

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 136

FIRST SESSION OF THE FORTIETH PARLIAMENT

THURSDAY, 20 JUNE 2019

1. Meeting of Assembly

The Assembly met at 9.00 am pursuant to adjournment.

The Speaker took the Chair.

An Acknowledgement of Country and Prayers were read.

2. Petition

Harrisdale Senior High School – Mr Y. Mubarakai presented a petition from 1,952 people asking the Legislative Assembly to consider implementing a gifted and talented academic program at Harrisdale Senior High School (P. 138).

3. Papers

The following papers were presented and ordered to lie upon the Table of the House –

By the Clerk –

Auditor General, Office of the – Opinion on Ministerial Notification, Report No. 27, June 2019 (2531).

Lotterywest – Statement of Corporate Intent 2019–2020 (2532).

4. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Minister for Citizenship and Multicultural Interests on Refugee Week 2019.

The Minister for Energy on the Energy Transformation Strategy and Taskforce.

5. Grievances

The Speaker called for grievances which were then made.

6. Variation to the Order of Business

Ordered, That Business of the Assembly Order of the Day No. 1 be postponed until the next sitting of the Assembly.

7. Criminal Law Amendment (Uncertain Dates) Bill 2019

The Attorney General, pursuant to notice, moved,

That a bill for “An Act to amend *The Criminal Code* and the *Children’s Court of Western Australia Act 1988* to make provision for the treatment of charges where the date of offence, or the age of the victim or accused person, is uncertain.” be introduced and read a first time.

Question put and passed.

The Attorney General presented an explanatory memorandum and bill read a first time.

The Attorney General moved, That the bill be now read a second time.

Mr P.A. Katsambanis moved, That the debate be adjourned.

Question put and passed.

8. Ticket Scalping Bill 2018

The Order of the Day for the further consideration in detail of the bill was read.

CONSIDERATION IN DETAIL

Clauses 8 to 17 agreed to.

Title agreed to.

Consideration in detail concluded.

Leave was granted to proceed forthwith to the third reading of the bill.

The Minister for Commerce moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and forwarded to the Legislative Council for concurrence.

9. Criminal Appeals Amendment Bill 2019

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Debate interrupted by the Chair and adjourned until a later stage of the sitting.

10. Members’ Statements

The Acting Speaker called for members’ statements which were then made.

11. Questions

Questions without Notice were taken.

Questions on Notice Nos 5236 to 5253 were asked.

Question on Notice No. 5158 was answered.

12. Variation to the Order of Business

Ordered, That consideration of Government Business Order of the Day No. 2 be resumed.

13. Criminal Appeals Amendment Bill 2019

The Order of the Day for the resumption of the debate upon the second reading of the bill was read.

Debate resumed.

Question put and passed.

Bill read a second time.

CONSIDERATION IN DETAIL

Clauses 1 to 3 agreed to.

Clause 4.

The Attorney General moved,

Page 3, line 17 to page 4, line 14 – To delete the lines and substitute:

“

35D. Terms relating to evidence

- (1) For the purposes of this Part, evidence relating to an offence of which an offender was convicted is *fresh* —
 - (a) if, despite the exercise of reasonable diligence, the evidence was not and could not have been tendered at the trial of the offence or any previous appeal; or
 - (b) if —
 - (i) the evidence was not tendered at the trial of the offence or any previous appeal but, with the exercise of reasonable diligence, could have been tendered at the trial of the offence or any previous appeal; and
 - (ii) the failure to tender the evidence was due to the incompetence or negligence of a lawyer representing the offender.
- (2) For the purposes of this Part, evidence relating to an offence of which an offender was convicted is *new* if the evidence was not tendered at the trial of the offence or any previous appeal but, with the exercise of reasonable diligence, could have been tendered at the trial of the offence or any previous appeal.
- (3) Despite subsection (2), evidence is not new evidence if it is fresh evidence under subsection (1)(b).
- (4) For the purposes of this Part, evidence relating to an offence of which an offender was convicted is *compelling* if it is highly probative in the context of the issues in dispute at the trial of the offence.

”.

Amendment put and passed.

The Attorney General moved,

Page 5, lines 6 to 11 – To delete the lines and substitute:

“

- (2) The Court of Appeal may decide whether or not to give special leave to appeal with or without written or oral submissions from the parties to the appeal.
- (2A) Except as provided in subsection (3), the Court of Appeal must decide whether to give special leave to appeal before the hearing of the appeal.

”.

Amendment put and passed.

The Attorney General moved,

Page 6, line 31 to page 7, line 1 – To delete “satisfied that in light of all the evidence,” and substitute:

“ satisfied on the balance of probabilities that, in light of all the evidence, ”.

Amendment put and passed.

Clause 4, as amended, agreed to.

Clauses 5 to 14 agreed to.

Title agreed to.

Consideration in detail concluded.

Ordered, That the third reading of the bill be made an Order of the Day for the next sitting of the Assembly.

14. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 5.02 pm until Tuesday, 25 June 2019 at 2.00 pm.

Members present during any part of the day's proceedings – All the members except Ms M.J. Davies, Ms J. Farrer, Mrs A.K. Hayden, Mr K.J.J. Michel and Ms C.M. Rowe.

KIRSTEN M. ROBINSON
Clerk of the Legislative Assembly

HON. PETER WATSON
Speaker of the Legislative Assembly