliamentary proceedings,

No. 141

Page 91, lines 27 to 29 — To delete the lines and insert —

- (3) The Commissioner may give a certificate for the protected person in relation to the proceedings and —
- (a) file a copy with the court; or
 - (b) give a copy to the Clerk of the House of Parliament that established the parliamentary committee concerned or, if the parliamentary committee concerned was established by both Houses of Parliament, to the Clerk of each House of Parliament,
- as the case requires.

No. 142

Page 92, after line 17 — To insert —

Subdivision 3 — Provisions applicable to court proceedings

34CA. Application of Subdivision

This Subdivision applies in relation to court proceedings in which a protected person is, or may be, required to give evidence.

No. 143

Page 98, after line 6 — To insert —

Subdivision 4 — Provisions applicable to parliamentary proceedings

34I. Application of Subdivision

This Subdivision applies in relation to parliamentary proceedings in which a protected person is, or may be, required to give evidence.

34J. Effect of non-disclosure certificate

- (1) In this section —
- person involved*, in proceedings, includes —
- (a) a member of the parliamentary committee; and
 - (b) a party to the proceedings; and
 - (c) a person given leave to be heard or make submissions in the proceedings; and
 - (d) a lawyer representing a person referred to in paragraph (b) or (c) or a lawyer assisting the parliamentary committee in the proceedings; and
 - (e) any other person assisting the parliamentary committee in the proceedings; and
 - (f) a person acting in the execution of any process or the enforcement of any order in the proceedings.
- (2) This section applies if a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings.

- (3) If this section applies, in the proceedings —
 - (a) a question must not be asked of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; and
 - (b) a witness, including the protected person, cannot be required to (and must not) answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; and
 - (c) a person involved in the proceedings must not make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.
- (4) The parliamentary committee may disclose to each party to the proceedings —
 - (a) that a non-disclosure certificate for a person who may be required to give evidence in the proceedings has been given; and
 - (b) what the certificate states.
- (5) If the parliamentary committee makes a disclosure about the non-disclosure certificate under subsection (4), the committee must also inform the parties of the effect of the certificate.
- (6) This section applies despite any other Act, but subject to section 34K.

34K. Disclosure of protected person's identity despite certificate

- (1) In this section —
relevant House, in relation to a parliamentary committee, means —
 - (a) if the parliamentary committee was established by a House of Parliament — that House; or
 - (b) if the parliamentary committee was established by both Houses of Parliament — each House.
- (2) This section applies if a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings.
- (3) The parliamentary committee may seek the authorisation of the relevant House —
 - (a) to ask a question of a witness, including the protected person, that may lead to the disclosure of the protected person's protected identity or protected address or both; or
 - (b) to require a witness, including the protected person, to answer a question, give evidence or provide information that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both; or
 - (c) for a person involved in the proceedings to make a statement that discloses, or may lead to the disclosure of, the protected person's protected identity or protected address or both.
- (4) The relevant House may pass a resolution authorising the doing of anything mentioned in subsection (3)(a), (b) or (c).
- (5) However, the relevant House must not pass a resolution unless satisfied about each of the following —

- (a) there is evidence that, if accepted, would substantially call into question the protected person's credibility;
- (b) it would be impracticable to test properly the credibility of the protected person without allowing the risk of disclosure of, or disclosing, the protected person's protected identity or protected address or both.

34L. Restrictions on content of reports to Parliament

If a non-disclosure certificate for a protected person is given under section 34A(3)(b) in relation to parliamentary proceedings, the parliamentary committee must not disclose in a report to a House of Parliament —

- (a) the protected person's protected identity or protected address; or
- (b) information that may lead to the disclosure of the protected person's protected identity or protected address.

Ordered, That consideration in detail of Legislative Council Message No. 245 be made an Order of the Day for the next sitting of the Assembly.

20. Mining Rehabilitation Fund Amendment Bill 2012

Message No. 246 dated 18 October 2012 from the Legislative Council was reported agreeing to the bill without amendment.

21. Mining Rehabilitation Fund Bill 2012

Message No. 247 dated 18 October 2012 from the Legislative Council was reported as follows —

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Mining Rehabilitation Fund Bill 2012* subject to the amendment contained in the Schedule annexed; in which amendment the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendment made by the Legislative Council in the Mining Rehabilitation Fund Bill 2012.

No. 1

Page 22, after line 17 — To insert —

37A. Review of Act

- (1) The Minister must carry out a review of the operation and effectiveness of this Act as soon as is practicable after the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent.
- (2) The Minister must prepare a report based on the review and must cause the report to be laid before each House of Parliament as soon as is practicable after it is prepared and, in any event, not later than 18 months after the end of the period referred to in subsection (1).

Ordered, That Legislative Council Message No. 247 be now considered in detail forthwith.

CONSIDERATION IN DETAIL

The Premier moved, That amendment No. 1 be agreed to.

Question put and passed.

Consideration in detail concluded.

Ordered, That the Legislative Council be acquainted accordingly.

22. Community Protection (Offender Reporting) Amendment Bill 2011

Message No. 248 dated 18 October 2012 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Community Protection (Offender Reporting) Amendment Bill 2011* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Community Protection (Offender Reporting) Amendment Bill 2011.

No. 1

Page 12, lines 27 and 28 — To delete “form of identification or other document,” and insert —

identification documents,

No. 2

Page 12, lines 30 and 31 — To delete the lines and insert —

required by subsection (2A);

No. 3

Page 13, after line 2 — To insert —

(2) Delete section 38(1)(c) and insert:

- (c) if not the reportable offender — present for inspection —
 - (i) any passport that the person holds; or
 - (ii) if the person does not hold a passport — the identification documents, relating to the identity of the person making the report, required by subsection (2A).

(3) After section 38(1) insert:

(2A) For the purposes of subsection (1)(a)(ii) and (c)(ii), the identification documents required are —

- (a) any one of the following —
 - (i) a current driver’s licence that displays a photograph or digital image of the licence holder;
 - (ii) an Australian naturalisation or citizenship document;
 - (iii) an original birth certificate or a certified copy, or certified extract, of a birth certificate;
 - (iv) a form of identification or document prescribed for the purposes of this paragraph;
- and
- (b) any one of the following —
 - (i) a current signed credit or debit card, a passbook or a statement of account issued by a bank, building society or credit union;
 - (ii) a current Medicare card;
 - (iii) a gas, water, electricity or telephone account issued within 12 months before the report is made;

- (iv) a notice of rates from a local government (however described) or a notice of water service charges or land valuation;
- (v) a pensioner concession card, a Commonwealth seniors health card, an entitlement card issued under the *Veterans' Entitlements Act 1986* (Commonwealth) or another entitlement card issued by the Commonwealth government or a State or Territory government;
- (vi) a lease or rental agreement;
- (vii) a motor vehicle registration notice or certificate;
- (viii) a renewal notice for a home building or contents, or a motor vehicle, policy of insurance;
- (ix) a student identity card or a certificate or statement of enrolment from an educational institution;
- (x) an electoral enrolment card or other evidence of electoral enrolment;
- (xi) a form of identification or document prescribed for the purposes of this paragraph.

(2B) A form of identification or other document is not valid for the purposes of subsection (2A)(b)(iv) to (xi) unless it was issued or entered into, as the case requires, within 2 years before the report is made.

(2C) Except as stated in subsection (2A)(a)(iii), a form of identification or other document is not valid for the purposes of subsection (2A) unless it is an original.

Ordered, That consideration in detail of Legislative Council Message No. 248 be made an Order of the Day for the next sitting of the Assembly.

23. Disability Services Amendment Bill 2012

Message No. 249 dated 18 October 2012 from the Legislative Council was reported forwarding for concurrence a bill for "An Act to amend the *Disability Services Act 1993*."

Ordered, That the first reading of the bill be made an Order of the Day for the next sitting of the Assembly.

24. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 5.40 p.m. until Tuesday, 23 October 2012 at 2.00 p.m.

Members present during any part of the day's proceedings – All the members except Ms M.M. Quirk and Mr T.G. Stephens.

PETER J. McHUGH
Clerk of the Legislative Assembly

HON. GRANT WOODHAMS
Speaker of the Legislative Assembly