

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 214

WEDNESDAY, 25 JUNE 2008

1. Meeting of Council

The Council assembled at 2.00pm pursuant to Temporary Order.

The President, Hon Nick Griffiths, took the Chair and read prayers.

2. Papers

The following Papers were laid on the Table by -

Minister for Local Government

Local Laws -

Local Government Act 1995 (City of Bayswater - Thoroughfares and Trading in Thoroughfares
and Public Places Local Law 2008 G.G. 13/06/2008)..... 4115

Regulations -

Gaming and Wagering Commission Act 1987 (Gaming and Wagering Commission
Amendment Regulations (No. 2) 2008 G.G. 10/06/2008)..... 4116

Statutes -

Murdoch University Act 1973 (Murdoch University - Statutes Nos. 8, 17 and 23 G.G. 10/06/2008) .. 4117

Minister for Employment Protection

Codes -

Dangerous Goods Safety Act 2004 (Approved Codes of Practice in accordance with section 20 of
the Dangerous Goods Safety Act 2004 G.G. 13/06/2008)..... 4118

Regulations -

Fire and Emergency Services Authority of Western Australia Act 1998 (Fire and
Emergency Services Authority of Western Australia Amendment Regulations 2008
G.G. 10/06/2008)..... 4119

Industrial Relations Act 1979 (Industrial Relations Commission Amendment Regulations (No. 2)
2008 G.G. 10/06/2008) 4120

Parliamentary Secretary representing the Minister for the Environment on behalf of the Minister for Child Protection

Regulations -

Criminal Investigation Act 2006 (Criminal Investigation Amendment Regulations 2008 G.G.13/06/2008)	4121
Hospitals and Health Services Act 1927 (Hospitals (Services Charges) Amendment Regulations (No. 2) 2008 G.G. 10/06/2008)	4122
State Administrative Tribunal Act 2004 (State Administrative Tribunal Amendment (Road Traffic) Regulations 2008 G.G. 13/06/2008)	4123

Rules -

Dental Act 1939 (Dental Board Amendment Rules 2008 G.G. 13/06/2008)	4124
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Parliamentary Secretary representing the Minister for the Environment on behalf of the Parliamentary Secretary representing the Minister for Planning and Infrastructure

Regulations -

Motor Vehicle Drivers Instructors Act 1963 (Motor Vehicle Drivers Instructors Amendment (Road Traffic) Regulations 2008 G.G. 13/06/2008)	4125
Road Traffic Act 1974 (Road Traffic (Authorisation to Drive) Regulations 2008 G.G. 10/06/2008, Road Traffic Consequential Amendment Regulations 2008 G.G. 10/06/2008 and Road Traffic (Miscellaneous) Regulations 2008 G.G. 10/06/2008)	4126

Parliamentary Secretary representing the Minister for the Environment

Regulations -

Environmental Protection Act 1986 (Environmental Protection (Clearing of Native Vegetation) Amendment Regulations 2008 G.G. 10/06/2008)	4127
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3. Suspension of Temporary Orders

The Leader of the House moved, without notice -

That so much of the Temporary Orders be suspended so as to enable Orders of the Day to be now taken.

The motion requiring the concurrence of an absolute majority.

Question - put.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

4. Order of Business

Ordered - That Orders of the Day be now taken. (Leader of the House).

5. Prisons Amendment Regulations 2008 - Disallowance - Discharge from Notice Paper

The Order of the Day having been called, Hon Ray Halligan moved, without notice -

That Order of the Day No. 631, *Prisons Amendment Regulations 2008 - Disallowance*, be discharged from the Notice Paper.

Question - put and passed.

6. Order of Business

Ordered - That Orders of the Day Nos 256, *Standing Committee on Procedure and Privileges - Report No. 9 - SO 243 - Day Fixed for Third Reading*, 563, *Standing Committee on Procedure and Privileges - Report No. 14 - Referral of a Matter of Privilege from the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations*, 581, *Standing Committee on Procedure and Privileges - Report No. 15 - Observation 3 of the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Committee Report*, 582, *Standing Committee on Procedure and Privileges - Report No. 16 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Committee Report*, 592, *Standing Committee on Procedure and Privileges - Report No. 17 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Mr Noel Crichton-Browne - Committee Report* and 593, *Standing Committee on Procedure and Privileges - Report No. 18 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Hon Julian Grill - Committee Report* be taken at a later stage of this day's sitting. (Leader of the House).

7. Surrogacy Bill 2007

The Order of the Day having been read for the consideration of the Committee's report upon this Bill.

The Leader of the House moved, That the report be adopted.

Question - put and passed.

Ordered - That the third reading of the Bill be made an Order of the Day for the next sitting.

8. Industrial and Related Legislation Amendment Bill 2007

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 George Cash in the Chair)

Clause 38, as amended.

Debate resumed.

Clause, as amended, agreed to.

Clauses 39 to 42 agreed to.

Clause 43.

Debate ensued.

Clause agreed to.

Clauses 44 to 58 agreed to.

New Clause 38.

The Minister for Employment Protection moved -

Page 31, after line 12 — To insert the following new clause —

“

38. Section 195 amended

Section 195(1) is amended in the definition of “authorised officer” by deleting “appointed” and inserting instead —

“ designated ”.

”.

New Clause agreed to.

New Clause 39.

The Minister for Employment Protection moved -

Page 31, before line 13 — To insert the following new clause —

“

39. Section 196 amended

Section 196(1) is amended by deleting “appointed” and inserting instead —

“ designated ”.

”.

New Clause agreed to.

New Part 9.

The Minister for Employment Protection moved -

Page 93, after line 23 — To insert the following new Part —

“

Part 9 — Amendment to *Employment Dispute Resolution Act 2008*

60. The Act amended

The amendment in this Part is to the *Employment Dispute Resolution Act 2008*.

61. Section 31 amended

Section 31(1) is amended by inserting after “may be made” —

“ by the Chief Commissioner ”.

”.

New Part agreed to.

Long Title.

The Minister for Employment Protection moved -

Page 1, after line 15 — To insert —

“

- **the *Employment Dispute Resolution Act 2008*.**

”.

Amendment - put and passed.

Title, as amended, agreed to.

The President resumed the Chair.

Bill reported with amendments.

Ordered - That consideration of the Committee’s Report be made an Order of the Day for the next sitting.

9. Contractual Benefits Bill 2007

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

Debate resumed.

Question - put and passed.

Bill read a second time.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 18 agreed to.

Clause 19.

The Minister for Employment Protection moved -

Page 15, line 3 — To insert after “made” —

“ by the Chief Commissioner ”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 20 to 23 agreed to.

Title agreed to.

The Acting President resumed the Chair.

Bill reported with amendment.

Ordered - That consideration of the Committee’s Report be made an Order of the Day for the next sitting.

10. Diamond (Argyle Diamond Mines Joint Venture) Agreement Amendment Bill 2008

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

Debate ensued.

Hon Paul Llewellyn moved, without notice -

That -

(1) Order of the Day No. 646, *Diamond (Argyle Diamond Mines Joint Venture) Agreement Amendment Bill 2008* be discharged and referred to the Standing Committee on Estimates and Financial Operations for consideration and report not later than Tuesday, 23 September 2008.

(2) The Committee have the power to consider the policy of the Bill.

Debate ensued.

Motion - put.

The House divided.

Ayes (2)

Hon Paul Llewellyn

Hon Giz Watson (*Teller*)

Noes (27)

Hon Shelley Archer
 Hon George Cash
 Hon Vincent Catania
 Hon Kim Chance
 Hon Peter Collier
 Hon Bruce Donaldson
 Hon Kate Doust
 Hon Wendy Duncan
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Donna Faragher
 Hon Jon Ford
 Hon Graham Giffard
 Hon Nigel Hallett

Hon Ray Halligan
 Hon Barry House
 Hon Robyn McSweeney
 Hon Sheila Mills
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Batong Pham
 Hon Ljiljanna Ravlich
 Hon Barbara Scott
 Hon Sally Talbot
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Motion thus negatived.

Question - put and passed.

Bill read a second time.

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

The Parliamentary Secretary representing the Minister for State Development moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

11. Indigenous Conservation Title Bill 2007

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 Ken Travers in the Chair)

Clause 1.

Debate ensued.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Child Protection representing the Minister for Health tabled a letter, dated 28 May 2008, to the Minister for Health from the Chamber of Commerce and Industry in relation to an amendment to the *Food Bill 2005* arising from the Committee of the Whole on 13 May 2008, in response to a question without notice asked by Hon Paul Llewellyn. (Tabled paper 4128).

The Minister for Agriculture and Food tabled, and by leave incorporated into Hansard, an answer in relation to the Agriculture Protection Board's changes to wild dog control, in response to a question without notice asked by Hon Shelley Archer. (Tabled paper 4129).

The Parliamentary Secretary representing the Minister for the Environment on behalf of the Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled, and by leave incorporated into Hansard, an answer in relation to the Joondalup Line Car Park Extension Program, in response to a question without notice asked by Hon Ray Halligan. (Tabled paper 4130).

The Parliamentary Secretary representing the Minister for the Environment tabled documents in relation to Australasian Wildlife Management Society Conference Abstracts, in response to question on notice No. 6342 asked by Hon Paul Llewellyn. (Tabled paper 4131).

13. Indigenous Conservation Title Bill 2007

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1.

Debate resumed.

Clause agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Debate ensued.

The Parliamentary Secretary representing the Deputy Premier moved, That further consideration of clause 6 be postponed until after consideration of clause 37.

Question - put and passed.

Clause 7.

Debate ensued.

Hon Norman Moore moved -

Page 4, lines 17 to 25 — To delete the lines.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (11)

Hon George Cash
Hon Peter Collier
Hon Donna Faragher
Hon Nigel Hallett
Hon Barry House
Hon Robyn McSweeney

Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Barbara Scott
Hon Bruce Donaldson (*Teller*)

Noes (13)

Hon Shelley Archer
Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Jon Ford
Hon Graham Giffard

Hon Paul Llewellyn
Hon Sheila Mills
Hon Batong Pham
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ed Dermer (*Teller*)

Amendment thus negatived.

On the question, That the Clause stand as printed - put and passed.

Clauses 8 to 10.

Debate ensued.

The Parliamentary Secretary representing the Deputy Premier, by leave, tabled a letter, dated 21 May 2008, to the Deputy Premier from the Central Desert Native Title Services regarding the *Indigenous Conservation Title Bill 2007* - Rudall River National Park. (Tabled paper 4132).

On the question, That the Clauses stand as printed - put.

The Committee divided.

Ayes (15)

Hon Shelley Archer
Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Wendy Duncan
Hon Sue Ellery
Hon Jon Ford

Hon Graham Giffard
Hon Paul Llewellyn
Hon Sheila Mills
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (12)

Hon George Cash
Hon Peter Collier
Hon Donna Faragher
Hon Anthony Fels
Hon Nigel Hallett
Hon Ray Halligan

Hon Barry House
Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Bruce Donaldson (*Teller*)

Question thus passed.

Clause 11 agreed to.

Clause 12.

Debate ensued.

Hon Norman Moore moved -

Page 7, after line 19 — To insert —

“

(a) the estate can only be held in respect of a community area;

”.

Debate ensued.

Amendment put and negatived.

The Parliamentary Secretary representing the Deputy Premier moved -

Page 8, line 27 — To delete “section 16(1)(d)” and insert instead —

“ section 16(12) ”.

Debate ensued.

Amendment put and passed.

Clause, as amended, agreed to.

The Parliamentary Secretary representing the Deputy Premier moved, That progress be reported and leave asked to sit again.

Question - put and passed.

The Acting 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.

14. Order of Business

Ordered - That Orders of the Day Nos 256, *Standing Committee on Procedure and Privileges - Report No. 9 - SO 243 - Day Fixed for Third Reading*, 563, *Standing Committee on Procedure and Privileges - Report No. 14 - Referral of a Matter of Privilege from the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations*, 581, *Standing Committee on Procedure and Privileges - Report No. 15 - Observation 3 of the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Committee Report*, 582, *Standing Committee on Procedure and Privileges - Report No. 16 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Committee Report*, 592, *Standing Committee on Procedure and Privileges - Report No. 17 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Mr Noel Crichton-Browne - Committee Report* and 593, *Standing Committee on Procedure and Privileges - Report No. 18 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Hon Julian Grill - Committee Report* be now taken. (Leader of the House).

15. Standing Committee on Procedure and Privileges - Report No. 9 - SO 243 - Day Fixed for Third Reading

The Order of the Day having been read, Hon George Cash continued his introductory remarks on his motion as follows -

That the Report do lie upon the Table and be printed and adopted and agreed to.

Question - put and passed.

16. Standing Committee on Procedure and Privileges - Report No. 14 - Referral of a Matter of Privilege from the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations

The Order of the Day having been read, Hon George Cash continued his introductory remarks on his motion as follows -

That the Report do lie upon the Table and be adopted and agreed to.

Debate ensued.

Question - put and passed.

17. Suspension of Temporary Orders

The Leader of the House moved, without notice -

That so much of the Temporary Orders be suspended so as to enable the House to sit beyond 10.25pm to the extent required to complete Orders of the Day Nos 581, 582, 592 and 593.

Want of Quorum

There not being a quorum present, the Acting President gave instructions for the ringing of the Bells.
A quorum being formed.

The motion requiring the concurrence of an absolute majority.

Question - put.

The Acting President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the motion carried with the concurrence of an absolute majority.

18. Standing Committee on Procedure and Privileges - Report No. 15 - Observation 3 of the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Committee Report

The Order of the Day having been read, Hon George Cash continued his introductory remarks on his motion as follows -

That the Report be printed and Recommendation No. 1 contained in the Report be adopted and agreed to.

The Leader of the House moved, without notice -

Lines 1 and 2 - To delete "Recommendation No. 1 contained in the Report be adopted and agreed to" and insert instead -

“

the Legislative Council notes -

- (a) the majority and minority Committee Reports;
- (b) the limited ability to punish Members for contempt;
- (c) that further investigation of this matter may find the conduct of Hon Shelley Archer was in contempt of the House; and
- (d) there is little to be gained by applying any further finding of contempt by Hon Shelley Archer, and

while the conduct may offend the dignity of the House, on this occasion no further action should be taken by the House.

”.

Debate ensued.

Point of Order

The Leader of the House raised the following Point of Order -

We are debating here the Standing Committee on Procedure and Privileges report No. 15, to which I have moved an amendment to the recommendation. I understand that Members are able to speak to the report whilst speaking to the amendment, but may I make a plea to you, Mr Deputy President, that this is a very narrow debate necessarily and concerns only those matters raised in report No. 15.

Acting President's Ruling

The Acting President ruled as follows -

The Leader of the House's point is taken. I remind Hon Anthony Fels that he was provided considerable latitude in debating the fourteenth report; that latitude will not be available to debate the fifteenth report. It is a narrow debate and it is not one in which we can canvass all the issues that the Member appears to wish to canvass.

Debate resumed.

Amendment - put and negatived.

On the question, That the motion stand as printed - put and passed.

19. Standing Committee on Procedure and Privileges - Report No. 16 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Committee Report

The Order of the Day having been read, Hon George Cash continued his introductory remarks on his motion as follows -

That the Report be printed and Recommendation Nos 1 and 2 contained in the Report be adopted and agreed to.

The Leader of the House moved, without notice -

Line 2 - To insert after "to." -

“

Further, the Legislative Council notes -

- (a) the majority and minority Committee Reports;
- (b) the limited ability to punish Members for contempt;
- (c) that further investigation of these matters may find the conduct of Hon Brian Burke was in contempt of the House; and
- (d) there is little to be gained by applying any further finding of contempt by Hon Brian Burke, and

while the conduct may offend the dignity of the House, on this occasion no further action should be taken by the House.

”.

Debate ensued.

Amendment - put and negatived.

On the question, That the motion stand as printed - put and passed.

20. Standing Committee on Procedure and Privileges - Report No. 17 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Mr Noel Crichton-Browne - Committee Report

The Order of the Day having been read, Hon George Cash continued his introductory remarks on his motion as follows -

That the Report be printed and the Recommendation contained in the report be adopted and agreed to.

Debate ensued.

Question - put and passed.

21. Standing Committee on Procedure and Privileges - Report No. 18 - Referral of Letters by Resolution of the House on 20 February 2008 Regarding the Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations - Hon Julian Grill - Committee Report

The Order of the Day having been read, Hon George Cash continued his introductory remarks on his motion as follows -

That the Report be printed and Recommendation Nos 1 and 2 contained in the report be adopted and agreed to.

Debate ensued.

Question - put and passed.

22. Adjournment

The House adjourned at 11.01pm until Thursday, 26 June 2008 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Ken Baston.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council