

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

MINUTES OF PROCEEDINGS

No. 49

TUESDAY, APRIL 1 2003

1. Meeting of Council

The Council assembled at 3.00pm pursuant to order.

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

2. Messages from His Excellency the Governor and the Lieutenant Governor and Deputy of the Governor - Assent to Bills

The President reported the receipt of Messages from His Excellency the Governor and the Lieutenant Governor and Deputy of the Governor assenting to the following Bills -

March 20 2003 - Message No. 27	Act No.
Taxation Administration (Consequential Provisions) Bill 2001	45 of 2002
Taxation Administration (Consequential Provisions) (Taxing) Bill 2001	46 of 2002
Pay-roll Tax Bill 2001	47 of 2002
Pay-roll Tax Assessment Bill 2001	48 of 2002
Debits Tax Bill 2001	49 of 2002
Debits Tax Assessment Bill 2001	50 of 2002
Land Tax Bill 2001	51 of 2002
Land Tax Assessment Bill 2001	52 of 2002
Taxation Administration Bill 2001	1 of 2003
Stamp Amendment Bill 2001	2 of 2003
March 24 2003 - Message No. 28	Act No.
Electronic Transactions Bill 2001	3 of 2003
Western Australian Meat Marketing Co-operative Limited (Shares) Bill 2002	4 of 2003
Regional Development Commissions Amendment Bill 2002	5 of 2003
March 25 2003 - Message No. 29	Act No.
Transfer of Land Amendment Bill 2001	6 of 2003
March 27 2003 - Message No. 30	Act No.
Police Amendment Bill 2002	7 of 2003

3. Papers

The following Papers were laid on the Table by -

Minister for Housing and Works

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Dog Act 1976 (Shire of Dumbleyung - Dogs Local Law 2002 G.G. 21/03/2003) 861

Local Government Act 1995 (City of Bayswater Local Government Property Local Law G.G. 20/03/2003, Shire of Dumbleyung - Extractive Industries Local Law 2002 G.G. 21/03/2003, Shire of Dumbleyung - Local Laws Relating to Fencing 2002 G.G. 21/03/2003, Shire of Dumbleyung - Parking and Parking Facilities Local Law 2002 G.G. 21/03/2003, Shire of Dumbleyung Local Law Relating to Pest Plants 2002 G.G. 21/03/2003, Shire of Dumbleyung - Control of Refuse on Building Sites Local Law 2002 G.G. 21/03/2003, Shire of Dumbleyung - Local Government Property Local Law 2002 G.G. 21/03/2003 & Shire of Dumbleyung - Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2002 G.G. 21/03/2003)..... 862

Local Government Act 1995 (City of Bunbury Advertising Devices Local Law G.G. 24/03/2003)..... 863

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Environmental Protection Act 1986 (Environmental Protection (Goldfields Residential Areas) (Sulfur Dioxide) Regulations 2003 G.G. 18/03/2003) 866

Minister for Racing and Gaming

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Finance Brokers Supervisory Board (2001-2002) (Date received 25/03/2003)..... 868

Painters' Registration Board [PRB] (Year ending 31 December 2002) (Date received 26/03/2003)..... 869

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Parliamentary Superannuation Act 1970 (Parliamentary Superannuation Repeal Regulations 2003 G.G. 21/03/2003) 875

State Superannuation Act 2000 (State Superannuation Amendment (Retirement Income Scheme) Regulations 2003 G.G. 19/03/2003)..... 876

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4. Ministerial Statement - Revision of Guidelines of the Dry Season 2002 Assistance Scheme

The Minister for Agriculture, Forestry and Fisheries made a Ministerial Statement with respect to Revision of Guidelines of the Dry Season 2002 Assistance Scheme.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

5. Ministerial Statement - The Late Dr Patricia Vinnicombe

The Parliamentary Secretary representing the Minister for State Development made a Ministerial Statement with respect to the Late Dr Patricia Vinnicombe.

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

6. Ministerial Statement - Metropolitan Region Scheme Amendment No. 1054/33 Western Power Depot, Belmont

The Parliamentary Secretary representing the Minister for Planning and Infrastructure made a Ministerial Statement with respect to Metropolitan Region Scheme Amendment No. 1054/33 Western Power Depot, Belmont.

The Parliamentary Secretary representing the Minister for Planning and Infrastructure, by leave, tabled plans in relation to Metropolitan Region Scheme Amendment No. 1054/33 - Western Power Depot, Belgravia Street Belmont Plan No. 3.1555. (Table paper 901)

The Parliamentary Secretary representing the Minister for Planning and Infrastructure, by leave, tabled plans in relation to Metropolitan Region Scheme Amendment No. 1054/33 - Western Power Depot, Belgravia Street Belmont Plan No. 3.1558. (Table paper 902).

The Parliamentary Secretary representing the Minister for Planning and Infrastructure, by leave, tabled reports in relation to Metropolitan Region Scheme Amendment No. 1054/33 - Western Power Depot, Belgravia Street Belmont (Volumes 1 & 2). (Table paper 903).

Ordered - That consideration of the Ministerial Statement be made an Order of the Day for the next sitting.

7. Statement by President - Temporary Chamber

The President made the following Statement -

Members, before we proceed to orders of the day, I thought I should welcome you to the once and future home of the Parliamentary Library, as well as the temporary and former temporary home of the Legislative Council itself. Members may have received some advice that they may be subject to a photo opportunity for file footage. Unfortunately, we have not interested either the commercial or the non-commercial stations in that at this stage, but we hope for success tomorrow.

Members will notice a number of features in our temporary accommodation. No doubt they will discover some features by chance over the next few days.

Certainly, yes, some people have noticed that the desks that were in front of them have disappeared, but others not. Of course, Ministers and Members of the opposition frontbench have the opportunity to speak at the Table, where there are microphones. For other Members - they will see the microphone I have - there are portable microphones to catch their words of wisdom. However, given that those microphones are portable and there are only two of them, we will not be catching all words of wisdom - we will catch them only if a Member is given the call by the Chair. Members will also notice that call buttons are not available. However, no doubt they will be able to attract the attention of the attendants in the Chamber if they are in desperate need of anything in particular.

Members will be aware that we have a mezzanine floor behind and above me that can accommodate the media. I did indicate to the media that we would be able to identify who was chiselling their initials on the boards upstairs, whereas it was more difficult in the other Chamber. We also have a further mezzanine floor that may be used if we have an overflow or an excessive number of visitors to the public gallery. The public gallery is located on this floor at the moment, with the front row being the President's gallery.

Members, I am sure that we all look forward to a few hot days so that we can enjoy the airconditioning, and I am sure that Members will find other features of the Chamber as we go along.

8. Metropolitan Region Scheme Amendment 1019/33 - Townsite Developments in Stoneville and Parkerville - Disallowance

Pursuant to SO 152(b) the following motion was moved *pro forma* by Hon Jim Scott -

That the *Metropolitan Region Scheme Amendment No. 1019/33 - Townsite Developments in Stoneville and Parkerville* published in the *Gazette* on November 5 2002 and tabled in the Legislative Council on November 6 2002 under the *Metropolitan Region Town Planning Scheme Act 1959*, be and is hereby disallowed.

On the motion of Leader of the House the debate was adjourned to a later stage of this day's sitting.

9. Corporations (Consequential Amendments) Bill (No. 2) 2001

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

The President left the Chair.

In Committee

(Hon George Cash in the Chair)

Statement by Chairman

The Chairman made the following Statement -

Members will be aware that the Standing Committee on Legislation produced a report in relation to this Bill. I indicate that as amendments to the Bill are recommended by the Legislation Committee in report No 12, I am required by Standing Order No 234A(2) to put the question that the amendments recommended by the Standing Committee on Legislation be read into and deemed part of the Bill. Before doing so, I note that this question relates only to recommendation 1 of the Legislation Committee's report, which affects clause 23 of the Bill. The committee's amendment is reflected in amendment No 3/23 standing in the name of the Minister for Racing and Gaming on supplementary notice paper 53-1.

Although the committee made other recommendations, these relate to the proposed amendments to the Bill rather than to the Bill itself. In that respect, Standing Order No 234A does not apply.

I therefore put the question -

That the recommendations recommended by the Standing Committee on Legislation be read into and deemed part of the Bill.

Question - put and passed.

Clause 1 agreed to.

Clause 2.

The Minister for Racing and Gaming moved -

Page 2, line 6 - To insert after "Act" -

" (other than Part 6) "

Amendment - put and passed.

The Minister for Racing and Gaming moved -

Page 2, after line 8 - To insert -

"

(2) Part 6 comes into operation on the day on which this Act receives the Royal Assent.

".

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 3 to 47 agreed to.

New Part 6.

The Minister for Racing and Gaming moved -

Page 8, after Part 5 - To insert the following new Part -

“

Part 6 — *Corporations (Ancillary Provisions) Act 2001*

15. The Act amended

The amendments in this Part are to the *Corporations (Ancillary Provisions) Act 2001**.

[*Act No. 8 of 2001.]

16. Section 22 amended

Section 22(2) is amended as follows:

- (a) in paragraphs (b) and (c) by inserting after “1989” —
“ of the Commonwealth ”;
- (b) after paragraph (e) by deleting “or”;
- (c) after paragraph (f) by deleting the full stop and inserting —
“
; or
- (g) an Act amending an Act referred to in paragraph (e) or (f).

”
”.

17. Section 22A inserted

After section 22 the following section is inserted —

“

22A. Power to make interim regulations construing certain references in Acts

- (1) The Governor, on the recommendation of the Minister, may make regulations providing that an affected reference in an Act is to be construed as set out in the regulations.
- (2) The Minister may make a recommendation under subsection (1) only if he or she considers that —
 - (a) each substantive provision of the proposed regulations is necessary as a consequence of the enactment, or the proposed enactment, by the Parliament of the Commonwealth of an Act amending the new ASIC Act or the new Corporations Act; and
 - (b) subject to subsection (3), the proposed regulations do not deal with any other matter.
- (3) Regulations made under this section may deal with matters of a transitional nature (including matters of an application or savings nature) consequent on the enactment of the amending Act referred to in subsection (2)(a).

- (4) Regulations made under this section have effect according to their terms.
- (5) Regulations under this section cannot be made after the end of 12 months after the amending Act to which they relate (or the relevant provision of that Act) comes into operation.
- (6) Regulations made under this section expire on the first anniversary of the day on which they are made unless they are revoked, or expressed to expire, on an earlier day.
- (7) In this section —
“affected reference” means —
 - (a) a reference in an Act to a provision of the new ASIC Act or the new Corporations Act; or
 - (b) a reference in an Act to a term, expression or concept defined or used in the new ASIC Act or the new Corporations Act,
 that is, or is to be, affected in any way by the enactment or proposed enactment by the Parliament of the Commonwealth of an Act amending the new ASIC Act or the new Corporations Act.

”.

18. Section 25 amended

Section 25(6) is amended by inserting after “relevant time” —

“

or, in the case of regulations made under section 22(2)(g) or 22A, the time when the amending Act (or the relevant provision of that Act) comes into operation or is taken to have come into operation

”.

Debate ensued.

New Part 6 put and passed.

Title.

Debate ensued.

Title agreed to.

The Deputy Chairman resumed the Chair.

Bill reported with amendments.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day's sitting.

The Minister for Racing and Gaming moved, That the report be adopted.

Question - put and passed.

The Minister for Racing and Gaming moved, That the Bill be now read a third time.

The Deputy 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 and passed.

Bill read a third time and passed.

10. Corporations (Consequential Amendments) Bill (No. 3) 2001

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 Deputy President left the Chair.

In Committee

(Hon George Cash in the Chair)

Statement by Chairman

The Chairman made the following Statement -

As there are amendments to the Bill recommended by the Standing Committee on Legislation in Report No. 13, I note that SO 234A(2) applies. I therefore put the question -

That the amendments recommended by the Standing Committee on Legislation be read into and deemed part of the Bill.

Question - put and negatived.

Clause 1.

Debate ensued.

Clause agreed to.

Clauses 2 to 6 agreed to.

Clause 7.

The Minister for Racing and Gaming moved -

Page 4, after line 23 - To insert -

“

(3) Subsections (1) and (2) have effect if, and only if, regulations (made under section 5(1) or 6(1)) and statutory rules (referred to in subsection (2)) are published in the *Gazette* within the 12 months after the day on which this Act receives the Royal Assent.

”.

Debate ensued.

The Minister for Racing and Gaming, by leave, amended his amendment standing in his name as follows -

To delete “12” and insert instead -

“ 3 ”.

On the question, That the amendment, as amended, be agreed to - put and passed.

The Minister for Racing and Gaming moved -

Page 5, line 4 - To insert before “statutory rule” -

“ regulation or ”.

Amendment - put and passed.

Clause, as amended, agreed to.

Clauses 8 to 36 agreed to.

Title agreed to.

The Deputy President resumed the Chair.

Bill reported with amendments.

Leave was granted to proceed forthwith through all remaining stages of the Bill at this day's sitting.

The Minister for Racing and Gaming moved, That the report be adopted.

Question - put and passed.

The Minister for Racing and Gaming moved, That the Bill be now read a third time.

The Deputy 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 and passed.

Bill read a third time and passed.

11. Carbon Rights Bill 2002, Tree Plantation Agreements Bill 2002 and Acts Amendment (Carbon Rights and Tree Plantation Agreements) Bill 2002

The Order of the Day having been read for the adjourned cognate debate on the second reading of these Bills.

Debate resumed.

12. Questions Without Notice

Questions without notice were taken.

The Minister for Housing and Works, by leave, incorporated into *Hansard* and tabled his response regarding the contamination of the former Bunnings and State Government timber mill and wood treatment site in Pemberton in response to a question without notice asked by Hon Jim Scott. (Tabled paper 905).

The Leader of the House tabled documents in relation to meeting details between the Minister and "Save Ningaloo Reef Campaign (SNRC)" on May 29 2002 in response to question on notice No. 448 asked by Hon Norman Moore. (Tabled paper 906).

The Minister for Racing and Gaming tabled document in relation to details of the market surveys conducted by the Water Corporation for the last two years in response to question on notice No. 385 asked by Hon Norman Moore. (Tabled paper 907).

13. Carbon Rights Bill 2002, Tree Plantation Agreements Bill 2002 and Acts Amendment (Carbon Rights and Tree Plantation Agreements) Bill 2002

Cognate debate resumed on the second reading of these Bills (cf item 11 above).

Question - put and passed.

Bills read a second time.

Ordered - That consideration of the Bills, in Committee, be made an Order of the Day for the next sitting.

14. Order of Business

Ordered - That Order of the Day No. 140 be taken forthwith. (Leader of the House).

15. Metropolitan Region Scheme Amendment 1019/33 - Townsite Developments in Stoneville and Parkerville - Disallowance

Pursuant to Order of the House.

Pursuant to SO 152(b) the following motion was moved *pro forma* by Hon Jim Scott -

That the *Metropolitan Region Scheme Amendment No. 1019/33 - Townsite Developments in Stoneville and Parkerville* published in the *Gazette* on November 5 2002 and tabled in the Legislative Council on November 6 2002 under the *Metropolitan Region Town Planning Scheme Act 1959*, be and is hereby disallowed.

Debate ensued.

Question - put.

The House divided.

Ayes (5)

Hon Dee Margetts
Hon Jim Scott
Hon Christine Sharp

Hon Giz Watson
Hon Robin Chapple (*Teller*)

Noes (26)

Hon George Cash
Hon Kim Chance
Hon Murray Criddle
Hon Bruce Donaldson
Hon Kate Doust
Hon Sue Ellery
Hon Paddy Embry
Hon Adele Farina
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 Ljiljanna Ravlich
Hon Barbara Scott
Hon Tom Stephens
Hon Bill Stretch
Hon Derrick Tomlinson
Hon Ken Travers
Hon Ed Dermer (*Teller*)

Question thus negatived.

16. Adjournment

Pursuant to Sessional Order 2(2) the House adjourned at 10.05pm until Wednesday, April 2 2003 at 10.00am.

Members present during the day's proceedings

Attendance: Present all Members except Hon John Fischer.

L B MARQUET
Clerk of the Legislative Council

HON JOHN COWDELL
President of the Legislative Council