

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 12

THURSDAY, SEPTEMBER 19 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. Message from His Excellency the Governor - Assent to Bill

The President reported the receipt of a Message from His Excellency the Governor assenting to the following Bill -

September 18 2002 - Message No. 11	Act No.
Vexatious Proceedings Restriction Bill 2002	23 of 2002

3. Papers

The following Papers were laid on the Table by -

President

Annual Reports -

Auditor General, Office of the (2001-2002) (Date received 18/09/02) 217

Leader of the House

Reports -

Interstate and Overseas travel undertaken by Ministers, Members of Parliament and
Officers on Official Business for the three months ended 31 December 2001 218

Minister for Racing and Gaming

Annual Reports -

Water Corporation (2001-2002) (Date received 18/09/02) 219

Reports -

Water Corporation Statement of Corporate Intent 2003 220

Parliamentary Secretary to the Minister for Planning and Infrastructure

Annual Reports -

Fremantle Port Authority (2001-2002) (Date received 18/09/02) 221

Reports -

Mandurah Focus Groups Qualitative Research - Waiting for the Train: A study of residents' attitudes in Mandurah (January 2002) 222

4. North West Shelf Joint Venture Contract

Motion No. 4 having been called.

Debate resumed on the motion of Leader of the House as follows -

That this House congratulates the North West Shelf Joint Venture in winning the \$25 billion contract to sell liquefied natural gas to China but calls for a major revamp of the Federal Government's Commonwealth Grants Commission process due to the inherent way it disadvantages Western Australians in the sharing of benefits from major resource projects between the Commonwealth and this State.

Question - put.

The House divided.

Ayes (26)

Hon Alan Cadby
 Hon George Cash
 Hon Kim Chance
 Hon Kate Doust
 Hon Sue Ellery
 Hon Paddy Embry
 Hon Adele Farina
 Hon John Fischer
 Hon Jon Ford
 Hon Peter Foss
 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 Ljiljana Ravlich
 Hon Barbara Scott
 Hon Tom Stephens
 Hon Bill Stretch
 Hon Derrick Tomlinson
 Hon Ken Travers
 Hon Ed Dermer (*Teller*)

Noes (4)

Hon Dee Margetts
 Hon Christine Sharp

Hon Giz Watson
 Hon Jim Scott (*Teller*)

Question thus passed.

5. Order of Business

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

6. Address-In-Reply

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

Debate resumed.

On the motion of Hon Alan Cadby the debate was adjourned to the next sitting.

7. Yallingup Foreshore Land Bill 2002, Volunteers (Protection from Liability) Bill 2002 and Home Building Contracts Amendment Bill 2002 and Procedure for Restoration of Bills

The Order of the Day having been read for the cognate consideration, in Committee, of Messages Nos 3, 4, and 5 from the Legislative Assembly.

The President left the Chair.

In Committee

(Hon Simon O'Brien in the Chair)

The Messages are as follows -

Mr President

Message No. 3

The Legislative Assembly acquaints the Legislative Council that in response to Legislative Council Message No 1, in relation to the *Yallingup Foreshore Land Bill 2002*, the Legislative Assembly -

- (a) notes that the message forwarding the Bill was sent from the Legislative Assembly to the Legislative Council on Tuesday, 25 June 2002 and that this message and Bill remain in the possession of the Legislative Council or its officers;
- (b) further notes that the Legislative Council completed its final sitting for the session at 1.21am on Friday 28 June 2002;
- (c) declares that the transmission of a Bill from one House to the other is an integral stage of the passage of a Bill through the legislative process; and
- (d) requests the Legislative Council instate the Bill by requiring the report of the message and Bill for the Legislative Council's consideration.

Hon Fred Riebeling
Speaker

Legislative Assembly Chamber
Perth, 21 August 2002

Mr President

Message No. 4

The Legislative Assembly acquaints the Legislative Council that in response to Legislative Council Message No 1, in relation to the *Volunteers (Protection from Liability) Bill 2002* and the *Home Building Contracts Amendment Bill 2002*, the Legislative Assembly -

- (a) advises the Legislative Council that on Friday, 28 June 2002, those Bills were passed by the Legislative Assembly and sent to the Legislative Council; and
- (b) has required that each of those Bills be restored to the position they had reached in the previous session and forwards herewith a further copy of the Bills for the Legislative Council's consideration.

Hon Fred Riebeling
Speaker

Legislative Assembly Chamber
Perth, 21 August 2002

Mr President

Message No. 5

The Legislative Assembly requests the Legislative Council to amend its procedures to ensure that they reflect the intention of both Houses of Parliament that all Bills which have been partially considered by the Parliament in one Session are capable of restoration to that point in the next Session of the same Parliament.

Hon Fred Riebeling
Speaker

Legislative Assembly Chamber
Perth, 21 August 2002

Message No. 5.

Debate resumed on the amendment of Hon Norman Moore as follows -

To insert after “States” the following words -

“

- (3) reminds the Legislative Assembly that a Bill must have been on the Notice Paper in the previous session if it is to be restored, that is, the Bill must have been in the possession of the House. Possession cannot occur until a Bill is introduced and given a first reading. On that basis, the House never had possession of the three Bills and had nothing to restore;
- (4) rejects the assertion that transmission of a Bill between the Houses is a “stage” in passage. Parliamentary authorities are in agreement on the meaning of “stage” and no mention is made of transmission in that context; and
- (5) requests the Legislative Assembly to cite a reference to the written law that expressly or impliedly amended section 46(5) of the *Constitution Acts Amendment Act 1899* so as to enable the Legislative Assembly to “require” this House to comply with the Assembly’s demands relating to the passage of legislation.

”.

to the motion of the Leader of the House as follows -

“

Mr Speaker

The Legislative Council has considered Legislative Assembly Message No. 5 relating to the -

Yallingup Foreshore Land Bill 2002

Volunteers (Protection from Liability) Bill 2002

Home Building Contracts Amendment Bill 2002

In response, the Legislative Council -

- (1) does not agree that the difficulties associated with the three Bills can be rectified by altering internal practice and procedure. The Bills lapsed on prorogation by operation of law; and
- (2) recommends that the Government reconsider the necessity for annual prorogations said to arise from section 4 of the *Constitution Act 1889* and notes the divergence of interpretation and practice despite a provision identical to section 4 appearing in the Constitution of the Commonwealth and each of the States.

”.

Debate ensued.

Amendment - put and passed.

Motion, as amended, agreed to.

The President resumed the Chair.

The Chairman reported, That the Committee had considered Messages Nos. 3, 4 and 5 from the Legislative Assembly, and had disagreed to Messages Nos 3 and 4 and invites the Legislative Assembly to return an alternate Message to the Legislative Council; and had disagreed to Legislative Assembly Message No. 5 to amend Legislative Council procedures.

Report adopted.

Legislative Assembly acquainted accordingly.

8. Fire and Emergency Services Legislation Amendment Bill 2001

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

Debate resumed.

On the motion of Minister for Racing and Gaming the debate was adjourned to the next sitting.

9. Questions Without Notice

Questions without notice were taken.

The Minister for Housing and Works tabled documents in relation to the guidance provided by the Acting Executive Director of Department of Conservation and Land Management relating to an alleged conflict of interest by the Chairman of the Marine Parks and Reserves Authority and his Directorship of a company, the Australian Wildlife Conservancy in response to a question without notice asked by Hon Norman Moore. (Tabled paper 223).

The Minister for Housing and Works tabled documents in relation to the Noise Monitoring Reports, for past 7 years, published in the Kalgoorlie Miner Newspaper, concerning Kalgoorlie Consolidated Gold Mines Pty Ltd super pit mining operations in response to question on notice No. 68 asked by Hon Robin Chapple. (Tabled paper 224).

The Minister for Housing and Works tabled documents in relation to a copy of a letter from Department of Environmental Protection to the City of Kalgoorlie-Boulder, concerning proposed town planning scheme amendment for the Loopline Tourist Railway in response to question on notice No. 70 asked by Hon Robin Chapple. (Tabled paper 225).

10. Hon Adele Farina - Personal Explanation - Question without Notice

Hon Adele Farina, by leave, made a personal explanation [SO 85] in relations to the appointment of Mr Ross Bromell as a part-time gardener at the Georraphe Primary School.

11. Public Interest Disclosure Bill 2002

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

Debate resumed.

Interruption of Debate [SO 61(b)].

12. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 5.21pm until Tuesday, September 24 2002 at 3.30pm.

Members present during the day's proceedings

Attendance: Present all Members except Hon Robin Chapple and Hon Murray Criddle.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council