

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 178

TUESDAY, 4 DECEMBER 2007

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

2. Petitions

Hon Simon O'Brien presented a petition from 71 residents of Western Australia requesting the Legislative Council refer the *Prostitution Amendment Bill 2007* to a Standing Committee. (Tabled paper 3572).

Hon Helen Morton presented a petition from 12 residents of Western Australia requesting the Legislative Council oppose the *Human Reproductive Technology Amendment Bill 2007*. (Tabled paper 3573).

Hon Helen Morton presented a petition from 397 residents of Western Australia requesting the Legislative Council oppose Western Power's Eastern Terminal Sub-station in a water catchment area east of Kalamunda. (Tabled paper 3574).

3. Ministerial Statement - State Forest Nos 22 and 38

The Parliamentary Secretary representing the Minister for the Environment made a Ministerial Statement with respect to a proposal for the partial revocation of State Forest Nos 22 and 38 in relation to the *Conservation and Land Management Act 1984*. (Tabled paper 3575).

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

4. Ministerial Statement - State Forest Nos 2, 12, 16, 38, 55 and 57

The Parliamentary Secretary representing the Minister for the Environment made a Ministerial Statement with respect to a proposal for the partial revocation of State Forest Nos 2, 12, 16, 38, 55, and 57 in relation to the *Conservation and Land Management Act 1984*. (Tabled paper 3576).

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

5. Papers

The following Papers were laid on the Table by -

Leader of the House

Reports -

Report on the Remuneration of Judges, District Court Judges, Masters of the Supreme Court, Magistrates and the Parliamentary Inspector of the Corruption and Crime Commission..... 3567

Minister for Local Government

Local Laws -

Dog Act 1976 (Town of Vincent Dogs Local Law 2007 G.G. 21/11/2007) 3568

Local Government Act 1995 (Town of Cambridge Private Property Amendment Local Law 2007 G.G. 23/11/2007 and Town of Vincent Parking and Parking Facilities Local Law 2007 G.G. 21/11/2007)..... 3569

Minister for Child Protection

Regulations -

Magistrates Court Act 2004 (Magistrates Court (General) Amendment Rules (No. 2) 2007 G.G. 23/11/2007)..... 3570

Parliamentary Secretary representing the Minister for Planning and Infrastructure

Addendums -

Amendment to the Disability Services Commission's Annual Report (2006-2007) 3571

6. Education - Behaviour Management and Pastoral Care

Hon Peter Collier: To move on the next day of sitting -

That this House expresses its concern at the lack of comprehensive and effective behaviour management and pastoral care strategies in Western Australian public schools.

7. Matter of Urgency - Drug Education - School Curriculum

The President read the following letter -

Dear Mr President

At today's sitting it is my intention to move under SO 72 that the Council consider, as a matter of urgency, the Carpenter Government's failure to ensure the inclusion of school drug education as a mandatory component of the school curriculum.

Yours sincerely

Hon Donna Faragher
Member for East Metropolitan Region

Four members having risen in support.

Hon Donna Faragher moved the motion.

Debate ensued.

Motion lapsed.

8. Order of Business

Ordered - That Orders of the Day Nos 527, *Town of Claremont Standing Orders Local Law 2007 - Disallowance*, 528, *Local Government (Rules of Conduct) Regulations 2007 - Disallowance*, 529, *Non-Coronial Post-Mortem Examinations Code of Practice 2007 - Disallowance*, 542, *Shire of Cue Repeal Local Law 2007 - Disallowance*, 543, *Fish Resources Management Amendment Regulations (No. 7) 2007 - Disallowance*, 544, *West Coast Demersal Scalefish (Interim) Management Plan 2007 - Disallowance*, 547, *Prohibition on Commercial Fishing (Metropolitan Waters) Order 2007 - Disallowance* and 549, *Shire of Wiluna Health Local Laws 2007 - Disallowance*, be taken after Order of the Day No. 499, *State Supply Commission Amendment Bill 2007*. (Leader of the House).

9. Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations

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

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Debate resumed on the motion of Hon Murray Criddle as follows -

That the recommendations contained in the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations be adopted and agreed to.

Hon Norman Moore moved -

That the motion be amended as follows -

- (1) To insert after "That" the following -
 " - (1) ";
- (2) To insert after "recommendations" the following -
 " 3, 6, 9, 10, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 "; and
- (3) To insert after "agreed to." the following -
 "
 - (2) Noting the findings of the Select Committee in recommendations 2, 5, 8, 12 and 15, the House refers the recommendations to the Director of Public Prosecutions to assess whether any of the persons concerned should be prosecuted for a breach of section 57 of *The Criminal Code* and if of that view to commence such prosecution or prosecutions.
 - (3) Consideration of recommendations 1, 4, 7, 11 and 14 be deferred pending the outcome of any proceedings initiated as a result of (2) above.
 - (4) Noting recommendation 35, the House authorises the limited disclosure or publication of the evidence received by the Committee to the Director of Public Prosecutions to the extent necessary or expedient so as to enable the Director of Public Prosecutions to assess any false evidence given to the Committee and, if appropriate, to conduct any prosecutions under section 57 of *The Criminal Code*."

10. Questions Without Notice

Questions without notice were taken.

The Minister for Child Protection representing the Minister for Health tabled an answer in relation to the number of patients with a mental health diagnosis who returned to hospitals within 28 days of discharge over the past three financial years, in response to question on notice No. 5621 asked by Hon Helen Morton. (Tabled paper 3577).

11. Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Hon Norman Moore continued his introductory remarks in moving the amendment as follows -

That the motion be amended as follows -

- (1) To insert after “That” the following -
“ - (1) ”;
- (2) To insert after “recommendations” the following -
“ 3, 6, 9, 10, 13, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 ”; and
- (3) To insert after “agreed to.” the following -
“
 - (2) Noting the findings of the Select Committee in recommendations 2, 5, 8, 12 and 15, the House refers the recommendations to the Director of Public Prosecutions to assess whether any of the persons concerned should be prosecuted for a breach of section 57 of *The Criminal Code* and if of that view to commence such prosecution or prosecutions.
 - (3) Consideration of recommendations 1, 4, 7, 11 and 14 be deferred pending the outcome of any proceedings initiated as a result of (2) above.
 - (4) Noting recommendation 35, the House authorises the limited disclosure or publication of the evidence received by the Committee to the Director of Public Prosecutions to the extent necessary or expedient so as to enable the Director of Public Prosecutions to assess any false evidence given to the Committee and, if appropriate, to conduct any prosecutions under section 57 of *The Criminal Code*.

”.

in relation to the motion of Hon Murray Criddle as follows -

That the recommendations contained in the report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations be adopted and agreed to.

Debate ensued.

On the question, That paragraph (1) of the amendment moved by Hon Norman Moore be agreed to -

To insert after “That” the following -

“ - (1) ”.

Amendment - put and passed.

The Deputy Chairman made a statement to the Committee, advising members that the recommendations proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore would be put as separate questions.

On the question, That recommendation “3” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendation “6” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to.

Debate ensued.

Hon Anthony Fels moved -

To insert after “6” in paragraph (2) of the amendment moved by Hon Norman Moore the following -

“ (except for the first dot point) ”.

Debate ensued.

Amendment to the amendment - put and negatived.

On the question, That recommendation “6” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendation “9” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendation “10” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendation “13” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendation “16” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendation “17” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to.

Debate ensued.

Amendment - put and passed.

On the question, That recommendation “18” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to - put and passed.

On the question, That recommendations “19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34” as proposed to be inserted by paragraph (2) of the amendment moved by Hon Norman Moore be agreed to.

Debate ensued.

Amendment - put and passed.

The Deputy Chairman made a statement to the Committee, advising members that the three new paragraphs proposed to be inserted by paragraph (3) of the amendment moved by Hon Norman Moore would be put as separate questions.

On the question, That new paragraph (2) to the motion as proposed by paragraph (3) of the amendment moved by Hon Norman Moore be agreed to -

To insert the following -

“

- (2) Noting the findings of the Select Committee in recommendations 2, 5, 8, 12 and 15, the House refers the recommendations to the Director of Public Prosecutions to assess whether any of the persons concerned should be prosecuted for a breach of section 57 of *The Criminal Code* and if of that view to commence such prosecution or prosecutions.

”.

Debate ensued.

Amendment - put and passed.

On the question, That new paragraph (3) to the motion as proposed by paragraph (3) of the amendment moved by Hon Norman Moore be agreed to -

To insert the following -

“

- (3) Consideration of recommendations 1, 4, 7, 11 and 14 be deferred pending the outcome of any proceedings initiated as a result of (2) above.

”.

Amendment - put and passed.

On the question, That new paragraph (4) to the motion as proposed by paragraph (3) of the amendment moved by Hon Norman Moore be agreed to -

To insert the following -

“

- (4) Noting recommendation 35, the House authorises the limited disclosure or publication of the evidence received by the Committee to the Director of Public Prosecutions to the extent necessary or expedient so as to enable the Director of Public Prosecutions to assess any false evidence given to the Committee and, if appropriate, to conduct any prosecutions under section 57 of *The Criminal Code*.

”.

Amendment - put and passed.

The Leader of the House moved -

That insert after paragraph (4) of the motion, as amended, moved by the Hon Murray Criddle the following -

“

- (5) The severity of the findings in relation to the false evidence provided to the Committee by Hon Shelley Archer, warrant the House to determine that Hon Shelley Archer be expelled from the Parliament.
- (6) The severity of the findings in relation to the false evidence provided to the Committee by Hon Anthony Fels, warrant the House to determine that Hon Anthony Fels be expelled from the Parliament.

- (7) The House refers the Select Committee's observations 1 and 2 to the Attorney General with the request that he ask the Solicitor General to consider referring, and if he considers it appropriate to refer, the matters discussed in the observations and relevantly in the report generally to any appropriate agency or agencies for consideration in accordance with their functions.
- (8) In relation to observation 3, the House notes that Hon Shelley Archer may have committed a grave contempt of the Parliament and refers this observation to the Standing Committee on Procedure and Privilege for its consideration and report.

”.

Debate ensued.

The Deputy Chairman made a statement to the Committee, advising members that the four new paragraphs proposed to be inserted by the amendment moved by the Leader of the House would be put as separate questions.

On the question, To insert new paragraph (5) proposed by the Leader of the House as follows -

“

- (5) The severity of the findings in relation to the false evidence provided to the Committee by Hon Shelley Archer, warrant the House to determine that Hon Shelley Archer be expelled from the Parliament.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

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

Noes (18)

Hon Shelley Archer
Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Murray Criddle
Hon Brian Ellis
Hon Donna Faragher
Hon Anthony Fels
Hon Ray Halligan

Hon Barry House
Hon Paul Llewellyn
Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Barbara Scott
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

On the question, To insert new paragraph (6) proposed by the Leader of the House as follows -

“

- (6) The severity of the findings in relation to the false evidence provided to the Committee by Hon Anthony Fels, warrant the House to determine that Hon Anthony Fels be expelled from the Parliament.

”.

Amendment - put.

The Committee divided.

Ayes (13)

Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

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

Noes (18)

Hon Shelley Archer
Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Murray Criddle
Hon Brian Ellis
Hon Donna Faragher
Hon Anthony Fels
Hon Ray Halligan

Hon Nigel Hallett
Hon Barry House
Hon Paul Llewellyn
Hon Robyn McSweeney
Hon Norman Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

On the question, To insert new paragraph (8) proposed by the Leader of the House as follows -

“

- (8) In relation to observation 3, the House notes that Hon Shelley Archer may have committed a grave contempt of the Parliament and refers this observation to the Standing Committee on Procedure and Privilege for its consideration and report.

”.

Debate ensued.

Amendment - put and passed.

On the question, To insert new paragraph (7) proposed by the Leader of the House as follows -

“

- (7) The House refers the Select Committee's observations 1 and 2 to the Attorney General with the request that he ask the Solicitor General to consider referring, and if he considers it appropriate to refer, the matters discussed in the observations and relevantly in the report generally to any appropriate agency or agencies for consideration in accordance with their functions.

”.

Debate ensued.

Amendment - put and passed.

On the question, That the motion, as amended, be agreed to.

Debate ensued.

Hon Giz Watson moved -

To insert the following new paragraph -

“

- (9) That Hon Anthony Fels and Hon Shelley Archer be suspended until the Director of Public Prosecutions has determined whether to commence a prosecution under section 57 of *The Criminal Code*, and if he does so determine, then until a verdict is entered.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (15)

Hon Matt Benson-Lidholm
Hon Vincent Catania
Hon Kim Chance
Hon Ed Dermer
Hon Kate Doust
Hon Sue Ellery
Hon Adele Farina
Hon Jon Ford

Hon Graham Giffard
Hon Paul Llewellyn
Hon Sheila Mills
Hon Ljiljanna Ravlich
Hon Sally Talbot
Hon Ken Travers
Hon Giz Watson

Noes (16)

Hon Shelley Archer
Hon Ken Baston
Hon George Cash
Hon Peter Collier
Hon Murray Criddle
Hon Bruce Donaldson
Hon Brian Ellis
Hon Donna Faragher

Hon Nigel Hallett
Hon Ray Halligan
Hon Barry House
Hon Robyn McSweeney
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien
Hon Barbara Scott

Amendment thus negatived.

Motion, as amended, agreed to.

The President resumed the Chair.

Chairman of Committees reported the resolution of the Committee.

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

Question - put and passed.

The Leader of the House moved, That the resolution of the House be agreed to.

Question - put and passed.

12. Information Privacy Bill 2007

The President reported the receipt of Message No. 282 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Attorney General moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Attorney General moved, That the Bill be now read a second time.

Debate stands adjourned.

13. Freedom of Information Amendment Bill 2007

The Deputy President reported the receipt of Message No. 283 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Child Protection representing the Attorney General moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Child Protection representing the Attorney General moved, That the Bill be now read a second time.

Debate stands adjourned.

14. Partial Revocation of State Forest Nos 22 and 38

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 284

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution -

That the proposal of the partial revocation of State Forest Nos 22 and 38, laid on the Table of the Legislative Assembly on Tuesday, 20 November 2007, by command of His Excellency the Governor be carried out.

and requests the Legislative Council to agree to a similar resolution.

Mr Grant Woodhams

Acting Speaker

Legislative Assembly Chamber

Perth, 29 November 2007

Ordered - That consideration of Message No. 284 be made an Order of the Day for the next sitting.

15. Partial Revocation of State Forest Nos 2, 12, 16, 38, 55 and 57

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 285

The Legislative Assembly acquaints the Legislative Council that it has agreed to the following resolution -

That the proposal of the partial revocation of State Forest Nos 2, 12, 16, 38, 55 and 57, laid on the Table of the Legislative Assembly on Tuesday, 20 November 2007, by command of His Excellency the Governor be carried out.

and requests the Legislative Council to agree to a similar resolution.

Mr Grant Woodhams

Acting Speaker

Legislative Assembly Chamber

Perth, 29 November 2007

Ordered - That consideration of Message No. 285 be made an Order of the Day for the next sitting.

16. Appropriation (Consolidated Account) Bill (No. 5) 2007

The Deputy President reported the receipt of Message No. 286 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

The Parliamentary Secretary representing the Treasurer tabled the Appropriation (Consolidated Fund) Bill (No. 5) 2007 - Details of Recurrent Expenditure Excesses and New Items for the 2006/07 Financial Year. (Tabled paper 3578).

Debate stands adjourned.

17. Appropriation (Consolidated Account) Bill (No. 6) 2007

The Deputy President reported the receipt of Message No. 287 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Treasurer moved, That the Bill be now read a second time.

The Parliamentary Secretary representing the Treasurer tabled the Appropriation (Consolidated Fund) Bill (No. 6) 2007 - Details of Recurrent Expenditure Excesses and New Items for the 2006/07 Financial Year. (Tabled paper 3579).

Debate stands adjourned.

18. Special Adjournment

The Leader of the House moved, without notice -

That the House at its rising adjourn until Wednesday, 5 December 2007 at 2.00pm.

Question - put and passed.

19. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.38pm until Wednesday, 5 December 2007 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON NICK GRIFFITHS
President of the Legislative Council