

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 26

WEDNESDAY, NOVEMBER 13 2002

1. Meeting of Council

The Council assembled at 3.30pm pursuant to order.

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

2. Ministerial Statement - Volunteers (Protection from Liability) Bill 2002

The Parliamentary Secretary to the Minister for Health made a Ministerial Statement with respect to the *Volunteers (Protection from Liability) Bill 2002*.

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

3. Ministerial Statement - Department of Land Administration - Restructure

The Parliamentary Secretary to Minister for Planning and Infrastructure made a Ministerial Statement with respect to the restructure of the Department of Land Administration (DOLA).

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

4. Papers

The following Papers were laid on the Table by -

President

Auditor General's Papers -

Grounds for Improvement: Government Owned or Controlled Contaminated Sites
(Report No. 6) (November 2002) 451

Leader of the House

Reports -

Consultants engaged by Government for the six months ended 30 June 2001 452

Consultants engaged by Government for the six months ended 31 December 2001 453

Minister for Racing and Gaming

Annual Reports -

Betting Control Board (2001-2002) (Date received 12/11/2002) 454

Goldfields Esperance Development Commission (2001-2002) (Date received 12/11/2002) 455

Reports -

Western Australian Treasury Corporation Quarterly Report for the quarter ended
30 September 2002..... 456

5. Wildlife Conservation (Fauna Protection) Amendment Bill 2002

Hon Christine Sharp: To move on the next day of sitting -

That a Bill for “An Act to provide for the conservation and protection of fauna in cases where habitats are likely to suffer damage, or fauna will be subjected to interference or damage by intrusive activity, by amending the *Wildlife Conservation Act 1950* and including production contracts formed under the *Forest Products Act 2000*” be introduced and read a first time.

6. Australian Involvement in Military Action in Iraq

Motion No. 6 having been called.

Debate resumed on the motion of Hon Dee Margetts as follows -

That this House notes -

- (1) The recent comments from the Prime Minister and Minister for Foreign Affairs regarding Australia’s possible support for US military action in Iraq.
- (2) That these comments were made in the absence of any United Nations resolution or processes.
- (3) The threat to the livelihood of Western Australian agricultural producers and exporters in light of the Prime Minister’s indication that any request for Australian assistance would be considered against the “national interest test”.
- (4) The statements from Labour Leader Simon Crean that Mr Howard’s and Mr Downer’s statements are out of step with other international opinion.
- (5) The likely impact on the civilian population, particularly women and children.

Therefore, the Legislative Council informs the Federal Government that it does not support Australian involvement in military action in Iraq without UN backing.

Debate ensued.

Interruption of Debate [SO 195].

7. Statement by President - Contingent Notice of Motion

The President made the following Statement -

Yesterday at the request of the Minister for Housing and Works on a Point of Order I said that I would consider a Notice of Motion given by Hon Peter Foss, which appeared to contain a contingent element. The Minister referred to what he understood to be a ruling by a former President. In fact, it was a statement by Hon George Cash on June 24 1998 that ended with a request that Members refrain from moving contingent motions that would have a disruptive effect on the ordinary routine of business.

Contingent motions, although not described as such, are a common feature of the practice of this House. A motion to discharge an Order of the Day, or to give an instruction to a Committee, are both contingent in that they are dormant until the relevant Order of the Day is called.

I agree with the approach taken by Deputy President Cash. A motion is not out of order because it is made contingent on something else happening in the course of a day’s proceedings. If, as seems to be the case in the Senate, a practice of using contingent motions to avoid other, more stringent requirements of the rules started to emerge, there would be cause for concern. Members of this House have not as yet demonstrated such a tendency.

When Order of the Day No. 72 is reached at today's sitting, the House will resume debate on the question for discharge of the second reading of the Bill and its referral instead to the Standing Committee on Public Administration and Finance. Were that question to be resolved affirmatively, Hon Peter Foss' motion would fall, for the simple reason that the contingency - the Order of the Day - had been discharged and no longer exists. If the discharge motion is lost, other issues may need further consideration.

8. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the amendment of Hon Bruce Donaldson as follows -

That the following words be added to the end of the motion -

“

but regret to inform your Excellency that the Government is failing in its administration of the State of Western Australia.

”.

to the motion of Hon Sue Ellery as follows -

That the following address be presented to His Excellency -

To His Excellency, Lieutenant General John Murray Sanderson, Companion of the Order of Australia, Governor in and over the State of Western Australia and its dependencies in the Commonwealth of Australia.

May it please Your Excellency -

We, the Members of the Legislative Council of the Parliament of Western Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the Speech you have been pleased to deliver to Parliament.

Debate resumed.

Point of Order

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

I raise this Point of Order on the relevance of the Member's speech. The motion is an amendment to the Address-in-Reply motion, and it relates to questions about the Government's administration of the State. I understand that it is the convention that when a Member has already spoken on the substantive issue - that is, the Address-in-Reply - it is the practice to confine debate on an amendment to the narrow terms of the amendment. The narrow terms of the amendment - if an amendment as broad as this amendment can be defined in narrow terms, because it deals with the whole question of administration - nonetheless should be observed, particularly given the careful wording of the amendment dealing with such a broad issue.

President's Ruling

The President ruled as follows -

I take a broader view than the Leader of the House with respect to the definition of administration in the amendment. Indeed, listening to the Member's speech, one could take the view that the concern she was mentioning about the forest policy, the firebreak policy and so on is pertinent to the administration of the State, not in a narrow definition of administration. I take the point that the Member may need to relate any forthcoming comments to the amendment, not to the state of the Green Party or their prospect in other jurisdictions, which is pushing the definition of the amendment of relevance to administration of this State. However, most of speech I have heard has so far been relevant to the amendment and I trust the Member will ensure the balance is relevant.

9. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary to the Minister for State Development tabled documents in relation to a list of companies receiving State Government financial assistance for the last four financial years in response to question on notice No. 215 asked by Hon Jim Scott. (Tabled paper 457).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure in accordance with Standing Order No 138(d), provided a response to question on notice No. 207 asked by Hon Robin Chapple, questions on notice Nos 210 and 211 asked by Hon Jim Scott and question on notice No. 222 asked by Hon Barry House.

10. Address-In-Reply

Debate resumed on the amendment of Hon Bruce Donaldson to the Address-in-Reply (cf item 8 above).

On the motion of Hon Alan Cadby the debate was adjourned to the next sitting.

11. Standing Committee on Procedure and Privileges - Sixth Report - Standing Order 61A - Consideration of Committee Reports

Hon George Cash presented the Sixth Report of the Standing Committee on Procedure and Privileges in relation to the Standing Order 61A - Consideration of Committee Reports. (Tabled paper 458).

Hon George Cash moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

12. Insurance Commission of Western Australia 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 and passed.

Bill read a second time.

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

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

Question - put and passed.

Bill read a third time and passed.

13. Civil Liability 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 (20)

Hon Alan Cadby
Hon George Cash
Hon Kim Chance
Hon Murray Criddle
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 Norman Moore
Hon Simon O'Brien
Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Bill Stretch
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (6)

Hon Paddy Embry
Hon John Fischer
Hon Frank Hough

Hon Dee Margetts
Hon Giz Watson
Hon Jim Scott (*Teller*)

Question thus passed.

The Deputy President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clauses 1 to 6 agreed to.

Clause 7.

Debate ensued.

Clause agreed to.

Clause 8 agreed to.

Clause 9.

Debate ensued.

Question - put.

The Committee divided.

Ayes (19)

Hon Alan Cadby
Hon George Cash
Hon Kim Chance
Hon Murray Criddle
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 Norman Moore
Hon Simon O'Brien
Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Bill Stretch
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (6)

Hon Paddy Embry
 Hon John Fischer
 Hon Dee Margetts

Hon Jim Scott
 Hon Giz Watson
 Hon Frank Hough (*Teller*)

Question thus passed.

Clause 10 agreed to.

Clause 11.

Debate ensued.

Clause agreed to.

Clauses 12 to 16 agreed to.

Clause 17.

Debate ensued.

Clause agreed to.

Clauses 18 to 22 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported without amendment.

Report adopted.

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

The Deputy President having reported that the Deputy 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.

14. Order of Business

Ordered - That Order of the Day Nos. 22, 105 and 106 be taken before Order of the Day No. 72. (Leader of the House).

15. Fire and Emergency Services Legislation Amendment Bill 2001

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 Simon O'Brien in the Chair)

Clause 24 agreed to.

Clause 25.

Debate ensued.

Clause agreed to.

Clauses 26 to 39 agreed to.

Clause 40.

The Minister for Racing and Gaming moved -

Page 37, line 1 - To insert after “CALM” -

“ Act ”.

Page 37, line 4 - To insert after “CALM” -

“ Act ”.

Page 37, line 8 - To insert after “CALM” -

“ Act ”.

Amendments - put and passed.

Clause, as amended, agreed to.

Clauses 41 to 74 agreed to.

Postponed Clause 9 agreed to.

Postponed Clause 13.

The Minister for Racing and Gaming moved -

Page 21, after line 14 - To insert -

“

(3) Section 37(5) is amended by deleting “the property damaged, lost or injured,” and inserting instead —

“ that property against damage by fire, ”.

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Title agreed to.

The Deputy 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 Deputy President having reported that the Deputy 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.

16. Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill 2002

The Order of the Day having been read.

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

On the motion of Hon Alan Cadby the debate was adjourned to the next sitting.

17. Emergency Services Levy Bill 2002

The Order of the Day having been read.

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

On the motion of Hon Alan Cadby the debate was adjourned to the next sitting.

18. Order of Business

Ordered - That Order of the Day No. 77 be taken before Order of the Day No. 72. (Leader of the House).

19. Workers' Compensation and Rehabilitation (Acts of Terrorism) 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 and passed.

Bill read a second time.

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

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

Question - put and passed.

Bill read a third time and passed.

20. Railway (Jandakot to Perth) Bill 2002

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

Debate resumed on the motion of Hon Simon O'Brien as follows -

That the Order of the Day for the second reading of the Bill be discharged and the Bill be referred to the Standing Committee on Public Administration and Finance.

The Parliamentary Secretary to the Minister for Planning and Infrastructure, by leave, tabled documents in relation to the Perth Urban Rail Development. (Tabled paper 459).

The Parliamentary Secretary to the Minister for Planning and Infrastructure, by leave, tabled documents in relation to information requested by various Members regarding the Perth Urban Rail Development. (Tabled paper 460).

Question - put.

The House divided.

Ayes (12)

Hon George Cash
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan

Hon Frank Hough
Hon Barry House
Hon Norman Moore
Hon Simon O'Brien
Hon Bill Stretch
Hon Alan Cadby (*Teller*)

Noes (13)

Hon Kim Chance
 Hon Sue Ellery
 Hon Adele Farina
 Hon Jon Ford
 Hon Graham Giffard
 Hon Nick Griffiths
 Hon Dee Margetts

Hon Louise Pratt
 Hon Ljiljanna Ravlich
 Hon Jim Scott
 Hon Ken Travers
 Hon Giz Watson
 Hon Ed Dermer (*Teller*)

Question thus negatived.

21. Hon Peter Foss - Personal Explanation - Motion No. 9, Perth Urban Rail Development - Tabling of Questions and Referral to Standing Committee on Public Administration and Finance

Hon Peter Foss, by leave, made a personal explanation [SO 85] regarding Motion No. 9, *Perth Urban Rail Development - Tabling of Questions and Referral to Standing Committee on Public Administration and Finance*.

22. Acts Amendment (Student Guilds and Associations) Bill 2002

The President reported the receipt of Message No. 27 from the Legislative Assembly forwarding the Bill for concurrence.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Parliamentary Secretary to the Minister for Planning and Infrastructure moved, That the Bill be now read a second time.

Debate stands adjourned.

23. Home Building Contracts Amendment Bill 2002

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 28

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Home Building Contracts Amendment Bill 2002*.

Dianne Guise

Deputy Speaker

Legislative Assembly Chamber

Perth, 13 November 2002

24. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 11.30pm until Thursday, November 14 2002 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Robin Chapple, Hon Bruce Donaldson and Hon Tom Stephens.

L B MARQUET

Clerk of the Legislative Council

HON JOHN COWDELL

President of the Legislative Council