

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## MINUTES OF PROCEEDINGS

No. 177

THURSDAY, 29 NOVEMBER 2007

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### 1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

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

### 2. Personal Explanation

Hon Shelley Archer, by leave, made a personal explanation [SO 85].

### 3. Petition

Hon Barbara Scott presented a petition from 66 residents of Western Australia requesting the Legislative Council refer the *Prostitution Amendment Bill 2007* to a Standing Committee. (Tabled paper 3561).

### 4. Papers

The following Papers were laid on the Table by -

#### **Leader of the House**

##### *Reports -*

Consultants engaged by Government for the six months ended 30 June 2007 ..... 3555

Interstate and Overseas Travel undertaken by Ministers, Members of Parliament and  
Officers on Official Business for the three months ended 31 March 2007 ..... 3556

Interstate and Overseas Travel undertaken by Ministers, Members of Parliament and  
Officers on Official Business for the three months ended 30 June 2007 ..... 3557

#### **Minister for Child Protection**

##### *Annual Reports -*

Legal Contribution Trust (2006-2007) (Date received 28/11/2007) ..... 3558

#### **Parliamentary Secretary representing the Minister for Planning and Infrastructure**

##### *Annual Reports -*

Bunbury Port Authority (2006-2007) (Date received 28/11/2007 ..... 3559

*Leases -*

CALM Lease No. 2098/100 - Between CALM and Vodafone Network Pty Ltd -  
Reserve 8427, forming part of the Leeuwin-Naturaliste National Park..... 3560

## **5. Broadband Internet - Use of Future Fund**

Motion No. 56 having been read, Hon Vincent Catania continued his introductory remarks in moving the motion as follows -

That this House urges the Federal Government to support the use of the Future Fund in order to provide the necessary public investment in broadband internet access throughout Australia.

In particular, this House urges the Federal Government to acknowledge that -

- (a) the urban broadband network is inadequate to meet current or future demands;
- (b) Western Australia's mining companies, pastoralists, farmers and communities function in regions that are as remote from administrative centres as any in the world;
- (c) Tele-health capacity would enable quality health services to be delivered via a broadband network to areas where such services are currently impossible; and
- (d) the use of the Future Fund to enable public investment in the national broadband network is a valid and essential means of achieving the aims of the Fund by investing in Australia's future in commerce, education and health.

Debate ensued.

*Interruption of Debate* [SO 195].

## **6. Suspension of Standing Orders**

The Leader of the House moved, without notice -

That so much of Standing Orders be suspended as will enable Order of the Day No. 526, *Report of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations* 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.

## **7. 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 Acting President left the Chair.

### **In Committee**

(Hon Ken Travers in the Chair)

Debate resumed on the amendment moved by the Leader of the House to the motion of Hon Murray Criddle as follows -

To amend the motion by deleting all words after the words "That" and substituting the following -

- (1) The severity of the findings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to the false evidence provided to the Committee by Hon Shelley Archer, warrant the House to determine that Hon Shelley Archer should be expelled from the Parliament.

- (2) The severity of the findings of the Select Committee of Privilege on a Matter Arising in the Standing Committee on Estimates and Financial Operations in relation to the false evidence provided to the Committee by Hon Anthony Fels, warrant the House to determine that Hon Anthony Fels should be expelled from the Parliament.
- (3) Recommendations 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 be agreed to.
- (4) The House defers consideration of recommendations 1, 4, 7, 11 and 14.
- (5) Noting the findings of the Select Committee in recommendations 2, 5, 8, 12 and 15 that Mr Nathan McMahon, Hon Shelley Archer MLC, Hon Anthony Fels MLC, Mr Brian Burke and Mr Noel Crichton-Browne have provided false evidence to the Select Committee, the House refers these findings to the Director of Public Prosecutions to assess whether those persons should be prosecuted for a breach of section 57 or of any other provision of the *Criminal Code* and if of that view to commence such prosecution or prosecutions.
- (6) The House notes the Select Committee's recommendation 35 and authorises the disclosure or publication of the evidence taken by the Committee and of any documents presented to the Committee to the Director of Public Prosecutions and to any other agency or agencies to which any matter in the report is referred to the extent necessary or expedient to enable the Director of Public Prosecutions and any such agency or agencies to discharge their functions.
- (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.

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.

The Leader of the House sought advice in relation to the application of SO 326(b) regarding Hon Shelley Archer and Hon Anthony Fels voting on the motion.

*Statement by Chairman of Committees*

The Chairman of Committees made the following Statement -

The Leader of the House has raised a number of issues on which I believe he is seeking advice. He has asked me whether further consideration was given to the Deputy Chairman's earlier decision and ruling on the question of a personal interest that was raised the other day. He has also referred in particular to Standing Order 326B and other issues. I certainly have given no further consideration or taken any further advice on the matter. If the Leader of the House or any other Member had wished to disagree with the ruling of the Deputy Chairman, the appropriate time to disagree was when the ruling was first given. I will not be able to deal with all the issues raised by the Leader of the House at this stage. He asked in particular whether there was a later reference in Erskine May. I am advised that at page 148 of the twenty-second edition of Erskine May's *Parliamentary Practice* there is a reference that reads, in part -

Though the older practice of the House was to require the withdrawal of the Member under criticism as soon as he had been heard, the practice was not invariable and the House exercises its discretion according to the circumstances.

I think that may be the later reference on which the Leader of the House was inviting comment, and I acknowledge that it exists. Further, I make the observation that I have been provided with some further advice that indicates that when this matter has arisen in both this chamber and the other place on previous occasions, the Member has been given the opportunity to speak and has been said to be entitled to vote on the issue. However, because the Leader of the House has raised this matter without notice, as is his right, and because I believe that it happens to be a serious matter, it would be appropriate if I left the chair and consulted the President on the matter to establish whether the President wishes to make further comment or to direct me, as Chairman of Committees, to make further comments. I propose to leave the chair until the ringing of the bells.

*The Chairman of Committees left the Chair at 3.16pm*

*The Chairman of Committees resumed the Chair at 3.28pm*

#### *Chairman's Ruling*

The Chairman ruled as follows -

Members, I refer to the issues raised by the Leader of the House, and indicate that I have consulted the President. I uphold the original ruling provided on Tuesday, 27 November, as the additional information to which I alluded at page 148 of Eskine May's *Parliamentary Practice*, twenty-second edition, does not alter the procedures and practice of this House.

As I stated earlier, there are precedents in both this place and the other place of a Member, the subject of a contempt motion, having been entitled, and indeed having exercised that right, to vote on the motion. Standing Order 326B has no relevance to the Committee of the Whole House, as it relates to a Standing Committee.

I indicate to Members that, in future, if Members disagree with the ruling from the Chair, they are required to make immediate objection. I refer Members to Standing Order 289 in that regard.

Question, That the words to be deleted, be deleted - put.

The Committee divided.

#### **Ayes (15)**

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

#### **Noes (16)**

Hon Shelley Archer  
Hon Ken Baston  
Hon George Cash  
Hon Peter Collier  
Hon Murray Criddle  
Hon Brian Ellis  
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 Barbara Scott  
Hon Bruce Donaldson (*Teller*)

Question thus negatived.

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.

## **8. Questions Without Notice**

Questions without notice were taken.

The Minister for Child Protection representing the Minister for Health tabled, and by leave incorporated into Hansard, an answer in relation to the security of vulnerable patients, especially children, in closed wards, in response to a question without notice asked by Hon Giz Watson. (Tabled paper 3562).

The Minister for Regional Development representing the Minister for Police and Emergency Services tabled a document in relation to police guidelines for questioning suspects, OP-30, in response to a question without notice asked by Hon Norman Moore. (Tabled paper 3563).

The Minister for Local Government representing the Minister for Education and Training in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 5587 asked by Hon Peter Collier will be provided by 6 December 2007.

The Minister for Local Government representing the Minister for Education and Training in accordance with Standing Order No 138(d), advised that an answer to question on notice No. 5590 asked by Hon Brian Ellis will be provided by 6 December 2007.

The Parliamentary Secretary representing the Deputy Premier tabled, and by leave incorporated into Hansard, an answer in relation to the use of Marvel Islands by Inpex, in response to a question without notice asked by Hon George Cash. (Tabled paper 3564).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled, and by leave incorporated into Hansard, an answer in relation to detailed analysis of the predicted population for the Mid-West commissioned by the Minister, in response to a question without notice asked by Hon Brian Ellis. (Tabled paper 3565).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled, and by leave incorporated into Hansard, a copy of the Minister for Planning and Infrastructure's approval for sale of Beadon Bay Caravan Park Reserves and a copy of a letter from the Department of Planning and Infrastructure to the Shire of Ashburton, advising the Shire of the Minister's approval of the sale, in response to question on notice No. 5591 asked by Hon Norman Moore. (Tabled paper 3566).

## **9. 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.

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### **In Committee**

(Hon George Cash)

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.

*Interruption of Debate* [SO 61(c)].

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The Acting President resumed the Chair.

The 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.

**10. Bail Amendment Bill 2007**

The Acting President reported the receipt of Message No. 281 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary representing the Deputy Premier on behalf of 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 Parliamentary Secretary representing the Deputy Premier on behalf of the Minister for Child Protection representing the Attorney General moved, That the Bill be now read a second time.

Debate stands adjourned.

**11. Adjournment**

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

Debate ensued.

Question - put and passed.

The House adjourned at 5.40pm until Tuesday, 4 December 2007 at 3.30pm.

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

Attendance: Present all Members except Hon Batong Vu Pham.

**MALCOLM PEACOCK**  
Clerk of the Legislative Council

**HON NICK GRIFFITHS**  
President of the Legislative Council