

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

*Forty-second Report — “Shire of Capel Keeping and Welfare of Cats Amendment Local Law 2009
and Shire of Koorda Standing Orders Local Law 2009” — Tabling*

MR J.M. FRANCIS (Jandakot) [10.21 am]: I present for tabling the forty-second report of the Joint Standing Committee on Delegated Legislation entitled “Shire of Capel Keeping and Welfare of Cats Amendment Local Law 2009 and Shire of Koorda Standing Orders Local Law 2009”.

[See paper 2511.]

Mr J.M. FRANCIS: This report deals with the issue of local laws that do not comply with the mandatory procedures for the making of local laws as set out in section 3.12 of the Local Government Act 1995. The committee was advised by the Shire of Capel and the Shire of Koorda that in both instances the wrong local law was gazetted as a result of a staff error. These kinds of errors, especially when dealing with local laws, can have catastrophic results.

The local laws were referred to the committee on gazettal. The committee found itself confronted with a situation in which it received evidence that the local laws before it had been invalidly made. Historically, on the advice of a former Clerk, the committee had not disallowed local laws that failed to comply with the requirements of section 3.12. The advice was based on the view that the local law was invalidly made and so there was not a valid instrument for the committee to consider. However, members of the public utilising the State Law Publisher would not be aware that there was any question about the validity of these local laws. The committee took the opportunity to review its practice in this area and has concluded that by virtue of the Interpretation Act 1984, both laws were operational from the day of gazettal and presumed to be validly made. This presumption can be altered only by a declaration of a court to the effect that the local laws are invalid, and obviously anyone who had been adversely affected by these would be unaware that they were invalidly made. As set out in this report, the committee has concluded that it is open to it to recommend disallowance of both local laws on the basis that they are not authorised or contemplated by the Local Government Act 1985.

In conclusion, I would obviously like to thank my fellow committee members, and especially the staff, for the work they do on this committee. I will briefly touch on a point made by the member for Bassendean when he hinted at the workloads of various committees. I understand he used to be the Chairman of the Joint Standing Committee on Delegated Legislation. He would know, as well as I do—obviously I have been in this place for only two years—the workload of this committee is immense. Dozens and dozens of instruments are looked at over lengthy meetings, almost on every sitting week Monday as a minimum. I compare that with my other role as the Deputy Chairman of the Public Accounts Committee. That committee has a fairly substantial workload. If I had to say which one was the most burdensome in hours and the level of commitment and time required, the Joint Standing Committee on Delegated Legislation is overwhelming in the amount of work that is required.

Mr M.P. Whitely: I have no enthusiasm for taking anything from delegated legislation!

Mr J.M. FRANCIS: The member does not want the job back then!

Mr M.P. Whitely: Not unless one suffers from insomnia!

Mr J.M. FRANCIS: The member knows exactly the point I am getting at. I am unaware, obviously, of the workload of most of the other committees. If I may say, the member makes a very fair point that there seems to be an imbalance in the workload of various committees. I do not mean to have a go at anyone by that comment. Some committees are obviously far more weighed down than others. Part of that may be because of the very nature of the committee in question. The workload of the Joint Standing Committee on Delegated Legislation is immense. It would be absolutely remiss of me not to thank from the bottom of my heart the work of the committee staff. It is not the most sexy committee as far as topics are concerned but the work it does is very important. I give the staff all due credit. I understand some of these subjects are very dry, but it is a very necessary part of the way both houses of this Parliament work. It is vitally important to make sure that local laws, and indeed government regulations, are made in accordance with their empowering act. I thank my fellow committee members and I thank the staff. It is a tiresome and thankless job. I pay all due credit to them. I recommend this report to the Parliament, obviously, and to other councils that may think that an easy cop-out is to ignore laws that have been gazetted and hope nobody will notice them.

MR P.T. MILES (Wanneroo) [10.26 am]: I want to take a few moments to voice my concerns on not just the forty-second report of the Joint Standing Committee on Delegated Legislation but some other work that our committee does. The good work obviously of staff is exceptional, as our chair has just pointed out. As well as the committee work, we do a lot of investigative work. We sometimes probably go a bit deep in some of the stuff we look at. It is always for the “good” that we hope to bring forth to the Parliament some very good reports. Governments, future and today, can look at those reports and see how people’s thoughts are trained.

If it was not for the delegated legislation committee, a lot of these so-called laws would become law because they are gazetted, although they are illegal in practice. If it was not for the delegated legislation committee moving recommendations of disallowance in the other place, nobody on the street, including mums and dads, would understand that they could be fined for something that the local government has no power to do; it is just illegal. It has a lot of consequences. That is why this particular committee is vital.

I am glad to see that the Minister for Local Government today tabled a Local Government Reform Steering Committee report. That will also go towards educating our local governments to start putting a bit more thought into governance and local laws, and maybe guiding councillors in what they can and cannot do. Although today's committee report relates to the Shires of Capel and Koorda, we deal with all 139 councils across this state. The committee has had to recommend disallowances even on the largest councils of Stirling, Wanneroo and Joondalup. They have the means and the capacity to make sure their laws are correct. The work of the committee is good; I am glad we are there. Maybe we need to extend some of our parameters specifically to local government. I am happy to see the committee is doing a great job to try to keep these unworkable laws out of the system.