

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 118

THURSDAY, 14 OCTOBER 2010

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### 1. Meeting of Council

The Council assembled at 10.00am pursuant to Temporary Orders.

The President, Hon Barry House, took the Chair and read prayers.

### 2. Statement by President - Non-Government Members' Drafting Services

The President made the following Statement -

In the course of delivering a Member's Statement on Tuesday, 21 September, Hon. Max Trenorden made reference to his recent dealings with the Parliamentary Counsel's Office (PCO), in relation to assistance being sought by him to draft a Private Member's Bill. Hon. Adele Farina also added some comments.

Members will be aware that, for a number of years, legislative drafting services were provided to Non-Government Members by a private law firm, under contract with the Department of the Premier and Cabinet. This arrangement changed earlier this year, and funding was transferred to the Department of the Attorney General to provide for this service delivery by the PCO.

Legislative drafting is often a complex and time-consuming process. In many instances, the first phase of the drafting process - the development of drafting instructions - can be particularly complicated and protracted. Once these drafting instructions are developed, the second phase of the drafting process begins, and the legislative drafter commences drafting the proposed legislation in accordance with the instructions. These two phases of the process are not exclusive, and often the instructions are refined during the second drafting phase.

In his comments to the House, Hon. Max Trenorden expressed the view that the level of assistance provided by PCO in the first phase of the drafting process, the development of the drafting instructions, did not fulfil his expectations or requirements. I can advise the House that, following those comments from the Member, I have discussed this matter with the Leader of the House and the Acting Clerk. I am also in receipt of advice from the Parliamentary Counsel on this matter and the overall legislative drafting service provision.

In many instances, the development of drafting instructions for Non-Government Bills is and will remain a challenging task. When the Government initiates the drafting of legislation, the resources of Government, including Ministerial and departmental officers, can be applied to the task. The resources available to a Non-Government Member for these purposes are significantly less.

Members have their own electorate staff resources, and the individual Member and their officers will need to undertake a significant part of the work to prepare drafting instructions.

However, contact between a Member or a Member's officers and PCO will be infrequent, and the intermittent nature of this work mitigates against an ongoing working relationship being established between a Member, a Member's office and PCO. With consideration to these factors, I believe the Department of the Legislative Council may fulfil a role in helping to deliver this service.

While a Member still has a responsibility to express their views and proposals for policy and legislative change in a coherent and organised manner, officers of the Legislative Council may be able to assist as a first source of advice and assistance, and to facilitate communication with PCO.

Officers of the Department of the Legislative Council are in regular contact with PCO, and have developed a sound working relationship with PCO officers over an extended period of time. Given this, I believe the Department's officers would be well placed to provide an initial contact, advisory and liaison service between Members, Members' staff and PCO. However, the development of this capacity is dependent upon additional resources being made available to the Department, to deliver this service and a range of other services required by Members which the Department is unable to deliver within its current funding allocation. We are currently in negotiation with Government on our budgetary situation.

I acknowledge to the House that the provision of Non-Government legislative drafting services is critical to the proper discharge of the functions of the Legislative Council, and indicate my intent to pursue the ongoing delivery of this service to Members in a professional and comprehensive manner. I look forward to this service continuing to develop, to enhance the role and effectiveness of the Legislative Council.

### 3. Papers

The following Papers were laid on the Table by -

#### **Minister for Energy**

##### *Annual Reports -*

State Witness Protection Program (2009-2010) (Date received 13/10/2010) ..... 2724

Surveillance Devices Act 1998 (2009-2010) (Date received 13/10/2010)..... 2725

### 4. **Standing Committee on Public Administration - Special Report - Erratum to Report No. 11 in relation to the Inquiry into Recreation Activities within Public Drinking Water Source Areas**

Hon Jon Ford presented a Special Report of the Standing Committee on Public Administration being an Erratum to Report No. 11 in relation to the *Inquiry into Recreation Activities within Public Drinking Water Source Areas*. (Tabled paper 2726).

Hon Jon Ford moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

### 5. **Joint Standing Committee on the Review of the Racing and Wagering Western Australia Acts - Second Report - Inquiry into the Racing and Wagering Western Australia Acts**

Hon Alyssa Hayden presented the Second Report of the Joint Standing Committee on the Review of the Racing and Wagering Western Australia Acts in relation to the *Inquiry into the Racing and Wagering Western Australia Acts*. (Tabled paper 2727).

Hon Alyssa Hayden moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

## **6. Co-operatives Regulations 2010 - Disallowance**

Hon Robin Chapple: To move on the next day of sitting -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Co-operatives Regulations 2010* published in the *Gazette* on 13 August 2010 and tabled in the Legislative Council on 17 August 2010 under the *Co-operatives Act 2009*, be and are hereby disallowed.

## **7. Shire of Koorda Cemeteries Amendment Local Law 2010 - Disallowance**

Hon Robin Chapple: To move on the next day of sitting -

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Shire of Koorda Cemeteries Amendment Local Law 2010* published in the *Gazette* on 10 August 2010 and tabled in the Legislative Council on 17 August 2010 under the *Cemeteries Act 1986*, be and is hereby disallowed.

## **8. Mental Health Services**

Non-Government Business No. 1 having been called, Hon Linda Savage moved, without notice -

That this House calls on the Government to give the sufferers of mental illness, their families and friends the much better and much fairer deal promised in the Liberal Party's Mental Health Policy presented before the last election.

Debate ensued.

Motion lapsed pursuant to Temporary Orders.

## **9. Order of Business**

Ordered - That Orders of the Day Nos 1, *Shire of Roebourne Parking and Parking Facilities Local Law 2010 - Disallowance*, 2, *Surveillance Devices Amendment Regulations 2010 - Disallowance*, and 3, *Western Australian Meat Industry Authority Amendment Regulations (No. 2) 2010 - Disallowance*, be taken after Order of the Day No. 10, *Police Amendment Bill 2010*. (Leader of the House).

## **10. Railway (Roy Hill Infrastructure Pty Ltd) Agreement Bill 2010**

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 Michael Mischin in the Chair)

Clause 1.

Debate resumed.

Clause agreed to.

Clauses 2 and 3 agreed to.

Clause 4.

The Minister for Mines and Petroleum moved, That consideration of Clause 4 be postponed until after consideration of Schedule 1.

Question - put and passed.

Clause 5.

Debate ensued.

Clause agreed to.

Clauses 6 to 15 agreed to.

Schedule 1.

Debate ensued.

Schedule 1 agreed to.

Postponed Clause 4.

Debate ensued.

Clause agreed to.

Title agreed to.

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The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

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

The Deputy 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.

#### **11. Misuse of Drugs Amendment Bill 2010**

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

Debate ensued.

Question - put and passed.

Bill read a second time.

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

The Minister for Energy representing the Minister for Police moved, That the Bill be now read a third time.

Question - put and passed.

Bill read a third time and passed.

#### **12. Questions Without Notice**

Questions without notice were taken.

The Leader of the House representing the Minister for Housing tabled, and by leave incorporated into Hansard, a table in relation to public housing stocks for the Pilbara region, in response to a question without notice asked by Hon Robin Chapple. (Tabled paper 2728).

The Minister for Environment tabled, and by leave incorporated into Hansard, documents in relation to the referral of the Osmington Coalmine to the Environmental Protection Authority, in response to a question without notice asked by Hon Adele Farina. (Tabled paper 2729).

#### **13. Environmental Protection Amendment Bill 2010**

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

Debate ensued.

*Interruption pursuant to Temporary Orders.*

**14. Members' Statements**

Statements were taken.

**15. Cannabis Law Reform Bill 2009**

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 138

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Cannabis Law Reform Bill 2009*.

Mrs L.M. Harvey

Acting Speaker

Legislative Assembly Chamber

Perth, 14 October 2010

**16. Adjournment**

The House adjourned at 6.01pm until Tuesday, 19 October 2010 at 3.00pm.

**Members present during the day's proceedings**

Attendance: Present all Members except Hon Wendy Duncan, Hon Phil Edman, Hon Sue Ellery, Hon Robyn McSweeney and Hon Max Trenorden.

**NIGEL LAKE**

Acting Clerk of the Legislative Council

**HON BARRY HOUSE**

President of the Legislative Council