

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 16

WEDNESDAY, MAY 18 2005

1. Meeting of Council

The Council assembled at 2.00pm pursuant to order.

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

2. Petitions

Hon Robin Chapple presented a petition from nine residents of Western Australia requesting the Legislative Council consider the social and economic value of establishing a suitable centre in Kalgoorlie-Boulder for those young people who become involved in crime or drug/alcohol abuse at a very young age. (Tabled paper 352).

Hon Robin Chapple presented a petition, by delivery to the Clerk, [SO 130], from 20 residents of Western Australia requesting the Legislative Council investigate and recommend short and long term strategies to prevent cane toads becoming established in Western Australia. (Tabled paper 349).

Hon Robin Chapple presented a petition, by delivery to the Clerk, [SO 130], from 40 residents of Western Australia requesting the Legislative Council investigate and recommend short and long term strategies to prevent cane toads becoming established in Western Australia. (Tabled paper 350).

Hon Robin Chapple presented a petition, by delivery to the Clerk, [SO 130], from 148 residents of Western Australia requesting the Legislative Council investigate and recommend short and long term strategies to prevent cane toads becoming established in Western Australia. (Tabled paper 351).

3. Papers

The following Papers were laid on the Table by -

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 March 2004 347

Minister for Education and Training

Leases -

CALM Lease No. 2076/100 - Between CALM and the Western Australian Police
Service for telecommunication tower and equipment hut on Moir Hill, Stirling
Range National Park..... 348

4. Electricity Networks Access Code 2004 - Disallowance

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

That the *Electricity Networks Access Code 2004* published in the *Gazette* on November 30 2004 and tabled in the Legislative Council on April 5 2005, under the *Electricity Industry Act 2004*, be and is hereby disallowed.

5. Shire of Dardanup Amendments to the Bush Fire Brigades Local Law 2003 - Disallowance

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

That the *Shire of Dardanup Amendments to the Bush Fire Brigades Local Law 2003* published in the *Gazette* on December 17 2004 and tabled in the Legislative Council on April 5 2005, under the *Bush Fires Act 1954*, be and is hereby disallowed.

6. Shire of Dardanup Amendments to the Property Local Law 2003 - Disallowance

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

That the *Shire of Dardanup Amendments to the Property Local Law 2003* published in the *Gazette* on December 17 2004 and tabled in the Legislative Council on April 5 2005, under the *Local Government Act 1995*, be and is hereby disallowed.

7. City of South Perth Local Law Relating to Special Events - Disallowance

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

That the *City of South Perth Local Law Relating to Special Events* published in the *Gazette* on December 17 2004 and tabled in the Legislative Council on April 5 2005, under the *Local Government Act 1995*, be and is hereby disallowed.

8. City of South Perth Parking and Amendments Local Law 2004 - Disallowance

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

That the *City of South Perth Parking and Amendments Local Law 2004* published in the *Gazette* on December 17 2004 and tabled in the Legislative Council on April 5 2005, under the *Local Government Act 1995*, be and is hereby disallowed.

9. Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 2004 - Disallowance

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

That the *Road Traffic (Fees for Vehicle Licences) Regulations (No. 2) 2004* published in the *Gazette* on December 24 2004 and tabled in the Legislative Council on April 5 2005, under the *Road Traffic Act 1974*, be and are hereby disallowed.

10. Road Traffic (Licensing) Amendment Regulations (No. 4) 2004 - Disallowance

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

That the *Road Traffic (Licensing) Amendment Regulations (No. 4) 2004* published in the *Gazette* on December 24 2004 and tabled in the Legislative Council on April 5 2005, under the *Road Traffic Act 1974*, be and are hereby disallowed.

11. Shire of Serpentine-Jarrahdale Local Law Relating to the Keeping of Dogs - Disallowance

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

That the amendment to the *Shire of Serpentine-Jarrahdale Local Law Relating to the Keeping of Dogs* published in the *Gazette* on January 7 2005 and tabled in the Legislative Council on April 5 2005, under the *Local Government Act 1995*, be and is hereby disallowed.

12. Shire of Serpentine-Jarrahdale Parking Facilities Local Law - Disallowance

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

That the amendment to the *Shire of Serpentine-Jarrahdale Parking Facilities Local Law* published in the *Gazette* on January 7 2005 and tabled in the Legislative Council on April 5 2005, under the *Local Government Act 1995*, be and is hereby disallowed.

13. Shire of Nannup Parking and Parking Facilities Local Law - Disallowance

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

That the *Shire of Nannup Parking and Parking Facilities Local Law* published in the *Gazette* on January 11 2005 and tabled in the Legislative Council on April 5 2005, under the *Local Government Act 1995*, be and is hereby disallowed.

14. Members of Parliament, Constituents' Access and Representation

Hon Lynn MacLaren: To move on the next day of sitting -

That following the widespread changes in political representation due to recent reforms in the Western Australian electoral system, this House -

- (1) Calls upon the Government to initiate a review to be conducted by an independent body, such as the Salaries and Allowances Tribunal, to investigate methods of improving access to and representation by elected Members, and to recommend methods of providing equitable services to electors and elected Members regardless of proximity to population centres.
- (2) This review should include evidence collected throughout the State and consider but not be limited to -
 - (a) provision of telecommunication facilities such as teleconferencing and free telephone services to contact Members;
 - (b) extra electorate offices and extra staffing;
 - (c) travel allowances for staff to move throughout electorates; and
 - (d) the establishment in non-metropolitan regional centres of 'electorate shared service centres' where constituents can contact all Members representing that region and access information about parliamentary processes such as inquiries and proposed legislation. These would be in addition to a Member's own electorate office.
- (3) Requests a further independent review three years after the first election conducted on the basis of the *Electoral Amendment and Repeal Act 2005* to determine whether regional and metropolitan electors have reasonable access to democratic processes.

15. Distinguished Visitors

The President drew attention to the presence in the President's gallery of Member-elect Donna Taylor, Audrey and Jerry Leeuwangh, former Member Val Ferguson and Mr Ken Ferguson, and, on behalf of Honourable Members, extended a warm welcome to them.

16. Labour Relations Regulatory Framework

Motion No. 1 having been called.

Debate resumed on the amendment of Hon Ray Halligan as follows -

After the last line of the motion to insert the following -

Even though the content of the Federal legislation is excellent and contains measures that it would be advisable for the Western Australian Parliament to enact. However, in view of the disastrous approach by the Gallop Government to workplace relations, the House is thankful for the existence of the Commonwealth Industrial Relations system for without it the Western Australian economy, especially the resources area would be in a disastrous situation,

to the motion of Hon Louise Pratt as follows -

That this House calls on the Federal Government to acknowledge the right of the State of Western Australia to maintain our State based labour relations regulatory framework, including -

- (a) the right of Western Australia to enact and enforce its own statutes dealing with industrial relations for the betterment of Western Australian workers, employers and the general community;
- (b) the historical role and scope of the Western Australian Industrial Relations Commission; and
- (c) labour relations policies which offer an alternative from Commonwealth regimes.

Interruption of Debate [SO 195].

17. One Vote One Value Bill 2005

The President reported the receipt of Message No. 15 from the Legislative Assembly agreeing to the amendments made by the Council.

18. Planning and Development Bill 2005

The President reported the receipt of Message No. 7 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Leader of the House moved, That the Bill be now read a second time.

Debate stands adjourned.

19. Planning and Development (Consequential and Transitional Provisions) Bill 2005

The President reported the receipt of Message No. 8 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Education and Training moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Education and Training moved, That the Bill be now read a second time.

Debate stands adjourned.

20. Metropolitan Region Improvement Tax Amendment Bill 2005

The President reported the receipt of Message No. 9 from the Legislative Assembly forwarding the Bill for concurrence.

The Minister for Education and Training moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

The Minister for Education and Training moved, That the Bill be now read a second time.

Debate stands adjourned.

21. 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 Bruce Donaldson the debate was adjourned to the next sitting.

22. Constitution and Electoral Amendment Bill 2005

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

Debate resumed.

23. Questions Without Notice

Questions without notice were taken.

The Leader of the House tabled documents in relation to Western Australian Coal Future Strategy in response to a question without notice asked by Hon Murray Criddle. (Tabled paper 353).

The Minister for Fisheries tabled documents in relation to the passage of the *Ocean Gardens (Inc) Bill 2003* - correspondence to residents in response to question on notice No. 1270 asked by Hon Ray Halligan. (Tabled paper 354).

The Minister for Fisheries tabled and, by leave, incorporated into *Hansard*, documents in relation to leave liability in the Department of Fisheries in response to a question without notice asked by Hon Derrick Tomlinson. (Tabled paper 357).

The Leader of the House tabled documents in relation to the salary of Chief Executive Officers in response to question on notice No. 1083 asked by Hon Ray Halligan. (Tabled paper 355).

The Leader of the House tabled documents in relation to the Premier's Circular regarding Corruption Prevention in response to question on notice No. 1768 asked by Hon Robyn McSweeney. (Tabled paper 356).

The Leader of the House tabled documents in relation to the expert panel established by the State Government to examine proposals for the transport of water from the Kimberley to Perth in response to question on notice No. 1051 asked by Hon Robin Chapple. (Tabled paper 362).

The Parliamentary Secretary to the Minister for Planning and Infrastructure tabled corrected answers to question without notice Nos. 265 and No. 269. (Tabled paper 358).

The Parliamentary Secretary to the Attorney General tabled documents in relation to the portfolio responsibilities of the Attorney General regarding reviews, chairs, completion dates and costs in response to question on notice No. 1143 asked by Hon Ray Halligan. (Tabled paper 359).

The Parliamentary Secretary to the Minister for Health tabled documents in relation to the Department of Health and the Office of Health Review regarding reviews, chairs, completion dates and costs in response to question on notice No. 1144 asked by Hon Ray Halligan. (Tabled paper 360).

The Parliamentary Secretary to the Minister for Health tabled documents in relation to bed occupancy rates in hospitals in response to question on notice No. 1039 asked by Hon Ray Halligan. (Tabled paper 361).

24. Universities Legislation Amendment Bill 2005

The Minister for Education and Training, by leave, gave notice to move on the next day of sitting -

That a Bill for "An Act to amend the *Curtin University of Technology Act 1966*; the *Edith Cowan University Act 1984*; the *Murdoch University Act 1973*; the *University of Notre Dame Australia Act 1989*; and the *University of Western Australia Act 1911*" be introduced and read a first time.

25. Constitution and Electoral Amendment Bill 2005

Debate resumed on the second reading of this Bill (cf item 22 above).

Question - put.

The Bill requiring the concurrence of an absolute majority.

Acting President instructed the bells, be rung.

Point of Order

Hon Norman Moore raised the following Point of Order -

Madam Deputy President, could you explain to me why you have ruled that this requires an absolute majority?

The Acting President ruled as follows -

In response to the matter raised by Hon Norman Moore, as I said earlier, when this bill was before the Assembly it decided it would deal with the matter as though it required an absolute majority - a constitutional majority - in case there were any difficulties with the legislation. To ensure that no questions arise from this I want to make sure that, for the record, this house passes the legislation with an absolute majority.

The Acting President left the Chair at 7.47pm

The Acting President resumed the Chair at 7.58pm

Acting President's Ruling

The Acting President ruled as follows -

As Deputy President, it is my responsibility to ensure that bills that pass this house do so according to the law in regard to constitutional bills. I formed the view that this bill required an absolute majority and, accordingly, there being a dissenting voice, I called a division. I will now put the question again, because of the confusion that occurred.

The Acting President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the question carried with the concurrence of an absolute majority.

Bill read a second time.

The Acting President left the Chair.

In Committee

(Hon Kate Doust in the Chair)

Deputy Chairman's Ruling

The Deputy Chairman ruled as follows -

Before we deal with the clauses of this bill, I note that there are amendments listed on supplementary notice paper 37, issue 1. Before moving to deal with those amendments, I need to make a ruling on them. Before the Member moves the amendments, I advise the committee that I have considered the amendments proposed by Hon Murray Criddle and consider that they breach section 46 of the *Constitution Acts Amendment Act 1899*. I believe that the amendments are caught by section 46(3), which denies the Legislative Council the ability to

amend a bill if the amendments would increase a burden or charge on the people; that is, if the amendment appropriates public moneys. The bill before the committee has a very narrow scope; that is, to increase the number of Members of the Legislative Assembly from 57 to 59. There can be no question that, by proposing an additional member, the amendment, if passed, would increase the burden on the people under section 46(3). I rule that the amendment is out of order, because it contains an appropriation contrary to section 46(3) of the 1899 Act.

Dissent from Deputy Chairman's Ruling

Hon Murray Criddle moved - To dissent from the Deputy Chairman's ruling.

The President resumed the Chair.

The Deputy Chairman reported dissent.

The President left the Chair at 8.09pm

The President resumed the Chair at 8.24pm

President's Ruling

The President ruled as follows -

I have considered the ruling of the Deputy Chairman of Committees and the written dissent of Hon Murray Criddle, and I uphold the ruling of the Deputy Chairman of Committees. I consider that the proposed amendment breaches section 46(3) of the *Constitution Acts Amendment Act 1899*. There is a difference between a regime that may or may not involve an increase in expenditure by virtue of electoral allowance, costs of office and ancillary services and a fundamental amendment involving a clear burden imposed by increasing the number of legislators. I would have ruled that any amendment to the *Electoral Amendment and Repeal Bill 2005*, previously considered by this chamber, to have been out of order if it had, for example, proposed an increase in the number of members from 34 to 36 in this chamber. Although I have upheld a narrow interpretation of section 46(3) in a past ruling, such an interpretation could not be extended to an amendment of the type proposed by Hon Murray Criddle.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 1.

Debate ensued.

Question - put and passed.

Clause 2.

Question - put and passed.

Clause 3.

Question - put and passed.

Clause 4.

Debate ensued.

Question - put and passed.

Title agreed to.

The President resumed the Chair.

Bill reported without amendment.

Report adopted.

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

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

Question - put.

Debate ensued.

The President having counted the House, and there being an absolute majority present, and no dissentient voice, declared the question carried with the concurrence of an absolute majority.

Bill read a third time and passed.

26. Instruction to Committee - Financial Administration Legislation Amendment Bill 2005

Hon Dee Margetts, by leave, gave notice to move on the next day of sitting -

That upon the second reading of the Financial Administration Legislation Amendment Bill 2005 I shall move -

- (1) That it be an instruction to the Committee of the Whole to divide the Bill into two separate Bills, the first of which is to consist of clause 7 of the *Financial Administration Legislation Amendment Bill 2005*, and the second to consist of the remaining clauses of the *Financial Administration Legislation Amendment Bill 2005*, and to do such things as may be necessary to achieve that purpose, including the addition of enacting words, titles and short titles, and thereafter report the Bills separately to the house.
- (2) The Order of the Day on the *Financial Administration Legislation Amendment Bill 2005* be discharged and the Bill be referred to the Standing Committee on Public Administration and Finance, which is to report to the House not later than Tuesday, 21 June 2005.

27. Petroleum Legislation Amendment and Repeal Bill 2005

The President reported the receipt of Message No. 16 from the Legislative Assembly forwarding the Bill for concurrence.

The Leader of the House moved, That the Bill be now read a first time.

Question - put and passed.

Bill read a first time.

Debate stands adjourned and the Bill stands referred to Standing Committee on Uniform Legislation and General Purposes.

28. Treasurer's Advance Authorisation Bill 2005

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

Debate resumed.

Question - put and passed.

Bill read a second time.

The Leader of the House moved - That consideration of the Bill, in Committee, be made an Order of the Day for the next sitting.

Question - put and passed.

29. Adjournment

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

Debate ensued.

Question - put and passed.

The House adjourned at 10.30pm until Thursday, May 19 2005 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Frank Hough.

M PEACOCK
Acting Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council