

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 24

THURSDAY, NOVEMBER 7 2002

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

2. Ministerial Statement - City of South Perth

The Minister for Local Government and Regional Development made a Ministerial Statement with respect to the Inquiry into the City of South Perth, its findings and process.

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

3. Papers

The following Papers were laid on the Table by -

Leader of the House

Annual Reports -

Fisheries, Department of (2001-2002) (Date received 06/11/2002)..... 434

Minister for Housing and Works

Annual Reports -

Water Regulation, Office of (2001-2002) (Date received 06/11/2002) 435

Minister for Racing and Gaming

Annual Reports -

Justice, Department of (2001-2002) (Date received 06/11/2002) 436

Parliamentary Secretary to the Minister for Planning and Infrastructure

Annual Reports -

Sport and Recreation, Department of (2001-2002) (Date received 06/11/2002) 437

4. Industrial Relations Commission Amendment Regulations (No. 2) 2002 - Disallowance

Hon Ray Halligan: To move on the next day of sitting -

That the *Industrial Relations Commission Amendment Regulations (No. 2) 2002* published in the *Gazette* on September 13 2002 and tabled in the Legislative Council on September 17 2002, under the *Industrial Relations Act 1979*, be and are hereby disallowed.

5. Metropolitan Region Scheme Amendment No. 1028/33 - South East Districts Omnibus (No. 5) - Disallowance

Hon Jim Scott: To move on the next day of sitting -

That the *Metropolitan Region Scheme Amendment No. 1028/33 - South East Districts Omnibus (No. 5)* published in the *Gazette* on September 20 2002 and tabled in the Legislative Council on September 24 2002, under the *Metropolitan Region Scheme Town Planning Scheme 1959*, be and is hereby disallowed.

6. Order of Business - Animal Welfare Bill 2001

Hon Norman Moore pursuant to notice, moved -

That the Order of the Day for the *Animal Welfare Bill 2001* be made the first Order of the Day for Tuesday, November 12 2002.

Debate ensued.

The Leader of the House moved -

To insert after "2002 -

“

subject however to the *Railway (Jandakot to Perth) Bill 2002* having passed the House before that date.

”.

Debate ensued.

Amendment - put.

The House divided.

Ayes (9)

Hon Kim Chance
Hon Sue Ellery
Hon Jon Ford
Hon Graham Giffard
Hon Nick Griffiths

Hon Ljiljanna Ravlich
Hon Tom Stephens
Hon Ken Travers
Hon Kate Doust (*Teller*)

Noes (18)

Hon Alan Cadby
Hon George Cash
Hon Robin Chapple
Hon Murray Criddle
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Robyn McSweeney
Hon Dee Margetts

Hon Norman Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Jim Scott
Hon Christine Sharp
Hon Bill Stretch
Hon Derrick Tomlinson
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Amendment thus negatived.

Question - That the motion be agreed to - put.

The House divided.

Ayes (18)

Hon Alan Cadby
Hon George Cash
Hon Robin Chapple
Hon Murray Criddle
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Robyn McSweeney
Hon Dee Margetts

Hon Norman Moore
Hon Simon O'Brien
Hon Barbara Scott
Hon Jim Scott
Hon Christine Sharp
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Hon Derrick Tomlinson
Hon Giz Watson
Hon Bruce Donaldson (*Teller*)

Noes (9)

Hon Kim Chance
Hon Sue Ellery
Hon Jon Ford
Hon Graham Giffard
Hon Nick Griffiths

Hon Ljiljanna Ravlich
Hon Tom Stephens
Hon Ken Travers
Hon Kate Doust (*Teller*)

Question thus passed.

7. 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].

8. Consideration of Committee Reports

The Order of the Day having been read for the consideration of Committee reports.

The President left the Chair.

In Committee

(Hon John Cowdell in the Chair)

Standing Committee on Procedure and Privileges - Fifth Report - Standing Order No. 73 - Time Limits on Speeches

Hon George Cash moved, That the recommendations of the Standing Committee on Procedure and Privileges Report No. 5 be adopted and agreed to.

Point of Order

Hon Norman Moore raised the following Point of Order -

In view of the fact that we are now beginning an hour earlier, will the President indicate to me at what time this session will conclude? Will it conclude at 12 o'clock.

President's Ruling

The President ruled as follows -

No, it will run for an hour.

Debate resumed.

President's Ruling

The President ruled as follows -

Before I give the Leader of the House the call, the Leader of the Opposition raised a Point of Order with me and I have had a close look at Standing Order No. 61A. The black letter of the Standing Order in that regard is that the Consideration of Committee Reports has precedence on each Thursday over other Orders of the Day until 1.00pm. In the normal commencement at 11.00am on a Thursday, that would take it from 12.00noon to 1.00pm. Because we commenced at 10.00am today, the Standing Order effectively requires two hours to be spent considering committee reports. I indicate that if the Leader of the House or anyone else wants an adjustment to the traditional hour of consideration, we will need to report progress, seek leave to sit again at a later stage of this day's sitting and adopt the Report. Then the motion that we consider committee reports only until 12.00noon can be moved and we can go back into Committee; that is if Members want to it to be the traditional hour. Otherwise, I indicate to Members that by virtue of Standing Order No. 61A, debate will continue until one o'clock.

Debate resumed.

The Leader of the House moved, That progress be reported and leave asked to sit again at a later stage of this day's sitting.

Debate ensued.

Question - put and passed.

The Deputy President resumed the Chair.

The President reported that the Committee of the Whole House had considered the -

Standing Committee on Procedure and Privileges - Fifth Report - Standing Order No. 73 - Time Limits on Speeches had made some progress and seeks leave to sit again at a later stage of this day's sitting.

Ordered - That the Committee have leave to sit again at a later stage of this day's sitting.

9. Suspension of Standing Orders - Consideration of Committee Reports

The Leader of the House moved, without notice -

That so much that Standing Orders be suspended to enable Consideration of Committee Reports continue until 12.12pm.

Debate ensued.

Hon Norman Moore moved -

To delete "12.12pm" and substitute -

" 12.00 noon ".

Amendment - put and passed.

Question - That the motion, as amended, be agreed to.

The motion requiring the concurrence of an absolute majority.

Question - put.

The Deputy 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.

10. Order of Business

Ordered - That Order of the Day No. 51(1) be taken forthwith. (Leader of the House).

11. Consideration of Committee Reports

Pursuant to the Order of the House.

The Order of the Day having been read for the consideration of Committee reports.

The Deputy President left the Chair.

In Committee

(Hon John Cowdell in the Chair)

The President made the following Statement -

Given the recently concluded debate, it may be appropriate that the Standing Committee on Procedure and Privileges consider at its Tuesday meeting a recommendation for an enactment forthwith to make the Standing Order applicable to one full hour. In that way we will not get into any trouble and the one full hour will be secured rather than, as pointed out by the Leader of the Opposition, its being concertinaed down to 40 minutes or 20 minutes or its blowing out to two hours. The House can then address the matter by way of amendment to Standing Orders. I will bring that matter before the Standing Committee on Procedure and Privileges on Tuesday and, hopefully, the Committee will make a recommendation to that effect.

Standing Committee on Procedure and Privileges - Fifth Report - Standing Order No. 73 - Time Limits on Speeches

Debate resumed on the motion of Hon George Cash, That the recommendations of the Standing Committee on Procedure and Privileges Report No. 5 be adopted and agreed to.

Interruption of Debate pursuant to order.

12. 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.

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

13. Home Building Contracts Amendment Bill 2002

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

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 8 agreed to.

Clause 9.

The Minister for Racing and Gaming moved -

Page 3, after line 10 - To insert -

“
“builder” includes, in addition to the meaning given by the definition in section 3(1), a person who is registered under the *Builders’ Registration Act 1939*, whether or not the person carries on a business referred to in that definition;

”.

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 4, lines 14 to 16 - To delete the lines and insert instead -

“
 (2) Section 25A is amended by deleting the definition of “owner-builder” and inserting the following definition instead —

“
“owner-builder”, in relation to a dwelling, means —

- (a) a person who constructs the dwelling under a building licence issued to that person in accordance with section 4A(1)(c) of the *Builders’ Registration Act 1939*; or

- (b) a person who —
 - (i) is registered under the *Builders' Registration Act 1939*;
 - (ii) constructs the dwelling for himself or herself as his or her principal place of residence and not for immediate sale; and
 - (iii) was issued a building licence for the residential building work for the dwelling when no policy of insurance that complies with Division 2 was in force, or no corresponding cover (of the type referred to in section 25DA) was provided by an approved fund, in relation to the residential building work;

”
.”

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 10.

The Minister for Racing and Gaming moved -

Page 4, after line 21 - To insert -

“

- (1) Section 25B(1) is amended by deleting “subsection (2)” and inserting instead —

“ this section ”.

”.

Page 4, after line 23 - To insert -

“

- (3) After section 25B(2) the following subsections are inserted —

“

- (3) This Division does not apply to residential building work that is, or is to be, performed by a builder who is a natural person, if —
 - (a) the residential building work is to construct a dwelling for the builder as his or her principal place of residence and not for immediate sale; and
 - (b) the builder has given the Builders' Registration Board a statutory declaration verifying that he or she has not, within the last 6 years, obtained a building licence for residential building work in respect of which no insurance was required because of this subsection.
- (4) The Minister may order that subsection (3)(b) has effect in relation to particular residential building work as if the 6 year period referred to were reduced to the lesser period specified in the order, if the Minister is satisfied that —
 - (a) the application for the order arises from a change in the circumstances of the person; and
 - (b) the person would suffer hardship if the application were refused.

(5) In subsection (3) —

“**insurance**” means a policy of insurance that complies with Division 2, or corresponding cover provided by an approved fund.

”
.”

Debate ensued.

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 11 agreed to.

Clause 12.

Debate ensued.

Hon Barry House, by leave, tabled documents in relation to the Western Australian Housing Industry (1998-2002) Perth Metropolitan Area Market Share by Dwelling Number and Value by Builder. (Tabled paper 438).

Clause agreed to.

Clause 13 agreed to.

Clause 14.

The Minister for Racing and Gaming moved -

Page 7, line 1 - To insert after “**replaced**” -

“ **by sections 25F and 25FA** ”.

Page 7, line 2 - To delete “section is” and insert instead -

“ sections are ”.

Page 7, after line 26 - To insert -

“

25FA. Further restrictions on sale by certain owner-builders

- (1) A person to whom paragraph (b) of the definition of “owner-builder” applies in relation to a dwelling must not, within 3 years of the date of issue of the building licence to the person for the dwelling, sell or otherwise dispose of the land on which the dwelling was constructed unless the Minister by order otherwise consents.

Penalty: \$10 000.

- (2) Before making an order under subsection (1), the Minister is to be satisfied that —

- (a) the application for the order arises from a change in the circumstances of the person; and
- (b) the person would suffer hardship if the application were refused.

- (3) Subsection (1) does not apply to a person in relation to a dwelling if the building licence for the dwelling was issued to the person during a period specified in an order made under section 25I for the purposes of section 25C(3).

”.

Amendments - put and passed.

Clause, as amended, agreed to.

Clause 15 agreed to.

Clause 16.

Debate ensued.

Clause agreed to.

Clauses 17 to 21 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 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. Extension of Sitting Hours

The Leader of the House moved, without notice -

That the House do sit beyond 6.00pm or until necessary to ensure that passage of the Orders of the Day No. 36, *Animal Welfare Bill 2001*.

Debate ensued.

Point of Order

The Minister for Local Government and Regional Development raised the following Point of Order -

I ask you to consider that the motion moved by the Leader of the House does not in fact contradict the motion earlier moved and carried by the House. Rather, it simply advances Order of the Day No. 36 for resolution. It may well be that the House, in considering Order of the Day No. 36, may not be able to bring that item to resolution before we adjourn. In that circumstance it is possible that the *Animal Welfare Bill* would still be in front of the House when we come back on Tuesday. Therefore, the Bill could be dealt with pursuant to the motion moved and carried by the Opposition when it seized control of the Government's agenda.

Standing Order No. 129 provides that -

Any motion connected with the conduct of the business of the Council may be moved by a Minister at any time without notice.

This motion simply endeavours to utilise that Standing Order. I encourage you, Mr Deputy President, to recognise that it would still be possible for this motion to be carried by a simple majority of the House without in any way requiring a rescission of the earlier motion. The intent of the earlier motion was obviously to expeditiously advance the passage of the *Animal Welfare Bill*. The current motion enhances the capacity of the House to expedite the passage of that Bill - before next Tuesday. The Bill could be passed by six o'clock this evening. However, if amendments are moved, it may be necessary for the final stages of the Bill to be dealt with next Tuesday. I do not think that you had got to the point of making a ruling, Mr Deputy President. I encourage you to not go down that path.

Deputy President's Ruling

The Deputy President ruled as follows -

I have listened to the comments of the Minister for Local Government and Regional Development. I was concerned about the motion because it seeks to have the House sit not only beyond 6.00pm - there is nothing wrong with that part of the motion - but also until necessary to ensure the passage of the *Animal Welfare Bill*. My understanding of the words "to ensure passage of the *Animal Welfare Bill 2001*" is that the Government wishes to complete the passage of the Bill through this House tonight. If that were done, it would contradict what was agreed to earlier this morning. If that is not the intention of the motion, I am happy to allow the matter to progress, but certain words will have to be removed from the motion. There is nothing wrong with sitting beyond 6.00pm, if that is the will of the House. There is nothing wrong with advancing the *Animal Welfare Bill* on the Notice Paper. However, the House agreed that this Bill would be listed as the first item of business on Tuesday, November 12. If the motion before the House is agreed to, it will ensure that that Bill is not listed on Tuesday, because the House will complete the passage of the Bill tonight. There is some confusion as to the intent of the motion.

Debate resumed.

The Minister for Local Government and Regional Development moved, by leave to amend the motion be deleting the words "that passage of the Orders of the Day No. 36, *Animal Welfare Bill 2001*" and substituting instead -

“ for the purpose of considering Order of the Day No. 36 ”.

Debate ensued.

Amendment - put and negatived.

Motion thus ruled out of order.

15. Order of Business

Ordered - That Order of the Day No. 36 be taken forthwith. (Leader of the House).

16. Animal Welfare Bill 2001

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

Debate resumed.

17. Questions Without Notice

Questions without notice were taken.

The Minister for Agriculture, Forestry and Fisheries tabled documents in relation to Australian Forestry Standards (A.F.S) in response to a question without notice asked by Hon Christine Sharp. (Tabled paper 439).

The Parliamentary Secretary representing the Minister for State Development tabled documents in relation to the Burrup Peninsular Rock Art Monitoring Reference Committee in response to a question without notice asked by Hon Robin Chapple. (Tabled paper 440).

The Parliamentary Secretary representing the Minister for Health tabled documents in relation to the ambulance by-pass for each hospital with a public emergency facility for the period July 1 2002 to August 30 2002 in response to question on notice No.200 asked by Hon Norman Moore. (Tabled paper 441).

18. Animal Welfare Bill 2001

Debate resumed on the second reading of this Bill (cf item 16 above).

The Minister for Local Government and Regional Development moved, That the debate be adjourned to a later stage of this day's sitting.

Question - put and passed.

19. Order of Business

Ordered - That Order of the Day No. 77 be taken forthwith. (Minister for Housing and Works).

20. Workers' Compensation and Rehabilitation (Acts of Terrorism) 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 Bruce Donaldson the debate was adjourned to the next sitting.

21. Order of Business

Ordered - That Order of the Day No. 36 be taken forthwith. (Leader of the House).

22. Animal Welfare Bill 2001

Pursuant to the Order of the House.

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.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1 agreed to.

Clauses 2 to 18 agreed to.

Clause 19.

Debate ensued.

Interruption of Debate [SO 61(c)].

23. Volunteers (Protection from Liability) Bill 2002

The following Message from the Legislative Assembly was reported -

Mr President

Message No. 26

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Volunteers (Protection from Liability) Bill 2002*.

Katie Hodson-Thomas

Acting Speaker

Legislative Assembly Chamber

Perth, 7 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 6.11pm until Tuesday, November 12 2002 at 3.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina and Hon Louise Pratt.

L B MARQUET

Clerk of the Legislative Council

HON JOHN COWDELL

President of the Legislative Council