

STATUTES (REPEALS AND MINOR AMENDMENTS) BILL 2009

Second Reading

Resumed from 17 November.

MR J.R. QUIGLEY (Mindarie) [4.33 pm]: The opposition supports the Statutes (Repeals and Minor Amendments) Bill 2009. I will make a couple of quick comments. I was asked to talk for a while on this bill, and I know how much the Attorney General likes to listen to my dissertations on the differences between coconut and vanilla ice-cream. However, the last day of Parliament is probably not the day to go through a dissertation on my love of the Census Act 1891 and my sadness at seeing it disappear from the statute books.

The only thing I will say about this bill—I will be very brief—relates to the explanatory memorandum. This bill was introduced in the upper house and transmitted to the lower house. The explanatory memorandum was tabled when the Minister for Transport gave his second reading speech and it lists all the acts that will be repealed. However, it does not even give a two-line explanation of the reasons for repealing that legislation. Members on this side of the chamber have been pestering me about why this or that act is being repealed. I suggest to the Attorney General that when presenting similar omnibus bills in the future, there could be a short explanation in the memorandum about why the legislation is being repealed. We did not know what the City Club Act 1965 was. It incorporated the associations for the purposes of winding up the club. It was wound up way back in the 1960s. This bill will clear it off the statute books. It is obvious that the Census Act 1891 is being repealed because the commonwealth conducts every census.

My only request to the government is to include in similar omnibus bills, which repeal a whole lot of bills, a two-line explanation about why the acts are being repealed. That would be helpful and it would have saved a lot of work. At clause 5(3) are explanations for the repeals that vary from two lines to a paragraph explaining the amendment, which was of assistance. We want to deal with this efficiently at the request of the government. Some members on our side have gone through this legislation diligently and pointed out to me that the White Phosphorus Matches Prohibition Act 1912, which is mentioned in the explanatory memorandum, is not repealed in the bill. I approached the Attorney General, who explained that when that went before the Legislative Council committee, and after discussions with him, it was decided that it was too contentious to include that legislation in the omnibus bill. A two-line explanation would have saved time and helped members on this side of the chamber to deal more efficiently and quickly with the bill. They are the only comments I will make. Otherwise, the opposition supports the bill in all respects.

MR P. PAPALIA (Warnbro) [4.37 pm]: I have a very brief contribution to make. I was disturbed to the point of almost being aghast at seeing among the acts that are listed to be repealed the Uniforms Act to regulate and restrict the wearing of naval and military uniforms. At this time, perhaps more than any other time since that legislation received royal assent on 17 July 1895, this act might have proven to be of some worth to the house. It has come to my attention recently that one of our colleagues tends to take a few liberties by wearing what is described in the act as “other distinctive marks of any such uniform”. It may be tempting for one of our colleagues, although he is not serving in Her Majesty’s Navy or military, to wear part of the distinctive marks of that uniform in an inappropriate manner. I know the Attorney General would be disturbed by that. I am a little concerned that we are doing away with the only act that might bring pressure to bear on the individual in question and restrict his urges to continue to wear parts of a military uniform despite not serving in the military. The act is very clear —

Mr T.R. Buswell: Which part of his uniform is it?

Mr P. PAPALIA: It is part of a uniform but he was not wearing a uniform, as the Treasurer would have noted.

Mr T.R. Buswell: Which part did he wear?

Mr P. PAPALIA: It is part of the uniform.

Mr T.R. Buswell: They are his naval socks!

Mr P. PAPALIA: It is undeniable that a former submariner’s dolphins are a distinctive part of a uniform. Under the dictates of this act, it would be considered inappropriate to wear them. I am disturbed by this and seek an assurance from the Attorney General that an appropriate penalty may be threatened against our colleague, should he continue to flout the rules, the breaking of which was previously deemed to be illegal under this act. A fine not exceeding £10 was the penalty. In light of the fact that that penalty is no longer available to us, perhaps the Attorney General might suggest imposing the alternative penalty—imprisonment for a term not exceeding one month! Although, I understand that there are no more prison cells to put him in.

MR T.G. STEPHENS (Pilbara) [4.39 pm]: I have been given fresh instructions that my contribution on the Statutes (Repeals and Minor Amendments) Bill 2009 must be brief.

Mr R.F. Johnson: It is up to you. You don't need to speak on every bill. This is a housekeeping bill, as you would be aware. It should take 10 minutes.

Mr J.N. Hyde: Well then, don't interject on him.

Mr T.G. STEPHENS: The government is repealing a huge number of statutes. The Leader of the House would well and truly know that the house is entitled to consider the bill.

Mr R.F. Johnson: You go ahead, my friend.

Mr T.G. STEPHENS: I will be very, very quick.

It has always puzzled me why we do not have cooperative arrangements with the commonwealth census so that we have a census that reflects both the needs of Western Australia as well as the wider commonwealth. We have an act that is about to be repealed and taken off the statute book that could have been deployed to put in place cooperative arrangements with the commonwealth. We have a failed commonwealth census procedure; it does not meet the needs of the Western Australian community, particularly when it comes to counting people in the regional areas of Western Australia, who are hopelessly undercounted. This was particularly the case in the most recent commonwealth census, which failed to deliver a reliable estimate of the Western Australian population. That is having a negative impact.

I would have also appreciated explanations of what use some of these acts were put to and why they are now being repealed. Apparently, that will not happen. I see that the Fairbridge Farm School Act 1948 is about to go. I note what was said previously. Despite the notes that have been delivered to members by way of the explanatory memorandum, the bill no longer has reference to at least one of the acts that was about to be repealed. Normally one would expect an explanation of why these statutes are going. That has not happened on this occasion.

MR C.C. PORTER (Bateman — Attorney General) [4.41 pm] — in reply: I thank members opposite for their contributions. An absolutely fitting way to draw the year to a close is by considering the Statutes (Repeals and Minor Amendments) Bill 2009. Even in the context of that somewhat mundane piece of parliamentary legislation, some very interesting points have been made. I will deal with them, starting with the comments of the member for Warnbro.

The member for Warnbro quite correctly pointed out that this bill repeals a number of acts on our statute book in Western Australia. One of those acts was to regulate the wearing of naval uniforms, and it dates back to 1895. The point that the member for Warnbro was making was that on occasions a member of the house wore a uniform, or at least something that might be a mark of service —

Mr J.N. Hyde: Insignia.

Mr C.C. PORTER: Yes, insignia—something that comes within the terms of that act, and that he might be doing so in circumstances that would otherwise contravene, perhaps arguably, some of the terms of that act, which could result in him being fined or given a term of imprisonment for a month. One of the other questions asked was why these acts are being repealed. In global summary, it is because they no longer serve any useful purpose. That might be for a variety of reasons. As to whether the member for Jandakot should be wearing that insignia, I will let the two sailors sort it out amongst themselves. The deeper point is that much of this goes to the fact that we are a very overregulated society. Absence the threat of penal conviction, I am sure that the member for Warnbro and his seafaring colleague can sort this out, or perhaps the member can otherwise exert the appropriate level of moral pressure on the member for Jandakot, which I know he will appreciate, and he may well see the member for Warnbro's point of view on this. It is not a matter that requires great regulation any longer.

The member for Pilbara referred to the absence of explanation for each specific piece of legislation being repealed. Yes, there is an absence in the explanatory memorandum that one might usually expect, even if that is a short explanation. Globally, the explanation is that in each instance a determination has been made that the act no longer serves any practical or useful purpose or that the reasons it was first brought into existence no longer exist. With respect to the member for Pilbara's comments about the adequacy of the commonwealth census in meeting the needs of Western Australia, I take the point. It is certainly the case now that there is a broad view that given that we no longer conduct any census on the part of the state, the need for an act to regulate the conduct of a census that no longer exists means that that piece of legislation is superfluous.

The point raised by the member for Mindarie with respect to —

Mr J.R. Quigley: Coconut ice-cream.

Mr C.C. PORTER: It is close to coconut ice-cream. I am referring to the White Phosphorus Matches Prohibition Act 1912. That act appeared in the original bill that went to the upper house and thereby in the original explanatory memorandum as being one of the acts that was going to be repealed. The process that

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followed in this matter is that the omnibus bill went to the appropriate Legislative Council standing committee, which then reviewed it and made recommendations. It made 11 recommendations. One of those recommendations was that the White Phosphorus Matches Prohibition Act 1912 was too conscientious a piece of legislation to be repealed under this omnibus bill. That recommendation, along with all but two of the other recommendations, was accepted by the upper house, and those amendments found their way into the bill between passing from the upper house to the Legislative Assembly. Perhaps this gives some indication or flavour of the contentious nature of the bill. The two recommendations of the Legislative Council committee that were not adopted and did not find their way into changes to the bill that is now before us were as follows —

The Committee has recommended that the apostrophe in “Societies” should be deleted in relation to the title of the *Friendly Societies’ Association of Kalgoorlie Investment Validation Act 1919* (WA) (recommendation 2). Parliamentary Counsel is of the view that this is not correct. A copy of the original Act is attached for information. The Act refers to a body the name of which appears to be the Friendly Societies’ —

The apostrophe is after the “s” —

Association of Kalgoorlie. It is mentioned in the long title and preamble with an apostrophe so presumably it is meant to be possessive not plural (i.e., the association belonging to the friendly societies, rather than the being a collective of friendly societies — which is what we might likely call it today).

That recommendation of the upper house committee was not adopted but it was nevertheless happy to have the bill sent back to the Legislative Assembly.

The second of the 11 recommendations that was not adopted was set out as follows —

The Committee has recommended that the word “The” in the title of *The Uniforms Act 1895* (WA) —

I think that may be the act that was referred to —

should be capitalised and italicised (recommendation 3). It is agreed that the change should be made. The Act appears on the legislation database and all internal records without the word “*The*” but it is in the original Act.

Again, to some limited extent, that recommendation was not agreed with. As I have noted, of the 11 recommendations all but two were not agreed with. For instance, we agreed with recommendation 11, which was not to include the White Phosphorus Matches Prohibition Act as one of the acts being repealed.

Finally, the reason the explanatory memorandum is not of the form that it usually takes, for which I apologise, is that it is usually the case that an EM for a bill of this nature would be prepared in a landscape style with three or four columns where the final column would give a short summary of each act being repealed. In this matter, the bill was originally prepared under the term of the previous government—I am blaming the opposition for this—by the Department of the Premier and Cabinet. When responsibility for the bill—these bills take many years to prepare—was transferred to the Department of the Attorney General, the explanatory memorandum was transferred electronically, but because of some internal difficulties, the data in that electronically-transferred EM was lost and it could not be reconstituted. It was thought something of a waste to go through that again, so an abridged, and, I will agree, not entirely perfect, explanatory memorandum was prepared in the narrative portrait style, which has some deficiencies that have been noticed by the eagle eyes of members opposite. Nevertheless, for what it is, this bill has gone through some degree of scrutiny in the other place. I certainly commend it to the house.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by **Mr C.C. Porter (Attorney General)**, and passed.