

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 32

WEDNESDAY, DECEMBER 4 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. Petitions

Hon Alan Cadby presented a petition, by delivery to the Clerk, [SO 130], from 20 residents of Western Australia requesting an increase to State funding of Catholic and other non-Government school children. (Tabled paper 575).

Hon Frank Hough presented a petition from 19 residents of Western Australia requesting an increase to State funding of Catholic and other non-Government school children. (Tabled paper 576).

3. Papers

The following Papers were laid on the Table by -

President

Auditor General's Papers -

Second Public Sector Performance Report 2002 (Report No. 8) (December 2002) 572

Leader of the House

Annual Reports -

Agricultural Produce Commission (2001-2002) (Date received 03/12/2002) 573

Minister for Racing and Gaming on behalf of the Parliamentary Secretary to the Minister for State Development

Annual Reports -

Rottneet Island Authority (2001-2002) (Date received 03/12/2002) 574

4. Town of East Fremantle - Urban Environment and Nuisance Local Law - Disallowance

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

That the *Town of East Fremantle - Urban Environment and Nuisance Local Law* published in the *Gazette* on October 16 2002 and tabled in the Legislative Council on October 22 2002, under the *Local Government Act 1995*, be and is hereby disallowed.

5. City of Fremantle - Prevention and Abatement of Sand Drift Local Law - Disallowance

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

That the *City of Fremantle - Prevention and Abatement of Sand Drift Local Law* published in the *Gazette* on October 25 2002 and tabled in the Legislative Council on November 5 2002, under the *Local Government Act 1995*, be and is hereby disallowed.

6. Standing Committee on Uniform Legislation and General Purposes - Terrorism (Commonwealth Powers) Bill 2002 - Reporting Date

The Leader of the House moved, without notice -

Under 230A(4), the Standing Committee on Uniform Legislation and General Purposes is ordered to report the *Terrorism (Commonwealth Powers) Bill 2002* before the adjournment of the House on Thursday, December 5 2002.

Debate ensued.

Hon Norman Moore moved -

To delete the date "December 5 2002" and substituting instead -
" December 12 2002 ".

Debate ensued.

Hon Murray Criddle, by leave, made a personal explanation [SO 87].

Debate resumed.

Amendment - put.

The House divided.

Ayes (18)

Hon George Cash
Hon Robin Chapple
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Peter Foss
Hon Ray Halligan
Hon Frank Hough
Hon Barry House

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

Noes (9)

Hon Kim Chance
Hon Sue Ellery
Hon Graham Giffard
Hon Nick Griffiths
Hon Louise Pratt

Hon Ljiljanna Ravlich
Hon Tom Stephens
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Amendment thus passed.

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

Debate ensued.

Question - put and passed.

7. Suspension of Standing Order 230A(2) - Terrorism (Commonwealth Powers) Bill 2002

The Leader of the House moved, without notice -

That SO 230A(2) be suspended so far as will enable debate to resume on the question for the second reading of the *Terrorism (Commonwealth Powers) Bill 2002* before the expiration of the 30 day period provided for in that subclause.

Debate ensued.

The motion requiring the concurrence of an absolute majority.

Question - put.

There being a dissentient voice the President ordered the House to divide.

Ayes (24)

Hon Alan Cadby
Hon George Cash
Hon Kim Chance
Hon Murray Criddle
Hon Bruce Donaldson
Hon Kate Doust
Hon Sue Ellery
Hon John Fischer
Hon Graham Giffard
Hon Nick Griffiths
Hon Ray Halligan
Hon Frank Hough

Hon Barry House
Hon Robyn McSweeney
Hon Norman Moore
Hon Simon O'Brien
Hon Louise Pratt
Hon Ljiljanna Ravlich
Hon Barbara Scott
Hon Tom Stephens
Hon Bill Stretch
Hon Derrick Tomlinson
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (6)

Hon Paddy Embry
Hon Dee Margetts
Hon Jim Scott

Hon Christine Sharp
Hon Giz Watson
Hon Robin Chapple (*Teller*)

The concurrence of an absolute majority of the whole number of Members being met Standing Orders suspended.

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.

9. Questions Without Notice

Questions without notice were taken.

The Minister for Housing and Works, by leave, incorporated into *Hansard* and tabled his response regarding the appointment details of the Aboriginal Housing Infrastructure Council in response to a question without notice asked by Hon John Fischer. (Tabled paper 577)

The Leader of the House, by leave, incorporated into *Hansard* and tabled his response regarding the amount allocated to the Safer WA Community Security Program for the last three financial years in response to a question without notice asked by Hon George Cash. (Tabled paper 578)

The Leader of the House on behalf of Minister for Housing and Works tabled documents regarding analytical tables of heavy metal concentrations in stockpiles and air quality monitoring results at Midland Railway Workshop Site in response to question on notice No. 241 asked by Hon Jim Scott. (Tabled paper 579).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure in accordance with Standing Order No 138(d), advised that a response to question on notice No. 242 asked by Hon Jim Scott would be provided in the near future.

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 Barbara Scott the debate was adjourned to the next sitting.

11. Taxation Administration Bill 2001, Taxation Administration (Consequential Provisions) Bill 2001 and Taxation Administration (Consequential Provisions) (Taxing) Bill 2001

The Order of the Day having been read for the adjourned debate on the second reading of these Bills.

Debate resumed.

Question - put and passed.

Bills read a second time.

The Deputy President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Taxation Administration Bill 2001

The Deputy Chairman moved -

Under the terms of Standing Order No 234A(2)(a), and because there is a standing committee report on this Bill together with some amendments, I am now required to put the question -

That the amendments recommended by the Standing Committee on Legislation be read into and deemed part of the Bill [SO 234A(2)].

Question - put and passed.

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 12 agreed to.

Clause 13 agreed to.

Clauses 14 and 15 agreed to.

Clause 16.

Debate ensued.

The Minister for Racing and Gaming moved -

Page 8, line 21 - To insert before "The" -

" Subject to subsection (5), "

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 8, lines 29 and 30 - To delete the lines and insert instead -

"

- (5) If an assessment is based on a particular interpretation of the applicable law or a particular practice of the Commissioner that was generally applied to assessments of that kind when the assessment was made, then the Commissioner cannot make a reassessment based on the ground that the interpretation or practice is or was erroneous.

".

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 9, lines 1 to 3 - To delete the lines.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 17 agreed to.

Clause 18.

The Minister for Racing and Gaming moved -

Page 9, line 29 to page 10, line 5 - To delete the lines.

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 19 to 64 agreed to.

Clause 65.

The Minister for Racing and Gaming moved -

Page 37, after line 5 - To insert -

“

- (4) However, a garnishee notice served on the employer of a taxpayer can require the garnishee to pay to the Commissioner the wages payable by the garnishee to the taxpayer in respect of a period only to the extent of the amount by which the amount of the wages exceeds the amount of average earnings for that period calculated on the basis of statistics published in respect of the period by the government statistician.

”

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 66 to 118 agreed to.

Glossary agreed to.

Title agreed to.

Taxation Administration (Consequential Provisions) Bill 2001

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 49 agreed to.

Title agreed to.

Taxation Administration (Consequential Provisions) (Taxing) Bill 2001

Clause 1 agreed to.

Clauses 2 to 10 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Taxation Administration Bill 2001 reported with amendments.

Taxation Administration (Consequential Provisions) Bill 2001 reported without amendment.

Taxation Administration (Consequential Provisions) (Taxing) Bill 2001 reported without amendment.

The Minister for Racing and Gaming moved -

That the *Taxation Administration Bill 2001* be recommitted for the purpose of reconsidering Clauses 13, 19, 23, 30, 31, 34, 36, 38, 41, 42, 45, 67, 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 69, 86, 88, 89, 90, 91, 93, 94, 94A, 100, 102, 107, 108, 118 and the Glossary.

Question - put and passed.

The Deputy President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Recommittal of Taxation Administration Bill 2001 [Proof Copy 79-2C]

Clause 13.

The Minister for Racing and Gaming moved -

Page 7, line 5 - To delete "that" and insert instead -

" a ".

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 19.

The Minister for Racing and Gaming moved -

Page 10, line 21 - To delete "suspects on reasonable grounds" and insert instead -

" has reason to suspect ".

Debate ensued.

Amendment - put and negatived.

Clause stand as printed agreed to.

Clause 23.

The Minister for Racing and Gaming moved -

Page 13, line 13 - To delete "under a taxation Act referred to in section 3(1)(d)-(g)".

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 13, line 16 - To insert after "reassessment" the words -

" provided confirmation is given in writing if requested ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 30.

The Minister for Racing and Gaming moved -

Page 17, lines 9 to 13 - To delete the lines and insert instead -

"

- (1) The Commissioner must publish the policy followed by the Commissioner when deciding whether or not to remit penalty tax under section 29.

".

Debate ensued.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 31.

The Minister for Racing and Gaming moved -

Page 18, after line 10 - To insert the following subclause -

“

- (2) Any other right that the taxpayer might, but for this subsection, have at common law to challenge the validity or correctness of an assessment or other decision is abrogated.

”.

Debate ensued.

Amendment - put.

The Committee divided.

Ayes (9)

Hon Kim Chance
Hon Sue Ellery
Hon Graham Giffard
Hon Nick Griffiths
Hon Louise Pratt

Hon Ljiljanna Ravlich
Hon Tom Stephens
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Noes (18)

Hon Alan Cadby
Hon George Cash
Hon Robin Chapple
Hon Murray Criddle
Hon Paddy Embry
Hon John Fischer
Hon Frank Hough
Hon Barry House
Hon Robyn McSweeney

Hon Dee Margetts
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.

Clause stand as printed agreed to.

Clause 34.

The Minister for Racing and Gaming moved -

Page 18, after line 26 - To insert the following paragraph -

“

- (b) any reassessment made to give effect to the determination of an objection;

”.

Debate ensued.

Amendment - put and negatived.

The Minister for Racing and Gaming moved -

Page 19, after line 11 - To delete subclauses (4) and (5).

Debate ensued.

Amendment - put and negatived.

Clause stand as printed agreed to.

Clause 36.

The Minister for Racing and Gaming moved -

Page 20, line 4 - To delete “or”.

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 20, line 7 - To delete “.” and substitute -
“ ; or ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clause 38.

The Minister for Racing and Gaming moved -

Page 22, line 5 - To insert after “objection;” -

“ or ”.

Debate ensued.

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 22, lines 6 and 7 - To delete the lines.

Amendment - put and negatived.

The Minister for Racing and Gaming moved -

Page 22, lines 20 to 28 - To delete all the words from and including “apply” to and including “agency” and insert instead -

“

refer the objection —

- (a) if the objection relates to an assessment or decision under the
Land Tax Assessment Act 2001 — to the Land Valuation Tribunal;
or
- (b) in any other case — to the Supreme Court.

”.

Debate ensued.

The Minister for Racing and Gaming moved, That progress be reported and leave asked to sit again.

Question - put and passed.

The President resumed the Chair.

The Deputy Chairman 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.

12. Nurses Amendment Bill 2002

The President reported the receipt of Message No. 36 from the Legislative Assembly forwarding the Bill for concurrence.

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

Debate stands adjourned.

13. Reserves (Dampier to Bunbury Natural Gas Pipeline Corridor) Bill 2002

The President reported the receipt of Message No. 38 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.

14. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 11.27 until Thursday, December 5 2002 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Jon Ford.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council