

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 117

WEDNESDAY, MARCH 10 2004

1. Meeting of Council

The Council assembled at 10.00am pursuant to order.

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

2. Papers

The following Papers were laid on the Table by -

Leader of the House

Reports -

Consultants engaged by Government for the six months ended 30 June 2003 2020

Interstate and Overseas Travel Undertaken by Ministers, Members of Parliament and
Officers on Official Business for the three months ended 30 June 2003 2021

3. Criminal Code Amendment Bill 2003

The Order of the Day for the further consideration of this Bill, in Committee, having been read.

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Clause 23.

Debate resumed on the amendment moved by the Hon Simon O'Brien as follows -

Page 17, line 21 - To delete "10" and insert instead -

" 20 ".

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 24 and 25 agreed to.

Clause 26.

Debate ensued.

Hon Simon O'Brien moved -

Page 19, line 9 - To delete the word "commercial" where it appears in both places.

Debate ensued.

The Chairman of Committees left the Chair at 10.42am

The Chairman of Committees resumed the Chair at 11.13am

Debate resumed.

Amendment - put and passed.

The Minister for Housing and Works moved -

Page 19, line 15 - To delete the line.

Debate ensued.

Amendment - put and passed.

Hon Simon O'Brien moved -

Page 19, line 17 - To insert after "person" where it second appears -

" by force or threats ".

Debate ensued.

Amendment - put and negatived.

Hon Simon O'Brien moved -

Page 19, line 18 - To delete "commercial".

Debate ensued.

Amendment - put and passed.

Hon Simon O'Brien moved -

Page 20, line 4 - To delete "commercial".

Amendment - put and passed.

The Minister for Housing and Works moved -

Page 20, line 11 - To delete "another" and insert instead -

" a person who is neither a child nor an incapable ".

Debate ensued.

Amendment - put and passed.

Debate ensued.

The Minister for Housing and Works moved -

Page 20, lines 30 and 31 - To delete the lines.

Amendment - put and passed.

The Minister for Housing and Works moved -

Page 21, line 1 - To delete "(e) otherwise,".

Amendment - put and passed.

Debate ensued.

The Minister for Housing and Works moved -

Page 21, after line 1 - To insert -

“

- (2) A person who —
- (a) offers a child or an incapable person (the “**victim**”) employment or some other form of engagement to provide personal services; and
 - (b) at the time of making the offer knows —
 - (i) that the victim will in the course of or in connection with the employment or engagement be asked or expected to provide a sexual service; and
 - (ii) that the continuation of the employment or engagement, or the victim’s advancement in the employment or engagement, will be dependent on the victim’s preparedness to provide a sexual service,
- is guilty of a crime and is liable to imprisonment for 20 years.

”.

Debate ensued.

Amendment - put and passed.

Hon Simon O’Brien moved -

Page 21, line 1 - To insert after “years” -

“

,
and it is not a defence that —

- (f) one or both parents or the legal guardian of a child; or
- (g) the legal guardian of, or a person with power of attorney with respect to, an incapable person,

purported to consent to, or accept, an offer so as to bind the child or incapable person to its terms.

- (2) It is a defence for a person charged under subsection (1) to prove that the matters described in paragraph (b)(i), (ii) were disclosed to, and understood by, the victim.

”.

Debate ensued.

Hon Simon O’Brien, by leave, withdrew the amendment standing in his name.

Clause, as amended, agreed to.

Clause 27 agreed to.

Clause 28.

Debate ensued.

The Minister for Housing and Works moved, That progress be reported and leave asked to sit again.
Question - put and passed.

The Acting President resumed the Chair.

The Chairman of Committees 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.

4. Management of the Health System in Western Australia

Motion No. 34 having been called.

Debate resumed on the motion of Hon Simon O'Brien as follows -

That this House notes with great concern -

- (1) The poor performance of the Gallop Labor Government in its management of the health system in Western Australia.
- (2) The inability of the Government to manage the finances of the health portfolio, which has led to adverse and unjustifiable cuts to a wide number and variety of health services around the State.
- (3) The consequent funding cuts to many areas of Government activity other than health services which have occurred as a result of the rapid and uncontrolled escalation of the health budget in recent years.

The Parliamentary Secretary to the Minister for Health moved -

To delete all words after "That this House notes" and insert instead -

“

- (1) The development of a long term vision for the delivery of health care in Western Australia through the Reid Review;
- (2) The extent of the public and stakeholder consultation leading to the Reid Review Plan which will provide the framework for health care delivery into the future;
- (3) The commitment of an additional \$10 million to offer surgery to all 3 200 on the "long wait" list for more than 500 days;
- (4) The commitment of an additional \$2 million to offer dental treatment to 3000 Western Australians who had waited the longest for dental treatment;
- (5) That these initiatives, while important, will still leave an unacceptable waiting list and waiting time for surgical and dental procedures and the need for further initiatives to address this problem;
- (6) The need for a comprehensive resourced strategy to ensure patient access to Emergency Departments and if need be admission to hospital;
- (7) The difficulties which have arisen as a result of -
 - (a) inadequate federal funding for health in WA through the Australian Health Care Agreement; and
 - (b) the Howard Government's withdrawal of funding for the Commonwealth Dental Scheme in 1996.

Accordingly, the House notes the significant efforts made by the Government to control health expenditure and redirect resources to the areas of greatest need and urges the Government to take even further steps to achieve better health outcomes for the Western Australian population.

”.

Point of Order

Hon Bruce Donaldson raised the following Point of Order -

I consider that the amendment is ultra vires to the motion. I want to make sure that you, Mr Acting President, make an official ruling on it.

The Acting President left the Chair at 2.50pm

The Acting President resumed the Chair at 3.13pm

Acting President's Ruling

The Acting President ruled as follows -

The point of order taken by the Opposition Whip is that the amendment moved by the Parliamentary Secretary is out of order, presumably on the basis that it is contradictory to the motion as moved. The admissibility of an amendment depends on a number of matters. The first is whether the amendment is relevant to the subject matter of the question under consideration. I can dispose of this issue. It is beyond contradiction that the amendment is relevant to the subject matter of the motion. The amendment cannot be ruled out on the grounds of irrelevance. Secondly, the amendment, although relevant, will be out of order if it is in the direct negative of the original motion. The test is whether the amendment has the same effect as voting against the motion. Although it may be that the amendment can be seen as a positive reframe of the issues under debate, it is not couched in words that contradict the terms of the motion. I note, for example, the concessions made in paragraph (3) of the amendment and I believe that is hardly a negative. Were the amendment to be accepted, I cannot see that it would be tantamount to voting down the motion in its original form. It may be that the amendment's content is unsatisfactory to some members of the House; however, that does not make it irrelevant or a direct negative of the motion. I therefore put the question that the words to be deleted be deleted.

Point of Order

Hon Norman Moore raised the following Point of Order -

I do not seek your ruling immediately, but you would appreciate that there is now a fixed time for debating motions and we have just spent the past 15 minutes waiting for your ruling. Does that 15 minutes come off the time allowed for motions or is it time out as such?

Acting President's Ruling

The Acting President ruled as follows -

My advice is that the clock was stopped as I left the Chair and will start again from now.

Debate resumed.

Point of Order

Hon Bruce Donaldson raised the following Point of Order -

The Member was reading from a document that she had in her hand. I want that to be identified, and the author named, and I want the Member to table that document from which she was reading.

The Acting President left the Chair at 3.54pm

The Acting President resumed the Chair at 4.14pm

Acting President's Ruling

The Acting President ruled as follows -

The Opposition Whip has asked that the Parliamentary Secretary to the Minister for Health identify the document from which she quoted. The Whip's request was in order. I ask the Parliamentary Secretary to identify the document from which she quoted. To assist the Parliamentary Secretary, I advise her that "document" means any number of pages that are bundled or held together as a discrete item; it is not restricted solely to one or more pages from

which actual quotes were made. Bearing that in mind, I ask the Parliamentary Secretary to identify the document from which she quoted.

Debate resumed.

Interruption pursuant to Sessional Orders.

5. Questions Without Notice

Questions without notice were taken.

The Parliamentary Secretary representing the Minister for Planning and Infrastructure tabled, and by leave incorporated into Hansard, documents in relation to the delay in construction to the Gosnells and Armadale train stations due to the contractor, Consolidated Constructions, having an Administrator appointed and possible liquidation in response to a question without notice asked by Hon Derrick Tomlinson. (Tabled paper 2022).

6. Point of Order - Request for Documents to be Tabled

Hon Norman Moore raised the following Point of Order -

Prior to the afternoon tea adjournment the Deputy President was in the process of requiring that a document be tabled. My understanding of his ruling was that the file that was quoted from by Hon Sue Ellery, Parliamentary Secretary to the Minister for Health, was to be tabled in its entirety. However, because we were interrupted by afternoon tea, that did not happen. I request that the Deputy President's ruling now be implemented.

President's Ruling

The President ruled as follows -

Members, I am aware that a Member asked that the document be identified, and it was identified. Proceedings were then interrupted for afternoon tea. A request can now be made for the documents to be tabled. I understand that that request has not yet been made.

Hon Norman Moore moved -

A request was in fact made by the Opposition Whip when this matter was first raised; he sought to have the document identified and tabled. If necessary, I now ask that the document be tabled.

The Parliamentary Secretary to the Minister for Health, pursuant to SO 48, tabled a document in relation to documents quoted from during debate on a motion on the Management of the Health System in Western Australia. (Tabled paper 2023).

7. Nuclear Waste Storage (Prohibition) Amendment Bill 2003

The Order of the Day for the further consideration of this Bill, in Committee, having been read.

The President left the Chair.

In Committee

(Hon Kate Doust in the Chair)

Clause 1 agreed to.

Clauses 2 to 5 agreed to.

Clause 6.

Debate ensued.

Clause agreed to.

Clauses 7 to 9 agreed to.

Clause 10.

Debate ensued.

Interruption of Debate [SO 61(c)].

8. Member's Statements

Statements were taken.

9. Adjournment

Pursuant to Sessional Order 2(2) the House adjourned at 5.54pm until Thursday, March 11 2004 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon Adele Farina and Hon Tom Stephens.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council