

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 208

WEDNESDAY, 16 MAY 2012

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

The President, Hon Barry House, took the Chair and read prayers.

2. Petitions

Hon Sue Ellery presented a petition from 2,666 petitioners requesting the Legislative Council to urge the Attorney General to review the laws pertaining to domestic violence. (Tabled Paper 4523).

Hon Sally Talbot presented a petition from 482 petitioners requesting the Legislative Council to seek an alternative solution to the closure of the Centre for Sustainable Living. (Tabled Paper 4524).

Hon Alison Xamon presented a petition from 209 petitioners requesting the Legislative Council to support the enactment of a moratorium on hydraulic fracturing. (Tabled Paper 4525).

3. Papers

The following Papers were laid on the Table by –

The following Papers were laid on the Table by –

President

Auditor General's Papers –

Audit Results Report – Annual Assurance Audits (Report No. 5) (May 2012)..... 4518

Victim Support Service: Providing Assistance to Victims of Crime (Report No. 6)
(May 2012)..... 4519

Joint Standing Committees on Treaties (Commonwealth of Australia) -

Treaties tabled on 8 May 2012 – Agreement between the Government of Australia and the Government of the United States of America to amend and extend the Agreement concerning cooperation in Defence Logistics Support and Convention on Mutual Administrative Assistance in Tax Matters..... 4520

Minister for Finance

Reports –

Western Australian Treasury Corporation Quarterly Report (for the quarter ended 31 March 2012) (Date received 15/05/2012)..... 4521

Minister for Mental Health

Leases –

CALM Lease No. 1764/100 – Between Department of Environment and Conservation and Christ Church Grammar School for the purpose of a domestic use water hole within a portion of Lane Pool Reserve 39819..... 4522

4. Uranium Mining - Environmental Management

Motion No. 1 having been called, Hon Alison Xamon continued her introductory remarks in moving the motion, as follows –

That this Council recommend that, should the Government proceed with its intention to licence uranium mining in Western Australia, it adopts the same minimum environmental management regulatory requirements for any future uranium mine in Western Australia as exists under Commonwealth and Northern Territory legislation for the operation of the Ranger uranium mine in the Northern Territory with regard to the disposal of radioactive tailings, including the requirements that -

- (a) the tailings are physically isolated from the environment for at least 10 000 years; and
- (b) any contaminants arising from the tailings do not result in any detrimental environmental impacts for at least 10 000 years.

Debate ensued.

Hon Jon Ford moved, without notice –

- (1) To delete “, should” in the first line.
- (2) To insert after “Government” in the first line —

should not

- (3) To delete all words of the motion after “Western” in the second line and insert —
Australia.

Debate ensued.

Interruption pursuant to order.

5. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Standing Committee on Public Administration – Report No. 14 – Unassisted Failure

Hon Max Trenorden moved, That the report be made an Order of the Day for the next day’s sitting.

Debate ensued.

6. Questions Without Notice

Questions without notice were taken.

The Leader of the House representing the Minister for State Development, in accordance with Standing Order No. 107(2), advised that an answer to question on notice No. 5329 asked by Hon Robin Chapple will be provided on 17 May 2012.

The Minister for Mental Health tabled documents in relation to details of mental health patients re-admitted after discharges for 2009-10 and 2010-11, in response to question on notice No. 5176 asked by Hon Ljiljana Ravlich. (Tabled Paper 4526).

The Minister for Mental Health tabled documents in relation to psychiatrist and mental health nurse full time equivalent numbers for 2009, 2010 and 2011, in response to question on notice No. 5181 asked by Hon Ljiljana Ravlich. (Tabled Paper 4527).

7. Consideration of Committee Reports

Pursuant to order for the consideration of Committee Reports (*see item 5 above*).

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Standing Committee on Public Administration – Report No. 14 – Unassisted Failure

Debate resumed on the motion of Hon Max Trenorden, That the report be made an Order of the Day for the next day's sitting.

Question – put.

The Committee divided.

Ayes (19)

| | |
|---------------------|----------------------------------|
| Hon Liz Behjat | Hon Alyssa Hayden |
| Hon Jim Chown | Hon Col Holt |
| Hon Peter Collier | Hon Robyn McSweeney |
| Hon Mia Davies | Hon Michael Mischin |
| Hon Wendy Duncan | Hon Norman Moore |
| Hon Phil Edman | Hon Helen Morton |
| Hon Brian Ellis | Hon Simon O'Brien |
| Hon Philip Gardiner | Hon Max Trenorden |
| Hon Nick Goiran | Hon Ken Baston (<i>Teller</i>) |
| Hon Nigel Hallett | |

Noes (13)

| | |
|-------------------------|---------------------------------|
| Hon Matt Benson-Lidholm | Hon Ljiljana Ravlich |
| Hon Helen Bullock | Hon Sally Talbot |
| Hon Kate Doust | Hon Ken Travers |
| Hon Sue Ellery | Hon Giz Watson |
| Hon Adele Farina | Hon Alison Xamon |
| Hon Jon Ford | Hon Ed Dermer (<i>Teller</i>) |
| Hon Lynn MacLaren | |

Question thus passed.

Joint Standing Committee on the Corruption and Crime Commission – Report No. 22 – The Role Played by the Corruption and Crime Commission in Aiding the Security Operation During the 2011 Commonwealth Heads of Government Meeting

Hon Nick Goiran moved, That the Report be noted.

Question – put and passed.

Joint Standing Committee on the Corruption and Crime Commission – Report No. 23 – The Post-CHOGM technological capability of the WA Police

Hon Nick Goiran moved, That the Report be noted.

Debate ensued.

Question – put and passed.

Joint Standing Committee on the Commissioner for Children and Young People – Report No. 8 – Report on the functions of the Commissioner for Children and Young People: Working with children checks

Hon Helen Bullock moved, That the Report be noted.

Debate ensued.

Question – put and passed.

Joint Standing Committee on the Corruption and Crime Commission – Report No. 24 – The intention of the Parliamentary Inspector of the Corruption and Crime Commission to retire

Hon Nick Goiran moved, That the Report be noted.

Interruption pursuant to order.

The Deputy President resumed the Chair.

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

- (1) Joint Standing Committee on the Corruption and Crime Commission – Report No. 22 – The Role Played by the Corruption and Crime Commission in Aiding the Security Operation During the 2011 Commonwealth Heads of Government Meeting, and had noted same.
- (2) Joint Standing Committee on the Corruption and Crime Commission – Report No. 23 – The Post-CHOGM technological capability of the WA Police, and had noted same.
- (3) Joint Standing Committee on the Commissioner for Children and Young People – Report No. 8 – Report on the functions of the Commissioner for Children and Young People: Working with children checks, and had noted same.
- (4) Joint Standing Committee on the Corruption and Crime Commission – Report 24 – The intention of the Parliamentary Inspector of the Corruption and Crime Commission to retire, made progress, and seeks to sit again.

Report adopted.

8. Order of Business

Ordered – That Bills for Introduction be now taken. (Leader of the House).

9. Bank of Western Australia Amendment Bill 2012

The Minister for Finance, pursuant to notice, moved –

That a Bill for “An Act to amend the *Bank of Western Australia Act 1995* and to make a consequential amendment to the *Freedom of Information Act 1992*.” be introduced and read a first time.

Question – put and passed.

Bill read a first time.

The Minister for Finance moved that the Bill be read a second time.

The Minister for Finance tabled an Explanatory Memorandum related to the Bill. (Tabled Paper 4528).

Debate stands adjourned.

10. Wills Amendment (International Wills) Bill 2012

The Parliamentary Secretary representing the Attorney General, pursuant to notice, moved –

That a Bill for “An Act to amend the *Wills Act 1970*.” be introduced and read a first time.

Question – put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Attorney General moved that the Bill be read a second time.

The Parliamentary Secretary representing the Attorney General tabled an Explanatory Memorandum related to the Bill. (Tabled Paper 4529).

Debate stands adjourned and Bill referred to the Standing Committee on Uniform Legislation and Statutes Review.

11. Inheritance (Family and Dependents Provision) Amendment Bill 2012

The Parliamentary Secretary representing the Attorney General, pursuant to notice, moved –

That a Bill for “An Act to amend the *Inheritance (Family and Dependents Provision) Amendment Act 2011*.” be introduced and read a first time.

Question – put and passed.

Bill read a first time.

The Parliamentary Secretary representing the Attorney General moved that the Bill be read a second time.

The Parliamentary Secretary representing the Attorney General tabled an Explanatory Memorandum related to the Bill. (Tabled Paper 4530).

Debate stands adjourned.

12. Order of Business

Ordered – That Orders of the Day Nos 1, *Town of Kwinana Extractive Industries Local Law 2011 – Disallowance*, 2, *Shire of Kellerberrin Parking and Parking Facilities Local Law 2011 – Disallowance*, and 3, *Mining Amendment Regulations (No. 5) 2011 – Disallowance*, be taken after Order of the Day No. 6, *Evidence and Public Interest Disclosure Legislation Amendment Bill 2011*. (Leader of the House).

13. Criminal Organisations Control Bill 2011

The Deputy President left the Chair.

In Committee

(Hon Brian Ellis in the Chair)

Clause 85.

The Parliamentary Secretary representing the Attorney General moved –

Page 66, line 19 to page 67, line 12 — To delete the lines and insert —

- (1) If an authorisation (other than a firearms licence or an authorisation to which an order made under section 59(2)(c) applies) is surrendered under section 82 or seized under section 83 —
 - (a) the Commissioner of Police must hold the authorisation in safe custody until it is reclaimed by the holder of the authorisation or it may be otherwise lawfully disposed of, whichever occurs first; and
 - (b) when the relevant interim control order or control order ceases to be in force, the holder of the authorisation may reclaim it from the Commissioner of Police, unless it has been sooner lawfully disposed of; and
 - (c) if the authorisation is not reclaimed within one month after the relevant interim control order or control order ceases to be in force, the Commissioner of Police must destroy the authorisation as soon as practicable.
- (2) The destruction of an authorisation under subsection (1)(c) has no effect on the validity of the authorisation.

Amendment – put and passed.

The Parliamentary Secretary representing the Attorney General moved –

Page 67, after line 33 — To insert —

- (5) If an interim control order is varied under section 50, or a control order is varied under section 66 or 68, and the effect of the variation is to remove a prohibition of the kind referred to in section 82(1), this section applies as if the references in subsection (1)(b) and (c) and (4)(a)(ii) to the relevant interim control order or control order ceasing to be in force were references to the prohibition ceasing to have effect.

Amendment – put and passed.

Clause, as amended, agreed to.

Clauses 86 to 90 agreed to.

Clause 91.

The Parliamentary Secretary representing the Attorney General moved –

Page 69, line 27 — To delete “section 25(2); or” and insert —

section 25(1); or

Amendment – put and passed.

Clause, as amended, agreed to.

Clauses 92 to 98 agreed to.

Clause 99.

Debate ensued.

Clause agreed to.

Clause 100 agreed to.

Clause 101.

Debate ensued.

Clause agreed to.

Clauses 102 to 180 agreed to.

Clause 181.

The Parliamentary Secretary representing the Attorney General moved –

Page 131, lines 26 to 30 — To delete the lines and insert —

- (ii) in association with one or more persons who, at the time of the commission of the offence, were members of a declared criminal organisation (whether or not those persons were also convicted of the offence), but only if the offender knew, at the time of the commission of the offence, that one or more of those persons were members of a declared criminal organisation; or

Debate ensued.

Amendment – put and passed.

Debate ensued.

Question – That the clause, as amended, be agreed to – put.

The Committee divided.

Ayes (26)

Hon Liz Behjat
 Hon Matt Benson-Lidholm
 Hon Jim Chown
 Hon Peter Collier
 Hon Mia Davies
 Hon Ed Dermer
 Hon Kate Doust
 Hon Wendy Duncan
 Hon Sue Ellery
 Hon Brian Ellis
 Hon Adele Farina
 Hon Jon Ford
 Hon Philip Gardiner

Hon Nick Goiran
 Hon Nigel Hallett
 Hon Alyssa Hayden
 Hon Col Holt
 Hon Michael Mischin
 Hon Norman Moore
 Hon Helen Morton
 Hon Simon O'Brien
 Hon Ljiljana Ravlich
 Hon Linda Savage
 Hon Sally Talbot
 Hon Max Trenorden
 Hon Ken Baston (*Teller*)

Noes (4)

Hon Robin Chapple
 Hon Giz Watson

Hon Alison Xamon
 Hon Lynn MacLaren (*Teller*)

Question thus passed.

Clause, as amended, agreed to.

Clause 182 agreed to.

Postponed Clause 14.

Debate resumed on the amendment of Hon Giz Watson as follows –

Page 16, after line 17 — To insert —

- (iii) the respondent or representatives of the organisation

Hon Giz Watson, by leave, withdrew her amendment.

The Parliamentary Secretary representing the Attorney General moved –

Page 16, after line 18 — To insert —

- (aa) the designated authority must, as soon as practicable, provide a copy of the authority's reasons for the decision to the respondent or the respondent's representative, but only if the respondent or the respondent's representative, before the hearing of the application for the declaration ends —
- (i) requests to be provided with a copy; and
- (ii) provides an address to which the copy may be sent;
- and

Debate ensued.

Amendment put and passed.

Clause, as amended, agreed to.

Postponed Clause 27.

Debate ensued.

Question – That the clause stand as printed – put and passed.

Postponed Clause 54

Debate resumed on the amendment of Hon Giz Watson as follows –

Page 42, after line 18 — To insert —

- (6) The application must be accompanied by information about the right of the person to whom the application relates to object to the application under Section 55.

Hon Giz Watson, by leave, withdrew her amendment.

Debate ensued.

The Parliamentary Secretary representing the Attorney General moved –

Page 42, lines 15 to 17 — To delete the lines and insert —

- (4) The following must be served with the application —
 - (a) a copy of the affidavit or affidavits that accompanied the application for the control order;
 - (b) a written notice setting out an explanation of —
 - (i) the right to object to the making of a control order at the hearing of the application for the control order; and
 - (ii) the procedure to be followed in notifying the court before the hearing of the grounds of objection in accordance with section 55.

Amendment – put and passed.

Clause, as amended, agreed to.

Long title.

The Parliamentary Secretary representing the Attorney General moved –

Page 1, the first bullet point — To delete “**associates and certain other persons who engage in serious criminal activity,**” and insert —

associates,

Amendment – put and passed.

Long title, as amended, agreed to.

The President resumed the Chair.

Bill reported with amendments, and an amendment to the long title.

The Parliamentary Secretary representing the Attorney General moved, without notice –

That the *Criminal Organisations Control Bill 2011* be recommitted for the purpose of reconsidering Clause 26.

Question – put and passed.

The President left the Chair.

In Committee

(Hon Matt Benson-Lidholm in the Chair)

Clause 26.

The Parliamentary Secretary representing the Attorney General moved –

Page 24, after line 3 — To insert —

- (4) The period of designation of a retired judge must not exceed 5 years, but a retired judge may be designated for a further term.

Amendment – put and passed.

Clause, as amended, agreed to.

The President resumed the Chair.

Bill reported with amendments, and an amendment to the long title.

Ordered – That consideration of the Committee's Report be made an Order of the Day for the next day's sitting.

14. Order of Business

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

15. Members' Statements

Statements were taken.

16. Adjournment

The Council adjourned at 10.22pm until Thursday, 17 May 2012 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Phil Edman and Hon Donna Faragher.

MALCOLM PEACOCK
Clerk of the Legislative Council

HON BARRY HOUSE
President of the Legislative Council