

WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

VOTES AND PROCEEDINGS

No. 124

FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT

THURSDAY, 25 NOVEMBER 2010

1. Meeting of Assembly

The Assembly met at 9.00 a.m. pursuant to adjournment.

The Speaker took the Chair.

Prayers were read.

2. Personal Explanation

Dr J.M. Woollard made a personal explanation on the comments she made during the debate on the appointment of the Member for Southern River to the Economics and Industry Standing Committee on Wednesday, 24 November 2010.

3. Petitions

Animal Welfare Unit Inspectorate – Ms L.L. Baker presented a petition from 207 persons requesting that the Legislative Assembly consider a motion to fully fund the Animal Welfare Unit Inspectorate to its fully functional capacity (P. 358).

Animal Welfare Unit Inspectorate Staffing – Ms L.L. Baker presented a petition from 782 persons requesting that six permanent full-time General Inspectors be fully funded within the Department of Local Government's Animal Welfare Unit Inspectorate (P. 359).

Atlantis Marine Park – Mr J.R. Quigley presented a petition from 387 persons requesting that the former Atlantis Marine Park be preserved from development, heritage listed, and maintained as a passive recreation area and sculpture park (P. 360).

Puppy Factories – Dr J.M. Woollard presented a petition from 705 persons requesting that legislation be introduced to regulate the breeding, sale and supply of puppies to reduce the demand for puppy factories (P. 361).

4. Papers

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

By the Clerk –

Conservation Commission of Western Australia – Annual Report 2009–2010 (2916).

Financial Management Act 2006 – Notice under section 82 of the Act from the Minister for Culture and the Arts in relation to Question on Notice No. 4316 (2917).

Marine Parks and Reserves Authority – Annual Report 2009–2010 (2918).

Water Corporation – Statement of Corporate Intent 2010–2011 (2919).

5. Brief Ministerial Statements

Brief Ministerial Statements were made by –

The Premier on the financial assistance package for Toodyay residents affected by the December 2009 bushfire.

The Minister for Agriculture and Food on the Natural Resource Management funding increase.

The Minister for Local Government on the Consultation Paper and submissions made on proposed cat legislation.

6. Grievances

The Speaker called for grievances which were then made.

7. Community Development and Justice Standing Committee

Mr A.P. O’Gorman, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Community Development and Justice Standing Committee – Making Our Prisons Work: An Inquiry into the Efficiency and Effectiveness of Prisoner Education, Training and Employment Strategies, Report No. 6, 2010 (2920).

Community Development and Justice Standing Committee – Making Our Prisons Work: An Inquiry into the Efficiency and Effectiveness of Prisoner Education, Training and Employment Strategies, Submissions (2921).

Mr A.P. O’Gorman, Mr A.P. Jacob, Ms M.M. Quirk, Mr T.G. Stephens and Mr I.M. Britza spoke and Mr P. Papalia, by leave, also spoke on the report.

8. Joint Standing Committee on Delegated Legislation

Mr J.M. Francis, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Delegated Legislation, Joint Standing Committee on – Shire of Koorda Cemeteries Amendment Local Law 2010, Report No. 43 (2922).

Mr J.M. Francis and Mr A.J. Waddell spoke on the report.

9. Joint Standing Committee on the Commissioner for Children and Young People

Ms A.R. Mitchell, as Chairman, presented the following report which was ordered to lie upon the Table of the House –

Commissioner for Children and Young People, Joint Standing Committee on the – Functions and Powers of the Joint Standing Committee on the Commissioner for Children and Young People, Report No. 5, 2010 (2923).

Ms A.R. Mitchell and Mr M.P. Whitely spoke on the report.

10. Ministerial Statement

The Attorney General was granted leave to make a Ministerial Statement on the Government’s proposed prostitution legislation.

Distinguished Visitors

The Speaker noted the presence in the Speaker's Gallery of Madam Chen Yanhua, Vice President of the Zhejiang Provincial Committee of the Chinese People's Political Consultative Conference (CPPCC) and her delegation.

Mr J.R. Quigley made a reply.

11. Suspension of Standing Orders

Mr M. McGowan, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable the following motion to be debated forthwith under the time limits applying to a Matter of Public Interest –

That this House requires the Premier to release the secret state development agreement for the Oakajee port and rail project which guarantees manufacturing work on this project be undertaken in China.

Debate ensued.

Question put.

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, declared the motion to be carried with the concurrence of an absolute majority of the whole number of members of the House.

12. Release of the Oakajee Port and Rail Development Agreement

Mr M. McGowan, pursuant to the foregoing motion, moved,

That this House requires the Premier to release the secret state development agreement for the Oakajee port and rail project which guarantees manufacturing work on this project be undertaken in China.

Debate ensued.

Debate interrupted by the Chair (the Premier speaking) and adjourned until a later stage of the sitting.

13. Members' Statements

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

14. Questions

Questions without Notice were taken.

Questions on Notice Nos 4420 to 4607 were asked.

Questions on Notice Nos 4256 and 4316 were answered.

15. Liquor Control Amendment Bill 2010

Message No. 128 dated 25 November 2010 from the Legislative Council was reported agreeing to the bill without amendment.

16. Variation to the Order of Business

Ordered, That consideration of the Order of the Day on the motion, Release of the Oakajee Port and Rail Development Agreement, be resumed.

17. Release of the Oakajee Port and Rail Development Agreement

The Order of the Day having been read for the resumption of debate on the motion moved by Mr M. McGowan,

That this House requires the Premier to release the secret state development agreement for the Oakajee port and rail project which guarantees manufacturing work on this project be undertaken in China.

Debate resumed.

Paper

The following paper was presented and ordered to lie upon the Table of the House –

By the Premier –

Premier and Cabinet, Department of – Email Correspondence regarding Chinese involvement in the Oakajee Port and Rail Development Agreement (2924).

Question put.

The Assembly divided.

Ayes (24)

Ms L.L. Baker	Mr F.M. Logan	Mrs M.H. Roberts
Dr A.D. Buti	Mr M. McGowan	Mr T.G. Stephens
Ms A.S. Carles	Mr M.P. Murray	Mr C.J. Tallentire
Mr R.H. Cook	Mr A.P. O'Gorman	Mr P.C. Tinley
Ms J.M. Freeman	Mr P. Papalia	Mr A.J. Waddell
Mr J.N. Hyde	Mr J.R. Quigley	Mr M.P. Whitely
Mr W.J. Johnston	Ms M.M. Quirk	Mr B.S. Wyatt
Mr J.C. Kobelke	Mr E.S. Ripper	Mr D.A. Templeman (<i>Teller</i>)

Noes (28)

Mr P. Abetz	Mr J.M. Francis	Dr M.D. Nahan
Mr C.J. Barnett	Mr B.J. Grylls	Mr C.C. Porter
Mr I.C. Blayney	Dr K.D. Hames	Mr D.T. Redman
Mr J.J.M. Bowler	Mrs L.M. Harvey	Mr A.J. Simpson
Mr T.R. Buswell	Mr A.P. Jacob	Mr M.W. Sutherland
Mr G.M. Castrilli	Mr R.F. Johnson	Mr T.K. Waldron
Mr V.A. Catania	Mr A. Krsticevic	Dr J.M. Woollard
Dr E. Constable	Mr W.R. Marmion	Mr J.E. McGrath (<i>Teller</i>)
Mr M.J. Cowper	Mr P.T. Miles	
Mr J.H.D. Day	Ms A.R. Mitchell	

Question thus negated.

18. Hope Valley-Wattleup Redevelopment Amendment Bill 2010

The Minister for Planning, pursuant to notice, moved,

That a bill for “An Act to amend the *Hope Valley-Wattleup Redevelopment Act 2000*.” be introduced and read a first time.

Question put and passed.

The Minister for Planning presented an explanatory memorandum and bill read a first time.

The Minister for Planning moved, That the bill be now read a second time.

Mr D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

19. Juries Legislation Amendment Bill 2010

The Attorney General, pursuant to notice, moved,

That a bill for “An Act to amend the *Juries Act 1957* and the *Criminal Procedure Act 2004*.” 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 D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

20. Young Offenders Legislation Amendment (Research Information) Bill 2010

The Attorney General, pursuant to notice, moved,

That a bill for “An Act to amend these Acts —

- the *Children’s Court of Western Australia Act 1988*;
- the *Young Offenders Act 1994*.” 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 D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

21. Trustee Companies (Commonwealth Regulation) Amendment Bill 2010

The Attorney General, pursuant to notice, moved,

That a bill for “An Act —

- to amend the *Trustee Companies Act 1987* to facilitate the regulation of trustee companies by the Commonwealth; and
- as a consequence, to make certain transitional arrangements and to amend the *Trustees Act 1962*,

and for related purposes.” 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 D.A. Templeman moved, That the debate be adjourned.

Question put and passed.

22. Message from the Governor

Message No. 125 from His Excellency the Governor was reported assenting to the following bills –

Environmental Protection Amendment Bill 2010, Act No. 48 of 2010.

Children and Community Services Amendment Bill 2010, Act No. 49 of 2010.

Misuse of Drugs Amendment Bill (No. 2) 2010, Act No. 50 of 2010.

23. Personal Explanation

Mr P. Abetz made a personal explanation stating that he had no conflict of interest or pecuniary interest in advancing the Franchising Bill 2010.

24. Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Amendment Bill 2010

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.

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

The Premier 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.

25. Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010

Message No. 127 dated 25 November 2010 from the Legislative Council was reported forwarding for concurrence a bill entitled a bill for “An Act to amend the *Associations Incorporation Act 1987*.”

Suspension of Standing Orders

The Leader of the House, without notice, moved, That so much of the Standing Orders be suspended as is necessary to enable private members’ business to take precedence for the purpose of considering the Associations Incorporation Amendment (Transfer of Incorporation) Bill 2010 forthwith.

Question put.

The Speaker having counted the House, and an absolute majority being present and there being no dissentient voice, declared the motion to be carried with the concurrence of an absolute majority of the whole number of members of the House.

Mr R.H. Cook moved, That the bill be read a first time.

Question put and passed.

Mr R.H. Cook presented an explanatory memorandum and bill read a first time.

Mr R.H. Cook moved, That the bill be now read a second time.

Debate ensued.

Question put and passed.

Bill read a second time.

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

Mr R.H. Cook moved, That the bill be now read a third time.

Debate ensued.

Question put and passed.

Bill read a third time and passed.

26. Variation to the Order of Business

Ordered, That Government Business Orders of the Day Nos 3, 14 and 2 be next considered.

27. Trade Measurement Legislation (Amendment and Expiry) Bill 2010

The Order of the Day for the consideration in detail of Legislative Council Message No. 124 was read.

The message was as follows –

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Trade Measurement Legislation (Amendment and Expiry) Bill 2010* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Trade Measurement Legislation (Amendment and Expiry) Bill 2010

No. 1

Page 6, line 28 — To insert after “person” —

cannot be

No. 2

Page 6, lines 29 and 30 — To delete “cannot be punished for the offence”.

No. 3

Page 8, line 31 to page 9, line 19 — To delete the lines.

CONSIDERATION IN DETAIL

The Minister for Commerce moved, That amendment Nos 1 to 3 be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

28. Fair Trading Bill 2010

The Order of the Day for the consideration in detail of Legislative Council Message No. 125 was read.

The message was as follows —

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Fair Trading Bill 2010* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Fair Trading Bill 2010

No. 1

Page 13, lines 5 and 6 — To delete the lines.

No. 2

Page 17, line 5 — To delete the line and insert —

- (c) in so far as it constitutes Schedule 2 to the *Competition and Consumer Act 2010* (Commonwealth), is part of this Act; and
- (d) in so far as it constitutes regulations made under section 139G of the *Competition and Consumer Act 2010* (Commonwealth), is subsidiary legislation for the purposes of this Act.

No. 3

Page 17, lines 10 and 11 — To delete “by order published in the *Gazette*” and insert —

by bill.

No. 4

Page 17, line 12 to page 18, line 8 — To delete the lines.

No. 5

Page 22, lines 8 to 17 — To delete the clause.

No. 6

Page 22, lines 27 to 30 — To delete the lines and insert —

- (b) the offender has been acquitted or convicted of the offence with which the offender is charged, or has already been convicted or acquitted of an offence of which the offender might be convicted upon the indictment or prosecution notice on which the offender has been charged, under the application law of the other participating jurisdiction,
the offender is not liable to be prosecuted or punished for the offence against the Australian Consumer Law (WA).

No. 7

Page 98, line 1 to page 349, line 10 — To delete the schedule.

CONSIDERATION IN DETAIL

The Minister for Commerce moved, That amendment Nos 1 to 7 be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

29. Building Bill 2010

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

Debate resumed.

Mr C.J. Tallentire was granted leave to continue his remarks at the next sitting of the Assembly.

30. Prohibited Behaviour Orders Bill 2010

Message No. 129 dated 25 November 2010 from the Legislative Council was reported as follows –
The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Prohibited Behaviour Orders Bill 2010* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

Schedule indicating the amendments made by the Legislative Council in the Prohibited Behaviour Orders Bill 2010

No. 1

Page 3, lines 16 and 17 — To delete “Supreme Court or the District Court” and insert —

Supreme Court, the District Court or the Children’s Court exercising jurisdiction under *Children’s Court of Western Australia Act 1988* section 19B(4)

No. 2

Page 3, lines 22 to 25 — To delete the lines and insert —

jurisdiction — the person referred to in the *Criminal Procedure Act 2004* section 20(3) who commenced the prosecution or another such person;

No. 3

Page 10, line 26 — To insert after “Division 1;” —

or

- (d) a youth community based order made under the *Young Offenders Act 1994* Part 7 Division 6; or
- (e) an intensive youth supervision order made under the *Young Offenders Act 1994* Part 7 Division 7;

No. 4

Page 23, lines 25 and 26 — To delete “anything that identifies, or is capable of identifying”.

No. 5

Page 23, line 27 — To insert before “a child” —

anything that identifies, or is capable of identifying,

No. 6

Page 24, line 1 — To delete “any” and insert —

anything that identifies, or is capable of identifying, an

No. 7

Page 28, after line 6 — To insert —

41A. Section 3 amended

In section 3(1) in the definition of *child*:

- (a) after paragraph (c) insert:
- (d) a boy or girl dealt with under section 20(3)(b);
- (b) after each of paragraphs (a) and (c) insert:

and

No. 8

Page 28, line 12 — To delete “to a child.” and insert —

to —

- (a) a person who is under 18 years of age; or
- (b) a person who has reached 18 years of age but who committed the relevant offence referred to in the *Prohibited Behaviour Orders Act 2010* section 8(2)(a)(ii) while he or she was under 18 years of age.

Ordered, That Legislative Council Message No. 129 be considered in detail forthwith.

CONSIDERATION IN DETAIL

The Attorney General moved, That amendment Nos 1 to 3 be agreed to.

Question put and passed.

The Attorney General moved, That amendment No. 4 be agreed to.

Question put.

The Assembly divided.

Ayes (18)

Mr P. Abetz	Dr K.D. Hames	Mr P.T. Miles
Mr F.A. Alban	Mrs L.M. Harvey	Ms A.R. Mitchell
Mr V.A. Catania	Mr A.P. Jacob	Mr C.C. Porter
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Sutherland
Mr J.M. Francis	Mr A. Krsticevic	Dr J.M. Woollard
Mr B.J. Grylls	Mr W.R. Marmion	Mr A.J. Simpson (<i>Teller</i>)

Noes (14)

Ms L.L. Baker	Mr P. Papalia	Mr C.J. Tallentire
Dr A.D. Buti	Mr J.R. Quigley	Mr P.C. Tinley
Ms J.M. Freeman	Ms M.M. Quirk	Mr B.S. Wyatt
Mr J.C. Kobelke	Mr E.S. Ripper	Mr D.A. Templeman (<i>Teller</i>)
Mr M. McGowan	Mrs M.H. Roberts	

Question thus passed.

The Attorney General moved, That amendment Nos 5 to 8 be agreed to.

Question put and passed.

Consideration in detail concluded and the Legislative Council acquainted accordingly.

31. Special Adjournment

The Leader of the House moved, That the House at its rising adjourn until a date and time to be fixed by the Speaker.

Debate ensued.

Question put and passed.

32. Adjournment

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

Question put and passed.

The Assembly adjourned accordingly at 8.40 p.m. until a date and time to be fixed by the Speaker.

Members present during any part of the day's proceedings – All the members except Mrs C.A. Martin, Ms R. Saffioti and Mr P.B. Watson.

PETER J. McHUGH

Clerk of the Legislative Assembly

HON. GRANT WOODHAMS

Speaker of the Legislative Assembly