

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 11

WEDNESDAY, SEPTEMBER 18 2002

1. Meeting of Council

The Council assembled at 4.00pm pursuant to order.

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

2. Papers

The following Papers were laid on the Table by -

Minister for Housing and Works

Annual Reports -

State Housing Commission (2001-2002) (Date received 17/09/2002) 210

Parliamentary Secretary to the Minister for State Development

Agreements -

Forest Products Commission and Wesbeam Pty Ltd and Wesbeam Holdings Limited
(11/08/2002)..... 211

Parliamentary Secretary to the Minister for Planning and Infrastructure

Annual Reports - Extension of Time -

Western Australian Land Authority (LandCorp) Annual Report (2001-2002)
Extension of Time to Report 212

Ministerial Approvals -

Orrong Estate Welshpool - Bulk earthworks and Stage 1 Civil Works 213

3. Voluntary Euthanasia Bill 2002

Hon Robin Chapple pursuant to notice, moved -

That a Bill for "An Act to provide for the administration of voluntary euthanasia." be introduced and read a first time.

Question - put.

The House divided.

Ayes (24)

Hon Alan Cadby
 Hon George Cash
 Hon Kim Chance
 Hon Robin Chapple
 Hon Sue Ellery
 Hon Adele Farina
 Hon John Fischer
 Hon Jon Ford
 Hon Peter Foss
 Hon Graham Giffard
 Hon Ray Halligan
 Hon Frank Hough

Hon Barry House
 Hon Robyn McSweeney
 Hon Dee Margetts
 Hon Norman Moore
 Hon Simon O'Brien
 Hon Louise Pratt
 Hon Jim Scott
 Hon Christine Sharp
 Hon Bill Stretch
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Bruce Donaldson (*Teller*)

Noes (7)

Hon Kate Doust
 Hon Paddy Embry
 Hon Nick Griffiths
 Hon Ljiljana Ravlich

Hon Barbara Scott
 Hon Tom Stephens
 Hon Ed Dermer (*Teller*)

Question thus passed.

Bill read a first time.

Hon Robin Chapple moved, without notice -

That the *Voluntary Euthanasia Bill 2002* be referred to the Standing Committee on Uniform Legislation and General Purposes for consideration and report.

Question - put and negatived.

Hon Robin Chapple moved, That the Bill be now read a second time.

On the motion of Hon Bruce Donaldson the debate was adjourned to the next sitting.

4. North West Shelf Joint Venture Contract

Motion No. 4 having been called.

Debate resumed on the motion of Leader of the House as follows -

That this House congratulates the North West Shelf Joint Venture in winning the \$25 billion contract to sell liquefied natural gas to China but calls for a major revamp of the Federal Government's Commonwealth Grants Commission process due to the inherent way it disadvantages Western Australians in the sharing of benefits from major resource projects between the Commonwealth and this State.

5. Questions Without Notice

Questions without notice were taken.

The Minister for Housing and Works representing the Deputy Premier, in accordance with Standing Order No. 138(d) provided a response to questions on notice No. 4 asked by Hon John Fischer.

The Minister for Housing and Works tabled documents in relation to Cable Sands (WA) 2001 Annual Environmental Report for the Jangardup Mineral Sands Mine in response to question on notice No. 8 asked by Hon Jim Scott. (Tabled paper 214).

The Minister for Housing and Works tabled documents in relation to applications in the Federal Court litigation process in relation to native title in response to question on notice No. 74 asked by Hon Norman Moore. (Tabled paper 215).

6. North West Shelf Joint Venture Contract

Debate resumed on the motion of Leader of the House (cf item 4 above).

Hon Robin Chapple, by leave, tabled a graph in relations to the Carnarvon Basin Natural Gas. (Tabled paper 216).

Interruption of Debate [SO 195].

7. Nuclear Activities (Prohibition) Bill 2002

Hon Giz Watson pursuant to notice, moved -

That a Bill for "An Act to prohibit in Western Australia certain activities associated with the nuclear fuel chain, and for related purposes" be introduced and read a first time.

Question - put and passed.

Bill read a first time.

Hon Giz Watson moved, That the Bill be now read a second time.

On the motion of Hon Bruce Donaldson debate was adjourned to the next sitting.

8. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the Address-in-Reply.

Debate resumed.

Point of Order

Hon Dee Margetts raised the following Point of Order -

I ask the Honourable Member to name his sources.

Deputy President's Ruling

The Deputy President ruled as follows -

While a point of order has been raised, it does not seem that the Honourable Member is quoting from a specific document at this time. However, I draw to the attention of the Honourable Member, and to others, that the Standing Orders of the Legislative Council prohibit the reading of speeches. Of course notes, even copious notes, are allowed to be used and referred to in giving speeches, but it is against the Standing Orders that speeches be read. I was beginning to form the impression that Hon Frank Hough was reading his speech, which gave rise to the point of order. The Honourable Member is not quoting from a document; he is referring only to his notes. I remind Members that speeches are not to be read.

On the motion of Hon Bruce Donaldson the debate was adjourned to the next sitting.

9. Criminal Law (Procedure) Amendment Bill 2002

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

Debate resumed.

Question - put.

The House divided.

Ayes (26)

Hon Alan Cadby
 Hon George Cash
 Hon Kim Chance
 Hon Bruce Donaldson
 Hon Kate Doust
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford
 Hon Peter Foss
 Hon Graham Giffard
 Hon Nick Griffiths
 Hon Ray Halligan
 Hon Barry House

Hon Robyn McSweeney
 Hon Norman Moore
 Hon Simon O'Brien
 Hon Louise Pratt
 Hon Ljiljanna Ravlich
 Hon Barbara Scott
 Hon Christine Sharp
 Hon Tom Stephens
 Hon Bill Stretch
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Giz Watson
 Hon Ed Dermer (*Teller*)

Noes (6)

Hon Robin Chapple
 Hon Paddy Embry
 Hon John Fischer

Hon Dee Margetts
 Hon Jim Scott
 Hon Frank Hough (*Teller*)

Question thus passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 9 agreed to.

Clause 10.

The Minister for Racing and Gaming moved -

Page 7, after line 30 - To insert -

“

- (6) The room or place in which the justices hear and determine an application under subsection (4) is not to be regarded as an open court, and the justices may order that no person is to be in the room or place without their permission.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 11 to 15 agreed to.

Clause 16.

The Minister for Racing and Gaming moved -

Page 14, after line 9 - To insert -

“

- (3) As soon as practicable after the requirements of subsection (1) have been complied with, the prosecution must file, and serve on the accused person, a certificate of compliance.
- (4) The certificate of compliance must —
 - (a) be made by a person who was involved in, and who has knowledge of, the investigation of the charge in the indictment;
 - (b) certify that the prosecution has complied with subsection (1); and
 - (c) state the person’s grounds for so certifying and any inquiries made by the person before so certifying where inquiry has been necessary.
- (5) A person who knowingly or without reasonable diligence makes a certificate of compliance that it is false in a material particular commits an offence.

Penalty: \$5 000.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 17 to 32 agreed to.

New Clause 5.

The Minister for Racing and Gaming moved -

Page 3, after line 8 - To insert the following new Clause -

“

5. Section 66 replaced

Section 66 is repealed and the following section is inserted instead —

“

66. Proceedings for the purposes of committal are not open court

- (1) Where for the purposes of the committal for trial or sentencing of a person charged with an indictable offence —
 - (a) a witness is examined before justices; or
 - (b) a written statement or other evidence is tendered to justices,

the room or place in which that occurs is not to be regarded as an open court, and the justices may order that no person is to be in the room or place without their permission.

- (2) The justices are not to make an order under subsection (1) unless it appears to them that the ends of justice require them to do so.

”
”

Amendment - put and passed.

Title agreed to.

The President resumed the Chair.

Bill reported with amendments.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day's sitting.

The Minister for Racing and Gaming moved, That the report be adopted.

Question - put and passed.

The Minister for Racing and Gaming moved, That the Bill be now read a third time.

The President having reported that the Chairman of Committees had certified that the fair print of the Bill was in accordance with the Bill as agreed to in Committee, and reported.

Question - put and passed.

Bill read a third time and passed.

10. Cognate Debate - Yallingup Foreshore Land Bill 2002, Volunteers (Protection from Liability) Bill 2002 and Home Building Contracts Amendment Bill 2002 and Restoration of Bills

The Leader of the House sought leave of the House to debate Order of the Day No. 54, *Yallingup Foreshore Land Bill 2002*, Order of the Day No. 55, *Volunteers (Protection from Liability) Bill 2002 and Home Building Contracts Amendment Bill 2002* and Order of the Day No. 56, *Restoration of Bills* cognately.

Leave granted.

11. Yallingup Foreshore Land Bill 2002, Volunteers (Protection from Liability) Bill 2002 and Home Building Contracts Amendment Bill 2002 and Restoration of Bills

The Orders of the Day having been read for the consideration of Message Nos 3, 4, and 5 from the Legislative Assembly.

The Leader of the House moved, without notice -

That the Council resolve itself into a Committee of the Whole.

Question - put and passed.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

The Messages are as follows -

Mr President

Message No. 3

The Legislative Assembly acquaints the Legislative Council that in response to Legislative Council Message No 1, in relation to the *Yallingup Foreshore Land Bill 2002*, the Legislative Assembly -

- (a) notes that the message forwarding the Bill was sent from the Legislative Assembly to the Legislative Council on Tuesday, 25 June 2002 and that this message and Bill remain in the possession of the Legislative Council or its officers;

- (b) further notes that the Legislative Council completed its final sitting for the session at 1.21am on Friday 28 June 2002;
- (c) declares that the transmission of a Bill from one House to the other is an integral stage of the passage of a Bill through the legislative process; and
- (d) requests the Legislative Council instate the Bill by requiring the report of the message and Bill for the Legislative Council's consideration.

Hon Fred Riebeling
 Speaker
 Legislative Assembly Chamber
 Perth, 21 August 2002

Mr President

Message No. 4

The Legislative Assembly acquaints the Legislative Council that in response to Legislative Council Message No 1, in relation to the *Volunteers (Protection from Liability) Bill 2002* and the *Home Building Contracts Amendment Bill 2002*, the Legislative Assembly -

- (a) advises the Legislative Council that on Friday, 28 June 2002, those Bills were passed by the Legislative Assembly and sent to the Legislative Council; and
- (b) has required that each of those Bills be restored to the position they had reached in the previous session and forwards herewith a further copy of the Bills for the Legislative Council's consideration.

Hon Fred Riebeling
 Speaker
 Legislative Assembly Chamber
 Perth, 21 August 2002

Mr President

Message No. 5

The Legislative Assembly requests the Legislative Council to amend its procedures to ensure that they reflect the intention of both Houses of Parliament that all Bills which have been partially considered by the Parliament in one Session are capable of restoration to that point in the next Session of the same Parliament.

Hon Fred Riebeling
 Speaker
 Legislative Assembly Chamber
 Perth, 21 August 2002

The Leader of the House moved -

That the following Message be sent to the Legislative Assembly in regard to Messages Nos 3 and 4 -

“

Mr Speaker

The Legislative Council has considered Legislative Assembly Messages Nos 3 and 4 relating to the -

Yallingup Foreshore Land Bill 2002
Volunteers (Protection from Liability) Bill 2002
Home Building Contracts Amendment Bill 2002

In response, the Legislative Council -

Invites the Legislative Assembly by return message to state that it has passed the Bills and, on receipt of such message, will deal with those Bills appropriately.

Debate ensued.

Question - put and passed.

The Leader of the House moved -

That the following message be sent to the Legislative Assembly -

“

Mr Speaker

The Legislative Council has considered Legislative Assembly Message No. 5 relating to the -

Yallingup Foreshore Land Bill 2002

Volunteers (Protection from Liability) Bill 2002

Home Building Contracts Amendment Bill 2002

In response, the Legislative Council -

- (1) does not agree that the difficulties associated with the three Bills can be rectified by altering internal practice and procedure. The Bills lapsed on prorogation by operation of law; and
- (2) recommends that the Government reconsider the necessity for annual prorogations said to arise from section 4 of the *Constitution Act 1889* and notes the divergence of interpretation and practice despite a provision identical to section 4 appearing in the Constitution of the Commonwealth and each of the States.

”.

Debate ensued.

Hon Norman Moore moved -

To insert after “States” the following words -

“

- (3) reminds the Legislative Assembly that a Bill must have been on the Notice Paper in the previous session if it is to be restored, that is, the Bill must have been in the possession of the House. Possession cannot occur until a Bill is introduced and given a first reading. On that basis, the House never had possession of the three Bills and had nothing to restore;
- (4) rejects the assertion that transmission of a Bill between the Houses is a “stage” in passage. Parliamentary authorities are in agreement on the meaning of “stage” and no mention is made of transmission in that context; and
- (5) requests the Legislative Assembly to cite a reference to the written law that expressly or impliedly amended section 46(5) of the *Constitution Acts Amendment Act 1899* so as to enable the Legislative Assembly to “require” this House to comply with the Assembly’s demands relating to the passage of legislation.

”.

Interruption of Debate [SO 61(c)].

12. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.26pm until Thursday, September 19 2002 at 11.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Murray Criddle.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council