

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 207

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

WEDNESDAY, 23 MAY 2012

1. Meeting of Assembly

The Assembly met at 12.00 noon pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Petitions

Carpark Facilities Cockburn Central Railway Station – Mr F.M. Logan presented a petition from 153 persons requesting that the Legislative Assembly calls upon the State Government to commit to building a new overpass road bridge joining an upgraded North Lake Road to Armadale Road and a new rail station with car parking at Russell Road (P. 595).

Skilled Engineering and Fabrication Jobs – Mr P. Papalia presented a petition from 44 persons requesting that the Legislative Assembly ensures that a greater share of skilled work for major resources projects is performed in Western Australia (P. 596).

Walkaway-Narngulu Road – Mr I.C. Blayney presented a petition from 418 persons requesting that the Legislative Assembly repairs and upgrades the Walkaway-Narngulu Road, replacing the section from Bootenal Road to Georgina Road (P. 597).

Cat and Dog Fur – Mr C.J. Tallentire presented a petition from 20 persons requesting that the Legislative Assembly urges the State Government to act immediately to protect consumers from fur products, in particular cat and dog fur, that have been gathered through practices like skinning live animals (P. 598).

Moore River Estuary Development – Mr C.J. Tallentire presented a petition from 40 persons requesting that the Legislative Assembly supports the recommendation that the land adjoining the proposed Wilbinga Conservation Park be protected from future development (P. 599).

3. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Clerk –

Planning and Development Act 2005 – Reason for Determination of Application in relation to Ministerial Direction in Hanson Construction Materials Pty Ltd v City of Vincent, in accordance with section 247(4)(b) of the Act (4839).

Planning and Development Act 2005 – Reason for Determination of Application in relation to Ministerial Direction in *Holcim Australia Pty Ltd v City of Vincent*, in accordance with section 247(4)(b) of the Act (4840).

4. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Environment on the proclamation of the *Conservation Legislation Amendment Act 2011*.

The Minister for Local Government on an update of the Shire of Cue local government elections, held on 28 April 2012.

The Minister for Racing and Gaming on the extension of the wagering tax concession for the Racing and Wagering Western Australia Professional Punter Program.

5. Suspension of Standing Orders – Private Members’ Business Precedence

The Leader of the House, pursuant to notice, moved,

That so much of the Standing Orders be suspended as is necessary to enable Private Members’ Business to have priority from 4.00 p.m. to 6.00 p.m. on Wednesday, 23 May 2012.

Debate ensued.

Question put and passed.

6. Petroleum and Geothermal Energy Safety Levies Amendment Bill 2012

The Minister for Environment, pursuant to notice, moved,

That a bill for “An Act to amend the *Petroleum and Geothermal Energy Safety Levies Act 2011*.” be introduced and read a first time.

Question put and passed.

The Minister for Environment presented an explanatory memorandum and bill read a first time.

The Minister for Environment moved, That the bill be now read a second time.

Ms R. Saffioti moved, That the debate be adjourned.

Question put and passed.

7. Petroleum and Geothermal Energy Safety Levies Amendment Bill (No. 2) 2012

The Minister for Environment, pursuant to notice, moved,

That a bill for “An Act to amend the *Petroleum and Geothermal Energy Safety Levies Act 2011* as amended by the *Petroleum and Geothermal Energy Safety Levies Amendment Act 2012*.” be introduced and read a first time.

Question put and passed.

The Minister for Environment presented an explanatory memorandum and bill read a first time.

The Minister for Environment moved, That the bill be now read a second time.

Ms R. Saffioti moved, That the debate be adjourned.

Question put and passed.

8. Criminal Organisations Control Bill 2011

Message No. 213 dated 22 May 2012 from the Legislative Council was reported as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Criminal Organisations Control 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 Organisations Control Bill 2011.

No. 1

Page 4, lines 30 and 31 — To delete the lines and insert —

firearm —

- (a) has the meaning given in the *Firearms Act 1973* section 4; and
- (b) includes ammunition as defined in that section;

No. 2

Page 9, lines 2 and 3 — To delete “organisations and other persons who engage in serious criminal activity.” and insert —

organisations.

No. 3

Page 13, line 21 — To delete “either” and insert —

any

No. 4

Page 16, after line 18 — To insert —

- (aa) the designated authority must, as soon as practicable, provide a copy of the authority’s reasons for the decision to the respondent or the respondent’s representative, but only if the respondent or the respondent’s representative, before the hearing of the application for the declaration ends —
 - (i) requests to be provided with a copy; and
 - (ii) provides an address to which the copy may be sent;
- and

No. 5

Page 23, lines 7 to 14 — To delete the lines and insert —

- (1) If the declaration relating to the declared criminal organisation identified in an interim control order or control order in accordance with section 60(1)(c) expires or is revoked, the order ceases to have effect on that expiry or revocation.

No. 6

Page 24, after line 3 — To insert —

- (4) The period of designation of a retired judge must not exceed 5 years, but a retired judge may be designated for a further term.

No. 7

Page 27, lines 4 to 9 — To delete the lines and insert —

- (1) This Part provides for the making of control orders in relation to persons who are members of a declared criminal organisation and persons who have an association with a declared criminal organisation.

No. 8

Page 32, lines 24 to 29 — To delete the lines and insert —

- (c) include the information that section 60(1)(c) requires to be included in a control order; and

No. 9

Page 36, line 17 — To delete “section 25(2).” and insert —

section 25(1).

No. 10

Page 42, lines 15 to 17 — To delete the lines and insert —

- (4) The following must be served with the application —
- (a) a copy of the affidavit or affidavits that accompanied the application for the control order;
 - (b) a written notice setting out an explanation of —
 - (i) the right to object to the making of a control order at the hearing of the application for the control order; and
 - (ii) the procedure to be followed in notifying the court before the hearing of the grounds of objection in accordance with section 55.

No. 11

Page 48, line 6 — To delete “if the order is made under section 57(2)(a), (b) or (c).”.

No. 12

Page 49, lines 1 to 3 — To delete the lines and insert —

- (h) set out an explanation of the circumstances in which the order might cease to have effect under section 25(1); and

No. 13

Page 50, line 11 — To delete “section 25(2).” and insert —

section 25(1).

No. 14

Page 63, after line 2 — To insert —

- (5A) If an interim control order is varied under section 50, or a control order is varied under section 66 or 68, and the effect of the variation is to include or remove a condition that the controlled person is prohibited from carrying on a prescribed activity, then this section applies as follows —
- (a) if the effect of the variation is to include that condition —
 - (i) the prohibition on the controlled person carrying on the prescribed activity takes effect when the variation takes effect; and
 - (ii) the suspension of an authorisation or an application for an authorisation in relation to the prescribed activity takes effect when the variation takes effect; and
 - (iii) the prohibition on the controlled person applying for, or continuing with any existing application for, any authorisation to carry on the prescribed activity takes effect when the variation takes effect;
 - (b) if the effect of the variation is to remove that condition —
 - (i) the prohibition on the controlled person carrying on the prescribed activity ceases when the variation takes effect; and
 - (ii) the suspension of an authorisation or an application for an authorisation in relation to the prescribed activity ceases when the variation takes effect; and
 - (iii) the prohibition on the controlled person applying for, or continuing with any existing application for, any authorisation to carry on the prescribed activity ceases when the variation takes effect.

No. 15

Page 65, line 22 to page 66, line 17 — To delete the clause.

No. 16

Page 65, after line 21 — To insert —

84. Dealing with things surrendered or seized: firearms, firearms licences and weapons

- (1) If a firearm or weapon is surrendered under section 82 or seized under section 83 —
 - (a) the firearm or weapon is forfeited to the State; and
 - (b) the *Criminal and Found Property Disposal Act 2006* applies to and in relation to the firearm or weapon as if —
 - (i) the firearm or weapon were property that has been seized in the course of a criminal investigation and has become forfeited property within the meaning of that Act; and
 - (ii) the interim control order or control order that prohibits the controlled person to whom the order relates from possessing the firearm or weapon were an order that ordered the forfeiture of the firearm or weapon to the State.
- (2) If a firearms licence is surrendered under section 82 or seized under section 83 —
 - (a) the Commissioner of Police must destroy the licence as soon as practicable; and

- (b) the destruction of the licence is to be treated as a cancellation of the licence under the *Firearms Act 1973* section 20(4).
- (3) However, the Commissioner of Police must not exercise the powers in subsection (1) or (2) in relation to the surrendered or seized firearm, firearms licence or weapon —
 - (a) if the surrender or seizure is by virtue of an interim control order, before a control order confirming the interim control order is made; and
 - (b) if a control order confirming the interim control order is made, or if the surrender or seizure is by virtue of a control order, before the expiration of the time allowed for appealing against the control order or, if an appeal is lodged within that time, before the appeal is concluded.
- (4) If any of the things set out in subsection (5) (a *relevant event*) occurs —
 - (a) the Commissioner of Police must hold the surrendered or seized firearm, firearms licence or weapon in safe custody until it is reclaimed by the person lawfully entitled to possess it or it may be otherwise lawfully disposed of, whichever occurs first; and
 - (b) the person lawfully entitled to possess the firearm, firearms licence or weapon may reclaim it from the Commissioner of Police, unless it has been sooner lawfully disposed of; and
 - (c) if the firearm, firearms licence or weapon is not reclaimed within one month after the relevant event occurs, the Commissioner of Police may —
 - (i) in the case of a firearm, dispose of the firearm under the *Firearms Act 1973* section 33 as if the owner of the firearm cannot be found; or
 - (ii) in the case of a firearms licence, exercise the power in subsection (2); or
 - (iii) in the case of a weapon, make a direction under the *Weapons Act 1999* section 18(1) as if the weapon had been forfeited to the State under that Act.
- (5) The following are the relevant events referred to in subsection (4) —
 - (a) in the case of an interim control order —
 - (i) the order is varied to remove the firearms condition or, as the case requires, the condition prohibiting the person to whom the order relates from possessing a weapon;
 - (ii) the application for a control order confirming the interim control order is withdrawn or dismissed;
 - (iii) the interim control order is revoked under section 47(2)(a) or 56(1)(b);
 - (iv) the interim control order ceases to have effect under section 25(1);
 - (b) in the case of a control order, on an appeal under section 64 —
 - (i) the decision of the court to make the order is reversed; or
 - (ii) the order is varied under section 66 to remove the firearms condition or, as the case requires, the condition prohibiting the person to whom the order relates from possessing a weapon.

No. 17

Page 66, line 19 to page 67, line 12 — To delete the lines and insert —

- (1) If an authorisation (other than a firearms licence or an authorisation to which an order made under section 59(2)(c) applies) is surrendered under section 82 or seized under section 83 —

- (a) the Commissioner of Police must hold the authorisation in safe custody until it is reclaimed by the holder of the authorisation or it may be otherwise lawfully disposed of, whichever occurs first; and
 - (b) when the relevant interim control order or control order ceases to be in force, the holder of the authorisation may reclaim it from the Commissioner of Police, unless it has been sooner lawfully disposed of; and
 - (c) if the authorisation is not reclaimed within one month after the relevant interim control order or control order ceases to be in force, the Commissioner of Police must destroy the authorisation as soon as practicable.
- (2) The destruction of an authorisation under subsection (1)(c) has no effect on the validity of the authorisation.

No. 18

Page 67, after line 33 — To insert —

- (5) If an interim control order is varied under section 50, or a control order is varied under section 66 or 68, and the effect of the variation is to remove a prohibition of the kind referred to in section 82(1), this section applies as if the references in subsection (1)(b) and (c) and (4)(a)(ii) to the relevant interim control order or control order ceasing to be in force were references to the prohibition ceasing to have effect.

No. 19

Page 69, line 27 — To delete “section 25(2); or” and insert —

section 25(1); or

No. 20

Page 131, lines 26 to 30 — To delete the lines and insert —

- (ii) in association with one or more persons who, at the time of the commission of the offence, were members of a declared criminal organisation (whether or not those persons were also convicted of the offence), but only if the offender knew, at the time of the commission of the offence, that one or more of those persons were members of a declared criminal organisation; or

No. 21**Long Title**

Page 1, the first bullet point — To delete “**associates and certain other persons who engage in serious criminal activity,**” and insert —

associates,

Ordered, That consideration in detail of Legislative Council Message No. 213 be made an Order of the Day for the next sitting of the Assembly.

9. Appropriation (Consolidated Account) Recurrent 2012-13 Bill 2012
Appropriation (Consolidated Account) Capital 2012-13 Bill 2012

The Order of the Day for the resumption of the debate upon the second reading of the bills was read.
 Debate resumed.

Debate interrupted by the Chair (Mr W.J. Johnston speaking) and adjourned until a later stage of the sitting.

10. Speaker's Statement – Time for Grievances Varied

The Speaker advised members that due to the funeral service to be held on 24 May 2012 for Mr Barry Blaikie, former member for Vasse, there would be a variation to the usual Thursday sitting schedule, with Grievances to follow Question Time.

11. Questions

Questions without Notice were taken.

Paper

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

By the Premier –

Premier of Western Australia – Notes relating to the Premier's answer to a Question Without Notice on the Liberal Party Leaders' Forum (4843).

Questions on Notice Nos 8047 to 8062 were asked.

Questions on Notice Nos 7615 and 7632 were answered.

Papers tabled by the Minister for Education –

Question on Notice No. 7615 – Question in relation to any officer Level 3.1 or above in the Minister's portfolio who has accepted any hospitality, free accommodation or an invitation to an event from a private company or individual since 1 November 2011 (4841).

Question on Notice No. 7632 – Question referring to any officer Level 3.1 or above in the Minister's portfolio who has accepted gifts from a private company or individual (4842).

12. Unanswered Question on Notice

Mr W.J. Johnston asked why no answer had been received in respect of his Question on Notice No. 7523.

13. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

14. Appropriation (Consolidated Account) Recurrent 2012-13 Bill 2012
Appropriation (Consolidated Account) Capital 2012-13 Bill 2012

The Order of the Day for the resumption of the debate upon the second reading of the bills was read.
 Debate resumed.

Debate interrupted by the Chair (Mr P. Abetz speaking) and adjourned until a later stage of the sitting.

15. Variation to the Order of Business

Ordered, That Private Members' Business Order of the Day No. 17 be next considered.

16. Yanchep National Park Draft Management Plan

The Order of the Day having been read for the resumption of debate on the motion moved by Mr J.R. Quigley,

That this House condemns the Barnett Government for its neglect of the Yanchep National Park and its failure to finalise the Yanchep National Park Draft Management Plan of 2010 and its failure to implement the recommendations contained therein.

Debate resumed.

Question put.

The Assembly divided.

Ayes (20)

Dr A.D. Buti	Mr M.P. Murray	Mr P.C. Tinley
Mr R.H. Cook	Mr A.P. O'Gorman	Mr A.J. Waddell
Ms J.M. Freeman	Mr P. Papalia	Mr P.B. Watson
Mr J.N. Hyde	Mr J.R. Quigley	Mr M.P. Whitely
Mr J.C. Kobelke	Ms M.M. Quirk	Mr B.S. Wyatt
Mr F.M. Logan	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Mr M. McGowan	Mr C.J. Tallentire	

Noes (25)

Mr P. Abetz	Mr J.M. Francis	Ms A.R. Mitchell
Mr F.A. Alban	Mr B.J. Grylls	Dr M.D. Nahan
Mr I.C. Blayney	Dr K.D. Hames	Mr D.T. Redman
Mr J.J.M. Bowler	Mr A.P. Jacob	Mr M.W. Sutherland
Mr I.M. Britza	Mr R.F. Johnson	Mr T.K. Waldron
Mr T.R. Buswell	Mr A. Krsticevic	Dr J.M. Woollard
Mr G.M. Castrilli	Mr W.R. Marmion	Mr A.J. Simpson (<i>Teller</i>)
Mr M.J. Cowper	Mr J.E. McGrath	
Mr J.H.D. Day	Mr P.T. Miles	

Question thus negated.

17. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 1 be resumed.

18. Appropriation (Consolidated Account) Recurrent 2012-13 Bill 2012**Appropriation (Consolidated Account) Capital 2012-13 Bill 2012**

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

Debate resumed.

The Leader of the House moved, That the debate be adjourned.

Question put and passed.

19. Message from the Governor

Message No. 5 from His Excellency the Governor was reported assenting to the following bills –

Road Traffic (Vehicles) Bill 2011, Act No. 7 of 2012.

Road Traffic Legislation Amendment Bill 2011, Act No. 8 of 2012.

Criminal Appeals Amendment (Double Jeopardy) Bill 2011, Act No. 9 of 2012.

Legal Deposit Bill 2011, Act No. 10 of 2012.

20. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 9.43 p.m. until Thursday, 24 May 2012 at 9.00 a.m.

Members present during any part of the day's proceedings – All the members except Dr E. Constable, Dr G.G. Jacobs, Mr E.S. Ripper and Mr T.G. Stephens.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. GRANT WOODHAMS

Speaker of the Legislative Assembly