

FWESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 234

THURSDAY, 12 NOVEMBER 2020

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

The President, Hon Kate Doust, took the Chair.

Prayers and an Acknowledgement of Country were read.

2. Death of Hon James (Jim) McMillan Brown — Motion of Condolence

The Leader of the House moved, without notice —

That this House expresses its deep regret at the death of Hon James McMillan Brown, a former Member of the Legislative Council for the South-East province and a former Member of the Legislative Assembly for the electorate of Merredin-Yilgarn; and places on record its appreciation for his long public service, and tenders its profound sympathy to members of his family in their bereavement.

The motion was supported by Members, including the President, and carried in silence; Members standing in their places.

3. Statement by President — Joint Sitting — Senate Vacancy

The President made the following Statement —

With reference to the motion this House passed yesterday in respect of the fixing of the day and place for a joint sitting of the Legislative Council and the Legislative Assembly to fill the Senate vacancy, I advise that I have conferred with the Speaker of the Legislative Assembly and have received agreement that the Houses will meet in the Legislative Council Chamber at 11.30am on Wednesday, 25 November 2020.

Shortly, I will send Members a memorandum with further information.

4. Petitions

Hon Donna Faragher presented a petition from 12 petitioners requesting the Legislative Council to recommend the Department of Communities reinstate the current funding for the Woodlupine Family Centre Inc. (Tabled Paper 4607).

Hon Donna Faragher, by leave, presented a non-conforming petition from 669 petitioners requesting the Legislative Council to recommend the Department of Communities reinstate the current funding for the Woodlupine Family Centre Inc. (Tabled Paper 4608).

Hon Pierre Yang presented a petition from 519 petitioners requesting the Legislative Council to support increasing the safety of the railway junction on Rockingham Road, Spearwood. (Tabled Paper 4609).

5. Ministerial Statement — Government Response to the Joint Standing Committee on the Commissioner for Children and Young People — Report 5 — From Words to Action: Fulfilling the obligation to be child safe

The Leader of the House representing the Minister for Child Protection made a Ministerial Statement with respect to the Government Response to the Joint Standing Committee on the Commissioner for Children and Young People Report *From Words to Action: Fulfilling the obligation to be child safe* and public consultation regarding the green bill entitled *Parliamentary Commissioner Amendment (Reportable Conduct) Bill 2020*.

The Leader of the House representing the Minister for Child Protection tabled the Government Response to the Joint Standing Committee on the Commissioner for Children and Young People Report *From Words to Action: Fulfilling the obligation to be child safe*. (Tabled Paper 4610).

The Leader of the House representing the Minister for Child Protection tabled a Green Bill for public comment entitled *Parliamentary Commissioner Amendment (Reportable Conduct) Bill 2020*. (Tabled Paper 4611).

6. Papers

The following Papers were laid on the Table by —

Leader of the House

Annual Reports —

Professional Standards Councils (2019-20) (Date received 11/11/2020) 4602

Public Sector Commission — State of the WA Government Sector Workforce
(2019-20) (Date received 11/11/2020)..... 4603

Reports —

Professional Standards Council of Western Australia — Financial Statements
(for the year ending 30 June 2020)..... 4604

Parliamentary Secretary to the Deputy Premier

Annual Reports —

Administrator National Health Funding Pool (2019-20) (Date received 11/11/2020)..... 4605

National Health Funding Body (2019-20) (Date received 11/11/2020)..... 4606

7. Joint Standing Committee on the Corruption and Crime Commission — Report 16 — Annual Report 2019-2020

Hon Jim Chown presented Report 16 of the Joint Standing Committee on the Corruption and Crime Commission, *Annual Report 2019-2020*. (Tabled Paper 4612).

8. Standing Committee on Legislation — Report 47 — Electoral Amendment Bill 2020

Hon Dr Sally Talbot presented Report 47 of the Standing Committee on Legislation, *Electoral Amendment Bill 2020*. (Tabled Paper 4613).

9. Public Transport Authority Amendment Regulations 2020 — Disallowance

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *Public Transport Authority Amendment Regulations 2020* published in the *Gazette* on 29 September 2020 and tabled in the Legislative Council on 8 October 2020 under the *Public Transport Authority Act 2003*, be and are hereby disallowed. (Tabled Paper 4407).

10. City of Albany Jetties, Bridges, Boat Pens, and Swimming Structures Local Law 2020 — Disallowance

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

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the *City of Albany Jetties, Bridges, Boat Pens, and Swimming Structures Local Law 2020* published in the *Gazette* on 6 October 2020 and tabled in the Legislative Council on 13 October 2020 under the *Local Government Act 1995*, be and is hereby disallowed. (Tabled Paper 4438).

11. Order of Business

Ordered — That Orders of the Day Nos 1, *Curtin University Statute No. 12 — Admission and Enrolment — Disallowance*, 2, *Curtin University Statute No. 5 — Election of Council Members — Disallowance*, and 3, *Animal Welfare (Transport, Saleyards and Depots) (Cattle and Sheep) Regulations 2020 — Disallowance*, be taken after Order of the Day No. 29, *Dog Amendment (Stop Puppy Farming) Bill 2020*. (Leader of the House).

12. Criminal Law (Unlawful Consorting) Bill 2020

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

Want of Quorum

There not being a quorum present, the Deputy President gave instructions for the ringing of the Bells.
A quorum being formed, the debate continued.

Question — put and passed.

Bill read a second time.

The Deputy President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 1.

Debate ensued.

Clause agreed to.

Clause 2.

Hon Michael Mischin moved —

Page 2, after line 10 — To insert:

- (2) However, if no day is fixed under subsection (1)(c) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends.

Debate ensued.

Amendment — put and passed.

Debate ensued.

Clause, as amended, agreed to.

Clause 3.

Debate ensued.

Hon Nick Goiran moved —

Page 2, after line 12 — To insert:

CCC means the Corruption and Crime Commission established under the *Corruption, Crime and Misconduct Act 2003* section 8(1);

Debate ensued.

Amendment — put.

The Committee divided.

Ayes (15)

Hon Jacqui Boydell
 Hon Jim Chown
 Hon Peter Collier
 Hon Colin de Grussa
 Hon Nick Goiran
 Hon Colin Holt
 Hon Rick Mazza
 Hon Michael Mischin

Hon Simon O'Brien
 Hon Robin Scott
 Hon Tjorn Sibma
 Hon Charles Smith
 Hon Dr Steve Thomas
 Hon Colin Tincknell
 Hon Ken Baston (*Teller*)

Noes (15)

Hon Robin Chapple
 Hon Tim Clifford
 Hon Alanna Clohesy
 Hon Stephen Dawson
 Hon Sue Ellery
 Hon Diane Evers
 Hon Adele Farina
 Hon Laurie Graham

Hon Alannah MacTiernan
 Hon Martin Pritchard
 Hon Samantha Rowe
 Hon Dr Sally Talbot
 Hon Darren West
 Hon Alison Xamon
 Hon Pierre Yang (*Teller*)

The votes being equal, the amendment was resolved in the negative.

Question, That the clause stand as printed — put and passed.

Clause 4 agreed to.

Clause 5.

Debate ensued.

Clause agreed to.

Clause 6.

Hon Alison Xamon moved —

Page 6, after line 22 — To insert:

- (2) Without derogating from subsection (1), it is not the intention of Parliament that the powers in this Act be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest or dissent that is not intended —
- (a) to cause a person's death;
 - (b) to cause serious physical harm to a person;
 - (c) to endanger a person's life, other than the life of the person participating in the advocacy, protest or dissent; or
 - (d) to create a serious risk to the health or safety of the public.

Debate ensued.

13. Questions Without Notice

Questions without notice were taken.

The Minister for Education and Training, by leave, incorporated into *Hansard* information in relation to the low interest loan scheme provided to non-government school sectors, in response to a question without notice asked by Hon Donna Faragher.

The Minister for Environment representing the Minister for Energy tabled documents in relation to the Western Power asset viewer for pole wood, in response to a question without notice asked by Hon Jacqui Boydell on behalf of Hon Martin Aldridge. (Tabled Paper 4614).

The Minister for Environment tabled a report in relation to the former Dalyellup Waste Residue Facility by Tronox Pigment Bunbury Ltd, in response to a question without notice asked by Hon Diane Evers. (Tabled Paper 4615).

14. Matter of Privilege

Hon Dr Steve Thomas, pursuant to SO93, raised a matter of privilege resulting from information received from the Minister for Environment representing the Minister for Emergency Services in relation to the Emergency Services Levy revenue for 2020-21.

Hon Dr Steve Thomas, by leave, tabled answers received in relation to the Emergency Services Levy revenue for 2020-21. (Tabled Paper 4616).

Statement by President

The President made the following Statement —

In relation to the matter the Member raised under Standing Order 93, I will indeed review the materials that the Member has provided and the matter that he has canvassed, and provide a ruling at a later stage.

15. Criminal Law (Unlawful Consorting) Bill 2020

Resumption of consideration of this Bill in Committee of the Whole House (*see item 12 above*).

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

Clause 6.

Debate resumed on the amendment of Hon Alison Xamon as follows —

Page 6, after line 22 — To insert:

- (2) Without derogating from subsection (1), it is not the intention of Parliament that the powers in this Act be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest or dissent that is not intended —
 - (a) to cause a person's death;
 - (b) to cause serious physical harm to a person;
 - (c) to endanger a person's life, other than the life of the person participating in the advocacy, protest or dissent; or
 - (d) to create a serious risk to the health or safety of the public.

The Leader of the House representing the Attorney General moved, That the Chair report progress and seek to sit again.

Question — put and passed.

The President resumed the Chair.

The Chair of Committees reported that the Committee of the Whole House had considered the Bill, made progress, and seeks to sit again.

Ordered — That the Committee of the Whole House sit again.

16. Order of Business

Ordered — That Members' Statements be taken forthwith. (Leader of the House).

17. Members' Statements

Statements were taken.

18. COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 236

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Bill 2020*.

Ms L.L. Baker

Deputy Speaker

Legislative Assembly Chamber

Perth, 12 November 2020

19. Environmental Protection Amendment Bill 2020

The following Message from the Legislative Assembly was reported —

Madam President

Message No. 237

The Legislative Assembly acquaints the Legislative Council that it has agreed to the amendments made by the Legislative Council in the *Environmental Protection Amendment Bill 2020*.

Ms M.M. Quirk

Acting Speaker

Legislative Assembly Chamber

Perth, 12 November 2020

20. Adjournment

The Council adjourned at 5.43pm until Tuesday, 24 November 2020 at 2.00pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Matthew Swinbourn.

NIGEL PRATT
Clerk of the Legislative Council

HON KATE DOUST MLC
President of the Legislative Council