

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 18

THURSDAY, OCTOBER 17 2002

1. Meeting of Council

The Council assembled at 11.00am pursuant to order.

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

2. Petitions

Hon Paddy Embry presented a petition, by delivery to the Clerk, [SO 130], from 506 residents of Western Australia requesting the supply of electricity to Windy Harbour. (Tabled paper 351).

Hon Simon O'Brien presented a petition from 46 residents of Western Australia opposing the Government's decision to change the route from Kenwick to the Kwinana Freeway reserve. (Tabled paper 352).

3. Statement by President - Clerks Assistant and Usher of the Black Rod - Appointment

The President made the following Statement -

I advise Members that on my recommendation the Governor in Executive Council has appointed Malcolm Peacock, Mia Betjeman and Nigel Pratt as Clerks Assistant to the Legislative Council and Malcolm Peacock as Usher of the Black Rod. The Clerks Assistant will serve as table officers and assist the Clerk in discharging his duties and functions. I am sure the House will join with me in congratulating them on their appointments.

4. Paper

The following Paper was laid on the Table by -

Leader of the House on behalf of the Minister for Housing and Works

Annual Reports -

Conservation and Land Management, Department of (2001-2002)
(Date received 16/10/2002)..... 350

5. Standing Committee on Uniform Legislation and General Purposes - Third Report - Censorship Amendment Bill 2002

Hon Adele Farina presented the Third Report of the Standing Committee on Uniform Legislation and General Purposes in relation to the *Censorship Amendment Bill 2002*. (Tabled paper 353).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

6. Standing Committee on Uniform Legislation and General Purposes - Fourth Report - Trans-Tasman Mutual Recognition (Western Australia) Bill 2002

Hon Adele Farina presented the Fourth Report of the Standing Committee on Uniform Legislation and General Purposes in relation to the *Trans-Tasman Mutual Recognition (Western Australia) Bill 2002*. (Tabled paper 354).

Hon Adele Farina moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

7. Standing Committee on Uniform Legislation and General Purposes - National Crime Authority (State Provisions) Amendment Bill 2002 - Extension of Reporting Time

Hon Adele Farina presented a Report of the Standing Committee on Uniform Legislation and General Purposes in relation to the *National Crime Authority (State Provisions) Amendment Bill 2002* seeking an extension of time from October 17 2002 to November 14 2002. (Tabled paper 355).

Hon Adele Farina moved, That the Report do lie upon the Table and be adopted and agreed to.

Question - put and passed.

8. Joint Standing Committee on the Anti-Corruption Commission - First Report - Annual Report (2001-2002)

Hon Derrick Tomlinson presented the First Report of the Joint Standing Committee on the Anti-Corruption Commission in relation to the Annual Report (2001-2002). (Tabled paper 356).

Hon Derrick Tomlinson moved, That the Report do lie upon the Table and be printed.

Question - put and passed.

9. Standing Committee on Environment and Public Affairs - Order of Reference

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

In relation to the use of 245T and related toxins (the “**chemicals**”) by the Agriculture Protection Board (the “**APB**”), the Standing Committee on Environment and Public Affairs inquire into and report to the House on the following -

- (a) the sources of supply, and the terms and conditions under which the chemicals were supplied to or acquired by the APB;
- (b) the purpose and extent of the use of the chemicals by the APB;
- (c) the form and content of the regulatory regime, and the physical conditions, under which the chemicals were supplied, stored, transported, handled, and disposed of by the APB;
- (d) the extent to which, and the means by which, the APB knew, or could reasonably be expected to know, of the dangers to human health associated with exposure to, or the use of the chemicals, and the degree of diligence exercised by the APB so as to ensure the currency of its knowledge;
- (e) the measures taken by the APB from time to time to protect its employees or contractors from unnecessary or potentially harmful exposure to the chemicals, and the criteria adopted by the APB in developing appropriate safety standards;
- (f) the response of the APB to health-related complaints from former employees or contractors allegedly caused by their exposure to or use of the chemicals; and
- (g) any other matter relevant to the matters contained in the preceding paragraphs.

10. Select Committee into the Fremantle Eastern Bypass - Establishment

Motion No. 5 having been called.

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

- (1) That a Select Committee of five Members is appointed, any three of whom constitute a quorum, to inquire and report on the history of that part of the Metropolitan Region Scheme known as the Fremantle Eastern Bypass and related road infrastructure including -
 - (a) initial inclusion of the bypass in the Metropolitan Region Scheme;
 - (b) subsequent modifications to the Metropolitan Region Scheme in respect of the bypass;
 - (c) the decision making process and advice given to Government by relevant Government agencies including agencies responsible for Main Roads, Planning, Transport and Environment;
 - (d) directions given by Government to agencies with responsibility for decision making; and
 - (e) other matters pertaining to the history and possible future of the Fremantle Eastern Bypass that the Committee may consider useful to bring to the attention of the House.
- (2) The Committee have power to send for persons, papers and records and to travel from place to place.
- (3) Standing Orders 322, 323, 330 and 331 apply to the proceedings of the Committee and any contrary or inconsistent provision of Chapter XXIII is modified accordingly.
- (4) The Committee may present interim reports without a requirement for leave is to report finally not later than November 30 2002.

Hon Norman Moore moved -

That the words "That a Select Committee of five Members is appointed, any three of whom constitute a quorum" be deleted and the following words be substituted -

" That the Standing Committee on Public Administration and Finance be required "

Debate ensued.

Hon Simon O'Brien, by leave, tabled documents in relation to the deletion from the Metropolitan Region Scheme through the MRS Amendment process of the Fremantle Eastern Bypass. (Tabled paper 357)

Interruption of Debate [SO 195].

11. 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 - Fourth Report - Part I - Deletion of Reference in certain Standing Orders to Requirement for "Seconding" and Part II - SO 230 Adjournment of Debate at Conclusion of Second Reading Speech

Hon George Cash moved, That the Report be noted and the recommendations of the Committee set out in Report No. 4 be agreed to and the relevant Standing Orders be amended accordingly.

Debate ensued.

Question - put and passed.

The Leader of the House moved -

That Order of the Day No. 51(3) be taken before Order of the Day No. 51(2).

Question - put and passed.

Standing Committee on Environment and Public Affairs - Second Report - Sessional Report on Inquiries and Petitions - January 1 2002 to August 9 2002

Hon Kate Doust moved, That the Report be noted.

Debate ensued.

Interruption of Debate [SO 61A].

The President resumed the Chair.

The Chairman of Committees reported that the Committee of the Whole House had considered the -

Standing Committee on Procedure and Privileges - Fourth Report - Part I - Deletion of Reference in certain Standing Orders to Requirement for "Seconding" and Part II - SO 230 Adjournment of Debate at Conclusion of Second Reading Speech and had adopted and agreed to same.

Standing Committee on Environment and Public Affairs - Second Report - Sessional Report on Inquiries and Petitions - January 1 2002 to August 9 2002 and had made some progress.

Report adopted.

12. Address-In-Reply

The Order of the Day having been read for the adjourned debate on the Address-in-Reply.

Debate resumed.

Point of Order

The Minister for Racing and Gaming raised the following Point of Order -

I refer to Standing Order No. 97. Hon Peter Foss has referred to Hon Bob Kucera. The words used offend the Standing Order in that they reflect personally on the Minister for Health.

Deputy President's Ruling

The Deputy President ruled as follows -

I am interested in the Point of Order because I too had Standing Order No. 97 open to refresh my memory when Hon Peter Foss was referring to a person by the name of Kucera. Hon Peter Foss has made it clear that he is relying on a poster and is suggesting that others printed a poster with certain words on it. To date, the qualifications made by the Member would not constitute a breach of Standing Order No. 97. However, if there is any attempt to impute improper motives to Hon Bob Kucera, who is the Minister for Health and a Member in the other place, I will be drawing Hon Peter Foss's attention to the Standing Order. It is possible in a debate to relate to a fact as one knows it and to date that is what has occurred. I am listening very carefully to what is being said.

Debate resumed.

Point of Order

The Minister for Racing and Gaming raised the following Point of Order -

I am looking at Standing Order No. 97. Hon Peter Foss is quoting from a document. As I understand it, he is using the words of somebody else. However, he is still using words and those words are in reference to another Member of Parliament, Hon Bob Kucera, and those words impute improper motives and/or personally reflect on that Member. I object to those words being used because I think it is inappropriate that an imputation of improper motive or a personal reflection be made.

Deputy President's Ruling

The Deputy President ruled as follows -

I understand that the statement that has been referred to has been raised by Hon Peter Foss in support of a view that he is putting that the Government should take action over an issue that he has raised. It is true that Hon Peter Foss has referred to the statements of another and it seems to me that he should qualify at some stage that he is referring to the statement of another and that he believes that statement is material and relevant to the view that he had represented and it is not intended by him to cast any imputation of improper motives about a Member of the other House. In the end, if Standing Order No. 97 were taken to its clinical conclusion, very little would be said about anyone in this place without attracting that view.

I reached for my Standing Orders before the Minister for Racing and Gaming because I anticipated what could have been said and I will not have any reflection on another Member in breach of Standing Order No. 97. Tempered by my comments, I must also have regard for the ability for there to be robust debate on various issues in this place. I am listening intently to ensure that there is no direct imputation of improper motives or personal reflections by the Member speaking against a Member of the other House and, if there is, I intend to stop the Member immediately.

At the moment, the Member is apparently referring to another statement. However, we are all Members of a House of Parliament, whether it be the Legislative Council or the Legislative Assembly. I must have regard for the interests of Members of the Legislative Assembly as I do for those of the Legislative Council. Hon Peter Foss has been in this Parliament long enough to understand and know the meaning of Standing Order No. 97. It is fair to say that he has couched his remarks having regard for the provisions of Standing Order No. 97. However, the Honourable Member did not take up my previous suggestion. Therefore, I say again that he should confirm to the House that he, as a Member of this place, is not intending by his comments to raise any imputations of improper motives or personal reflections against a Member of the other House, Hon Bob Kucera, the Minister for Health. Earlier in the Member's speech, he mentioned the name Kucera and I did not stop the Member there and then - perhaps I was wrong - to qualify whether he was referring to Mr Kucera, the Honourable Member in the other House and Minister for Health, or Mr Kucera, a former member of the Western Australia Police Force, or some other Mr Kucera. It is not unreasonable to raise issues that might reflect on someone's previous employment. Notwithstanding that, if that same person is a Member of the other House, then Standing Order No. 97 will come into play.

Debate resumed.

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

13. Grain Marketing Bill 2002 and Bulk Handling Amendment Bill 2002

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 George Cash in the Chair)

Grain Marketing Bill 2002

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Hon Murray Criddle moved -

Page 4, lines 8 to 10 - To delete the words "from amongst persons who would not be eligible for appointment under another paragraph".

Debate ensued.

Amendment - put and passed.

Hon Murray Criddle moved -

Page 4, lines 19 to 21 - To delete the lines and insert instead -

“

have experience in financial markets, international trade,
marketing, law or other such relevant field

”.

Debate ensued.

The Minister for Agriculture, Forestry and Fisheries moved -

That consideration of Clause 6 be postponed until after consideration of Clause 31.

Question - put and passed.

Clauses 7 to 9 agreed to.

Clause 10.

Hon Murray Criddle moved -

Page 5, line 24 - To delete "3" and insert instead -

“ 4 ”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 11 to 30 agreed to.

Clause 31.

Hon Murray Criddle moved -

Page 14, line 25 - To delete "year" and insert instead -

“ two years ”.

Debate ensued.

14. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Minister for Planning and Infrastructure in accordance with Standing Order No 138(d), will provide a response to question on notice No. 120 asked by Hon Jim Scott on Tuesday, October 22 2002.

The Minister for Housing and Works tabled documents in relation to documentation to the developers of the Port Kennedy Resort Development in relation to the purchase of a fire truck in response to question on notice No.115 asked by Hon Jim Scott. (Tabled paper 358).

15. Grain Marketing Bill 2002 and Bulk Handling Amendment Bill 2002

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Grain Marketing Bill 2002

Clause 31.

Debate resumed on the amendment moved by Hon Murray Criddle as follows -

Page 14, line 25 - To delete "year" and insert instead -

" two years ".

Amendment - put and negatived.

Clause agreed to.

Postponed Clause 6.

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

Page 4, lines 19 to 21 - To delete the lines and insert instead -

"

have experience in financial markets, international trade,
marketing, law or other such relevant field

".

Hon Murray Criddle, by leave, withdrew the amendment standing in his name.

The Minister for Agriculture, Forestry and Fisheries moved -

Page 4, line 21 - To insert after the words "*Financial Administration and Audit Act 1985*" -

"

and who have experience in financial markets, international trade,
marketing, law or other such relevant fields.

".

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 32 to 34 agreed to.

Clause 35.

Hon Murray Criddle moved -

Page 17, after line 3 - To insert -

"

- (3) The applicant is to provide the Authority with any additional information required in subsection (2) within 30 days of receipt of the request for additional information.
- (4) The Authority will reach a decision on applications received as soon as is practical but no later than 30 days after receipt of the application and prescribed fee under subsection (1) or the receipt of the required additional information under subsection (2), whichever the case may be.

".

Debate ensued.

The Minister for Agriculture, Forestry and Fisheries moved -

That consideration of Clause 35 be postponed until after consideration of Clause 39.

Question - put and passed.

Clause 36 agreed to.

Clause 37.

Hon Murray Criddle moved -

Page 17, line 10 - To insert after "effect" -

“ and the reasons for cancellation ”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 38 agreed to.

Clause 39.

Hon Dee Margetts moved -

Page 18, after line 5 - To insert -

“

- (2) The Authority is to notify the main export licence holder details as outlined in regulations of any special export licences which are granted.

”.

Debate ensued.

Amendment - put and negatived.

Clause agreed to.

Postponed Clause 35.

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

Page 17, after line 3 - To insert -

“

- (3) The applicant is to provide the Authority with any additional information required in subsection (2) within 30 days of receipt of the request for additional information.
- (4) The Authority will reach a decision on applications received as soon as is practical but no later than 30 days after receipt of the application and prescribed fee under subsection (1) or the receipt of the required additional information under subsection (2), whichever the case may be.

”.

Debate ensued.

Question - That new subclause (3) be agreed to - put and passed.

Hon Murray Criddle, by leave, amended his amendment by inserting in subclause (4) before the words "The Authority" the following words -

“ Subject to subsection (5) ”.

Question - That new subclause (4), as amended, be agreed to - put and passed.

The Minister for Agriculture, Forestry and Fisheries moved -

Page 17, after line 3 - To insert -

“

- (5) The Minister may, if requested by the Authority, extend the period within which the Authority makes a decision on an application.

”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 40.

Hon Murray Criddle moved

Page 18, after line 27 - To insert -

“

- (7) The Minister shall, as far as is practical, make his determination on the Appeal within 30 days of having received a notice of appeal in accordance with subsection (3).

”.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 41 to 48 agreed to.

Clause 49.

Hon Dee Margetts moved -

Page 23, lines 12 to 22 - To delete the lines.

Debate ensued.

Amendment - put and negatived.

Clause agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bulk Handling Amendment Bill 2002

Bill agreed to as a whole.

The Deputy President resumed the Chair.

Grain Marketing Bill 2002 reported with amendments.

Bulk Handling Amendment Bill 2002 reported without amendments.

The Minister for Agriculture, Forestry and Fisheries moved -

That the *Grain Marketing Bill 2002* be recommitted for the purpose of reconsidering Clause 31.

Question - put and passed.

The Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 31.

Hon Dee Margetts moved -

Page 15, lines 16 to 19 - To delete “it considers that to do so would be likely to affect the premium to an extent that the Authority considers to be significant” and insert instead -

“ a premium is found to exist under subsection (2)(b) ”.

Debate ensued.

Amendment - put and negatived.

Hon Dee Margetts moved -

Page 15, line 22 - To insert after “the” -

“ main export licence holder and on the ”.

Debate ensued.

Amendment - put and negatived.

The President resumed the Chair.

Grain Marketing Bill 2002 reported without further amendment.

Leave was granted to proceed forthwith through all remaining stages of these Bills at this day’s sitting.

The Minister for Agriculture, Forestry and Fisheries moved, That the report be adopted.

Question - put and passed.

The Minister for Agriculture, Forestry and Fisheries, by leave, moved, That the Bills be now read a third time.

The Deputy President having reported that the Chairman of Committees had certified that the fair print of the Bills were in accordance with the Bills as agreed to in Committee, and reported.

Question - put and passed.

Bills read a third time and passed.

16. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 6.06pm until Tuesday, October 22 2002 at 3.30pm.

Members present during the day’s proceedings

Attendance: Present all Members except Hon Giz Watson.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council