

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 114

THURSDAY, MARCH 4 2004

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon John Cowdell, took the Chair and read prayers.

2. Health (Smoking in Enclosed Public Places) Regulations 2003 - Disallowance

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

That the *Health (Smoking in Enclosed Public Places) Regulations 2003* published in the *Gazette* on November 14 2003 and tabled in the Legislative Council on November 18 2003 under the *Health Act 1911*, be and are hereby disallowed.

3. Ministerial Statement - Legislative Assembly Economics and Industry Standing Committee Report into the Dairy Industry - Response

The Minister for Agriculture, Forestry and Fisheries made a Ministerial Statement with respect to a response to the Legislative Assembly Economics and Industry Standing Committee Report into the Dairy Industry.

The Minister for Agriculture, Forestry and Fisheries, by leave, tabled a response to the recommendations of the Legislative Assembly Economics and Industry Standing Committee Report on the sustainability of the dairy industry in Western Australia. (Tabled paper 1937.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

4. Ministerial Statement - Kimberley Chemical Use Review

The Minister for Agriculture, Forestry and Fisheries made a Ministerial Statement with respect to the findings of the Expert Medical Panel Investigation into the Kimberley Chemical Use Review.

The Minister for Agriculture, Forestry and Fisheries, by leave, tabled a Report of the Expert Medical Panel to Evaluate Recommendations of the Kimberley Chemical Review Final Report. (Tabled paper 1938).

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

5. Electricity Industry Bill 2003

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

In Committee

(Hon Jon Ford in the Chair)

Clause 92.

Debate resumed.

Clause agreed to.

Clauses 93 to 95 agreed to.

Clause 96.

Debate ensued.

Clause agreed to.

Clause 97.

Hon Robin Chapple moved -

Page 57, line 23 - To delete "\$2 000" and insert instead -

" \$5 000 ".

Page 57, line 24 - To delete "\$8 000" and insert instead -

" \$20 000 ".

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 98 to 103 agreed to.

Clause 104.

The Minister for Local Government and Regional Development moved -

Page 61, after line 21 - To insert -

"

- (a) prescribing network infrastructure facilities that are to be covered by the Code with effect from the coming into operation of the Code;

".

Page 61, line 23 - To insert after "whether" -

" other ".

Page 61, line 24 - To insert after "or" -

" whether network infrastructure facilities that are covered by the Code ".

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 105.

Debate ensued.

Clause agreed to.

Clause 106.

The Minister for Local Government and Regional Development moved -

Page 64, lines 19 and 20 - To delete "*Transmission and Distribution Systems (Access)*" and insert instead -

" *Corporation* ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 107.

Debate ensued.

Clause agreed to.

Clause 108 agreed to.

Clause 109.

Debate ensued.

Clause agreed to.

Clauses 110 to 115 agreed to.

Clause 116.

Debate ensued.

Clause agreed to.

Clauses 117 and 118 agreed to.

Clause 119.

The Minister for Local Government and Regional Development moved -

Page 72, lines 7 to 11 - To delete "that are transferred to the Electricity Networks Corporation or the Regional Power Corporation under the *Electricity Legislation (Amendments and Transitional Provisions) Act 2003 Part 3*" and insert instead -

" of a relevant corporation ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 120.

The Minister for Local Government and Regional Development moved -

Page 73, lines 3 to 5 - To delete "commencement day as defined in the *Electricity Legislation (Amendments and Transitional Provisions) Act 2003 section 19(1)*" and insert instead -

" day on which it comes into operation ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 121 agreed to.

Clause 122.

The Minister for Local Government and Regional Development moved -

Page 74, line 29 - To insert after “technologies” -

“
such as those that make use of renewable resources or that reduce
overall greenhouse gas emissions
”.

Debate ensued.

Amendment - put and passed.

Debate ensued.

Hon Robin Chapple moved -

Page 75, after line 2 - To insert -

“
(e) to encourage production through use of renewable resources that
have minimal or negative effects on greenhouse gas emissions;
(f) to implement progressively demand-side management practices.
”.

Amendment - put and negatived.

The Minister for Local Government and Regional Development moved -

Page 75, after line 2 - To insert -

“
(e) to encourage the taking of measures to manage the amount of
electricity used and when it is used.
”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 123 agreed to.

Clause 124.

Hon Robin Chapple moved -

Page 76, after line 4 - To insert -

“
(b) fix the proportion of electricity produced from renewable
resources, expressed as a percentage of whole, so that 10% is
achieved by June 30 2010.
”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (5)

Hon Dee Margetts
Hon Jim Scott
Hon Christine Sharp

Hon Giz Watson
Hon Robin Chapple (*Teller*)

Noes (24)

Hon Alan Cadby
 Hon George Cash
 Hon Kim Chance
 Hon Murray Criddle
 Hon Bruce Donaldson
 Hon Sue Ellery
 Hon Paddy Embry
 Hon John Fischer
 Hon Jon Ford
 Hon Peter Foss
 Hon Nick Griffiths
 Hon Ray Halligan

Hon Frank Hough
 Hon Barry House
 Hon Robyn McSweeney
 Hon Norman Moore
 Hon Simon O'Brien
 Hon Ljiljana Ravlich
 Hon Barbara Scott
 Hon Tom Stephens
 Hon Bill Stretch
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Amendment thus negatived.

Hon Robin Chapple moved -

Page 76, after line 4 - To insert -

“

- (b) provide for ways and means intended to produce 10% of electricity from renewable resources by June 30 2010.

”.

Debate ensued.

The Minister for Local Government and Regional Development moved -

That further consideration of the Clause be postponed until after Clause 139.

Question - put and passed.

Clause 125.

Debate ensued.

Clause agreed to.

Clause 126 put and negatived.

Clauses 127 to 135 put and negatived.

Clause 136 agreed to.

Clauses 137 to 139 agreed to.

Postponed Clause 8.

Debate resumed on amendment moved the Minister for Local Government and Regional Development as follows -

Page 8, line 1 - To delete “The Governor,” and insert instead -

“

Without limiting the other matters that may be taken into account, matters that are to be taken into account

”.

Debate ensued.

The Minister for Local Government and Regional Development, by leave, withdrew the amendment standing in his name.

Hon George Cash moved -

Page 8, line 1 - To insert before the word "The" - To following words -

“

Without limiting the other matters that may be taken into account, matters that are to be taken into account by

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Postponed Clause 9.

Debate ensued.

Clause agreed to.

Postponed Clause 32.

Debate ensued.

Clause, as amended, agreed to.

Postponed Clause 79.

Debate ensued.

Clause agreed to.

Postponed Clause 124.

Debate ensued.

The Minister for Local Government and Regional Development moved -

That further consideration of the Clause be postponed until after Schedules.

Question - put and passed.

New Clause 126.

Hon Robin Chapple moved -

Page 79, after line 4 - To insert the following new Clause -

“

126. Periodic market reviews

- (1) The Minister is to cause a review of the operation of the market at 2-yearly intervals, the first of which is to be carried out within 3 months of the second anniversary of the market's establishment.
- (2) Without limiting matters to be considered, the review is to include —
 - (a) an assessment of the effectiveness of the regulatory framework under which the market is operating;
 - (b) the methods for reducing greenhouse gas emissions;
 - (c) the actual proportion during the period under review, and the projected proportion in the next period, of electricity supplied to the market from renewable resources.
- (3) The Minister is to appoint an appropriately qualified person who has no pecuniary or personal interest in, and is not a participant in the market to conduct a review and may give directions as to particular matters the Minister may wish to have considered.

- (4) A person appointed under subsection (3) —
 - (a) may require any person or body to answer questions or provide documents and exercise any necessary power in the course of conducting a review;
 - (b) is to report within a specified time to the Minister.
- (5) The Minister is to lay the report before each House of Parliament within 6 sitting days of that House after the day on which the Minister received the report.

”.

Debate ensued.

Question - put and negatived.

The Minister for Local Government and Regional Development moved -

Page 79, after line 4 - To insert the following new Clauses -

“

126. Review of market operation

- (1) The Authority is to review the operation of the market as soon as practicable after the expiration of 5 years from the commencement of this Part.
- (2) The purposes of the review are —
 - (a) to assess the extent to which the objectives set out in section 122(2) have been or are being achieved; and
 - (b) to determine whether the Authority considers that it should conduct any subsequent review and, if so —
 - (i) when a subsequent review should be conducted; and
 - (ii) the matters to be reviewed.
- (3) Not later than 5 years and 6 months after the commencement of this Part, the Authority is to give the Minister a written report based on the review.
- (4) If the Authority considers that some or all of the objectives set out in section 122(2) have not been and are not being achieved, the report is to set out recommendations as to how those objectives can be achieved.
- (5) As soon as practicable after receiving the report, the Minister is to —
 - (a) cause the report to be laid before each House of Parliament; and
 - (b) prepare a response to the report and cause the response to be laid before each House of Parliament.
- (6) As soon as practicable after the report is laid before each House of Parliament, the Authority is to post a copy of the report on an internet website maintained by the Authority.

127. Public consultation

- (1) In the course of conducting a review under section 126(1), the Authority is to seek public comment on the extent to which the objectives set out in section 122(2) have been or are being achieved (the “**issue**”).

- (2) The Authority is to cause a notice giving a general description of the issue to be —
 - (a) published in a daily newspaper circulating throughout the State; and
 - (b) posted on an internet website maintained by the Authority.
- (3) The notice is to include —
 - (a) a statement that any person may, within a specified period, make written submissions on the issue to the Authority; and
 - (b) the address to which the submissions may be delivered or posted.
- (4) The period specified under subsection (3)(a) is not to end less than 30 days after the day on which the notice is published under subsection (2)(a).
- (5) The Authority is to have regard to any submission made in accordance with the notice.

”.

Debate ensued.

Hon George Cash moved to amend the amendment -

Subclause (1), line 3 - To delete “5” and insert instead -

“ 3 ”.

Subclause (1), line 3 - To insert after “Part” -

“ and thereafter at 3 yearly intervals ”.

Subclause (3), line 11 - To delete “5” and insert instead -

“ 3 ”.

The Minister for Local Government and Regional Development moved -

That further consideration of the New Clauses be postponed until after Schedules.

Question - put and passed.

Schedule 1 agreed to.

Schedule 2 agreed to.

Schedule 3 agreed to.

The Minister for Local Government and Regional Development moved, That progress be reported and leave asked to sit again at a later stage of this day’s sitting.

Question - put and passed.

The Deputy President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again at a later stage of this day’s sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day’s sitting.

6. Criminal Code Amendment Bill 2003

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

The Deputy President left the Chair.

In Committee

(Hon Jon Ford in the Chair)

Statement by Deputy Chairman of Committees

The Deputy Chairman of Committees made the following Statement -

As amendments to the Bill were recommended by the Standing Committee on Uniform Legislation and General Purposes in Report No. 12 (November 2003, I note that Standing Order 234A(2) applies. I therefore put the question -

That the amendments recommended by the Standing Committee on Uniform Legislation and General Purposes be read into and deemed part of this Bill.

[For text of amendments see Standing Committee on Uniform Legislation and General Purposes Report 12]

Question - put and negatived.

Clause 1 agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clause 7.

Debate ensued.

The Minister for Housing and Works moved, That progress be reported and leave asked to sit again.

Question - put and passed.

The Deputy President resumed the Chair.

The Deputy Chairman of Committees reported that the Committee had considered the Bill, made progress, and asked leave to sit again.

Ordered - That the Committee have leave to sit again.

7. Western Power Corporation's Network Infrastructure in the South West Integrated System

Hon George Cash moved, without notice -

That the Government be condemned for its abject failure to take adequate action to ensure the proper maintenance and upgrading of Western Power Corporation's Network Infrastructure in the South West Integrated System.

Debate ensued.

Point of Order

Hon Derrick Tomlinson raised the following Point of Order -

I ask the Minister to identify the document from which he has just quoted.

Deputy President's Ruling

The Deputy President ruled as follows -

Members are seeking to use Standing Order No 48 to have the Minister provide details about the document. However, that standing order does not apply to Ministers. Standing Order No 47 applies to a Minister and states -

A document relating to public affairs quoted from by a Minister, unless stated to be of a confidential nature, or such as should more properly be obtained by Address, may be called for and made a public document.

That appears to be the limit of any request made on the Minister with respect to documents from which the Minister is quoting.

Debate resumed.

The Minister for Local Government and Regional Development sought leave to table and incorporate into *Hansard* and document relating to Western Power.

Leave denied.

Debate resumed.

The Minister for Local Government and Regional Development sought leave to table and incorporate into *Hansard* the same document relating to Western Power.

Point of Order

Hon George Cash raised the following Point of Order -

Once the House has refused leave, it is not competent for a Member to wait a few minutes and ask again. The House has made its decision with regard to that document.

Deputy President's Ruling

The Deputy President ruled as follows -

I take that point of order.

Debate resumed.

Point of Order

Hon Norman Moore raised the following Point of Order -

We are dealing with private members' business, which is non-official business. The Minister has been speaking for an hour. He is now telling me what I should have done when I was in Cabinet, which has nothing to do with this motion. Madam Deputy President, would you kindly ask him to stop reading his speech, which is contrary to Standing Orders, and ask him to address the issues in the motion. That is what he is supposed to do under Standing Orders.

Deputy President's Ruling

The Deputy President ruled as follows -

The Standing Orders require the Minister to speak to the motion and I ask him to do so. I also ask the Minister to refrain from reading directly from his notes. The Minister can refer to his notes, but he should not read from them.

Debate resumed.

Point of Order - Withdrawal of certain words objected to by Member

The Minister for Local Government and Regional Development raised a Point of Order under SO 97 -

I ask for that word to be withdrawn objecting to comments made by Hon Barry House.

President's Ruling

The Deputy President ruled as follows -

It is my ruling that use of the word "smart-arse" is not unparliamentary. The word is commonly used in Australian language and should not be considered an insult by the Minister although it would be helpful if Members refrained from making such comments.

Debate resumed.

Debate stands adjourned pursuant to Sessional Orders.

8. Questions Without Notice

Questions without notice were taken.

The Minister for Government Enterprises tabled documents in relation to the Water Corporation expenditure on corporate boxes - 2002 Bundaberg Rum Rugby Series in response to a question without notice asked by Hon Norman Moore. (Tabled paper 1939).

The Minister for Local Government and Regional Development tabled documents in relation to a letter to the Minister for Energy from Western Power CEO Stephen Van Der Mye regarding an update on forecast demand and supply - Summer 2004 in response to a question without notice asked by Hon Norman Moore. (Tabled paper 1940).

The Minister for Local Government and Regional Development tabled documents in relation to the Rose Valley Cheese Company Pty. Ltd. licence conditions with the Department of Environmental Protection [DEP] for the years 2000, 2001 and 2002 in response to question on notice No. 1583 asked by Hon Robin Chapple. (Tabled paper 1941).

9. Order of Business

Ordered - That Order of the Day No. 284 be taken forthwith. (Leader of the House).

10. Electricity Industry Bill 2003

Pursuant to the Order of the House.

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

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

New Clauses 126 and 127.

Debate resumed on amendment moved the Hon George Cash as follows -

Subclause (1), line 3 - To delete "5" and insert instead -

" 3 ".

Subclause (1), line 3 - To insert after "Part" -

" and thereafter at 3 yearly intervals ".

Subclause (3), line 11 - To delete "5" and insert instead -

" 3 ".

Interruption pursuant to Sessional Orders.

11. Member's Statements

Statements were taken.

Hon Barry House, by leave, tabled a document in relation to the visit to East Timor by Hon Barry House from February 2-8 2004. (Tabled paper 1942).

12. Adjournment

Pursuant to Sessional Order 2(2) the House adjourned at 5.58pm until Friday, March 5 2004 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Graham Giffard.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council