

FOREST PRODUCTS BILL 1999

Committee

The Deputy Chairman of Committees (Hon W.N. Stretch) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 6: Commissioners -

Progress was reported after the clause had been partly considered.

Hon J.A. COWDELL: I move -

Page 6, line 14 - To insert the following new subclauses -

- (2) 2 of the members appointed under subsection (1) shall be representative of the plantation timber industry.
- (3) 1 of the members appointed under subsection (1) shall be a person nominated for appointment by the body known as Australian Workers' Union (West Australian Branch).

This amendment further enhances the composition of the commission. The Labor Party believes that the Bill should include a clause requiring the appointment of at least two representatives of the plantation timber industry. Of course, the minister may appoint more than two such representatives, but this amendment ensures that at least two are appointed. This reflects the direction in which forest production will be heading in the future - it will obviously experience rapid growth. The Labor Party believes that the commission should also have a workers' representative and that that person should be a representative of organised labour rather than unorganised labour. It will not surprise members that the Labor Party supports the efficacy of organised labour providing the representative. In this case the relevant union is the South West Timber Workers Union, which is now incorporated in the Australian Workers Union. The question was raised yesterday about other unions, but the AWU is the representative union of the south west timber workers.

Hon Norm Kelly: How much representation does the Construction, Forestry and Mining Employees Union have?

Hon J.A. COWDELL: I do not have the precise numbers, which I should have as a member of the AWU. As it stands, clause 6(1) gives a nod and a wink to the minister as to the direction in which he or she should go with the appointment. However, it is still entirely at the minister's discretion whether to appoint commissioners who could adequately represent the plantation timber industry, including at least one commissioner who could adequately represent the views of workers in the industry. I think both these views need to be represented on the commission. It is not beyond the bounds of possibility that the minister concerned could do this. An assurance was sought from the minister as to whether a representative of organised labour would be appointed if the discretion continued under this Bill. The answer was that no assurance would be given. On that basis I move this amendment to provide some closer guidelines on the composition of the commission.

Hon PETER FOSS: I think most speakers addressed this clause as well as the previous clause debated yesterday. Unless something new arises I do not intend to say anything further.

Hon MARK NEVILL: Hon John Cowdell is promoting the case of the AWU. I feel certain a copy of his speech will arrive on the desk of the AWU tomorrow morning. I have been a member of the AWU for many years, but fortunately I have not been sent a renewal form for many years; it is an expensive union to join. I hope I am not sending it a signal to send me one next week. It is a union for which I have great respect. It is probably the only union that has not changed its name since the 1890s. I look at the words "Australian Workers Union-WA Branch" in the amendment and I wonder how much longer it will last, bearing in mind how the membership of unions is changing. It is a shadow of its former self. I would like to see the union take a greater role in industrial relations, health and safety and other associated issues. I think there is a role for unions to play in workplace agreements as well as awards. Unions have to adapt themselves to a changing environment. I think it is unnecessary to state the name of a union that will represent labour relations. If it were in the eastern States, someone from the CFMEU would be named, as it is the dominant timber union in the eastern States. Clearly, in Western Australia the Australian Workers Union looks after the interests of most workers in the industry. The job of a person appointed to the board, if he is from that union, is not just to represent that union; it is to ensure that the industry is run on a sustainable basis and that there are good health and safety conditions within the industry, as well as good environmental and employment practices. I accept the sentiments of Hon John Cowdell. However, for the reasons that I have expressed tonight on the previous amendment I will not support this amendment, although I concur with his views on who should be appointed in this case.

Amendment put and a division taken with the following result -

Ayes (7)

Hon Kim Chance	Hon G.T. Giffard	Hon Tom Stephens	Hon Bob Thomas (<i>Teller</i>)
Hon J.A. Cowdell	Hon Tom Helm	Hon Ken Travers	

Noes (18)

Hon Max Evans	Hon Norm Kelly	Hon W.N. Stretch	Hon Derrick Tomlinson
Hon Peter Foss	Hon Murray Montgomery	Hon B.M. Scott	Hon Giz Watson
Hon Ray Halligan	Hon N.F. Moore	Hon J.A. Scott	Hon Muriel Patterson
Hon Helen Hodgson	Hon Mark Nevill	Hon Christine Sharp	(<i>Teller</i>)
Hon Barry House	Hon Simon O'Brien	Hon Greg Smith	

Pairs

Hon Ljiljanna Ravlich	Hon B.K. Donaldson
Hon E.R.J. Dermer	Hon M.D. Nixon
Hon Cheryl Davenport	Hon Dexter Davies
Hon N.D. Griffiths	Hon M.J. Criddle

Amendment thus negated.

Hon PETER FOSS: I move -

Page 6, lines 25 to 28 - To delete the lines and insert -

- (d) a person who has a material personal interest in a production contract or in a company or business that is a party to a production contract.

As the wording stands, a worker would not be able to act as a representative on the board of the Forest Products Commission. It has been rephrased to allow for such a thing to occur.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 7 to 9 put and passed.

Clause 10: Functions of Commission -

Hon NORM KELLY: I move -

Page 11, after line 2 - To insert the following new paragraphs -

- (u) to facilitate the shift from an industry based on forest products harvested from indigenous forests, to an industry based on forest products harvested from non-indigenous plantations;
- (v) to promote competitive neutrality between indigenous and non-indigenous forest products, with particular regard to the rateability of the land used for production; and
- (w) to maximise royalties paid for indigenous forest products, and that these royalties reflect the cost as if local government rates had applied to land used for production.

Clause 10 contains a lengthy list of functions the Forest Products Commission will be required to perform. However, it does not include those things the Australian Democrats believe should be important functions of the commission. It has been identified that there should be a shift in this State from a timber industry based on native forest to one based on plantations. This should be reflected in the functions of the Forest Products Commission. It is already reflected in clause 6, following the amendment by Hon Mark Nevill, which refers to the representation of plantation timber industry members on the commission. The Australian Democrats believe this should be further emphasised by enshrining it in the commission's functions. This amendment would build upon that earlier amendment by explaining why the plantation timber industry should be represented on the commission and would allow the transition to a plantation-based industry.

The plantation industry and native forest industry compete on an uneven playing field. The royalties recovered from the logging of our native forests do not reflect that native trees have been growing for hundreds of years and do not take into account the rateability of the land, as they do for a stand of plantation trees. Proposed paragraph (v) would require the commission to promote competitive neutrality between the two industries, which would assist in the transition from a native forest to a plantation timber industry. It would mean that those

companies based in the native forests would need to take into account the cost of the land used for the production of those trees over the years. The native timber industry operates in a false economy, especially when the short growing cycle of blue gums and the cost of acquiring the land for the short rotation are compared with the lack of payment required for the use of land on which native trees have grown over a few hundred years. The proposed paragraph reflects the imbalance between the two aspects of the timber industry and attempts to address it.

Proposed paragraph (w) further highlights that imbalance and directs that any royalties derived from native forests include a component that reflects the cost of the land as if it were subject to local government rates. We believe strongly that this is not unnecessary padding but will strengthen the functions of the commission so that it can facilitate that shift to a plantation-based industry. I urge members to support the amendment.

Hon PETER FOSS: We have a fairly fundamental difference of view here. Hon Norm Kelly seems to have formed the view, particularly in paragraph (u) of his amendment, that we will stop harvesting native forests and will change to harvesting only plantation forests. I believe that is contrary to the policy of the Act. We do not agree, and I do not think Hon Christine Sharp would agree, that we should stop logging native forests. I believe that one of the most satisfactory things to do from an environmental point of view is allow trees to grow in their natural environment and harvest and use them on a sustainable basis. The use of our natural environment in a sustainable way is highly desirable, and it does not mean that we cannot preserve some forests completely from harvesting if they are regarded as having heritage value. As a source of timber, I far prefer native forests to plantations, because plantations are, generally speaking, non-endemic species, are grown in the fairly sterile atmosphere of the monoculture, and do not support undergrowth and other species, including fungi, lichen and things of that nature. The premise behind proposed new paragraph (u) is at variance with the Act and the policy that we believe should apply. It seems to foreshadow an ideal situation where we will cease to log native forests and will log only plantations; and that will be a terrible day.

Proposed new paragraph (v) seems to be looking for national competition policy-type rules. Again, I do not see the reason for that. It refers to a totally different pricing mechanism from that which is foreseen in the remainder of the Bill. The reality is that forests are a valuable resource and are highly useful. I am keen to have multiple use of our forests. Forestry Tasmania has very much promoted access to its forests, particularly the forest reserves. People need to understand that forests can have multiple use for recreational and environmental purposes, as well as for providing employment and useful industry.

Hon Mark Nevill: Access to mineral exploration too.

Hon PETER FOSS: Yes. The multiple use of forests is very important, and the mere keeping of that land and making it available for multiple use gives it a worth that we will not get from plantations. The various measures that Hon Norm Kelly is proposing seem to want to drive native forestry out of existence and rely solely on plantations. The Forest Products Commission will be liable for local rates and charges through the payment of rates and charges equivalents where appropriate. However, it would be incorrect for the forests to be notionally adjusted for this payment.

Proposed paragraph (w) would maximise royalties. However, the Bill outlines the concept of price as the royalties concept is not carried over from the Conservation and Land Management Act. That is not necessarily a good thing, but the amendment is inconsistent with the rest of the legislation. Also, the price is to be subject to the principles on which the Forest Products Commission is to act in the performance of its function. This traditionally required the equivalent authority to ensure that a profit was made from the exploitation of forest products. Prices for native forest products will be reviewed. The notes that apply to rateability also apply to the proposed royalty function in proposed paragraph (w).

A basic misconception is that the Government is trying to get rid of native forest harvesting. That is not accepted by the Government, nor is it accepted by anyone who has a sensible view about the appropriate way to produce timber. It is inconsistent with the many forests values which are not shared by plantations. I would like to see us encourage multi-use forests with recreation, conservation, exploration - as mentioned by Hon Mark Nevill - employment and a very useful product. We stand in this Chamber surrounded by jarrah, and one may form the view that it would be unfortunate if we did not harvest and make available, at least to Western Australians, this extremely beautiful timber. It should be encouraged.

Hon J.A. COWDELL: The Australian Labor Party does not support this amendment to add the functions outlined in proposed paragraphs (u), (v) and (w). Proposed paragraph (u) is not consistent with the Labor Party's view of shifting to regrowth in both indigenous and plantation timber. Proposed paragraph (v) attempts to address the competitive advantage that the timber industry has over the plantation industry. I have no objection to addressing that problem. However, it can be addressed through amendments to clause 59 which appear on the Supplementary Notice Paper. Proposed paragraph (w) refers to royalties, yet the Bill's terminology refers to

forest product charges. Therefore, the amendment's terms are not helpful. For these reasons, the ALP will not support this amendment.

Hon MARK NEVILL: I will not support the amendment. Proposed paragraph (u) outlines how my philosophy is different from that of Hon Norm Kelly: I see nothing wrong with a sustainable timber industry in native forests. This amendment reflects the Democrats' view that there is something illegitimate about taking timber from a native forest; it must be a plantation or nothing. If a native forest is cleared it must be replaced with a plantation. I do not know whether that is Hon Norm Kelly's view.

Hon Norm Kelly: No.

Hon MARK NEVILL: The only conclusion one can draw then is that the Australian Democrats would not log any native forest anywhere in the south west.

Hon Norm Kelly: That is right.

Hon MARK NEVILL: It follows from that clear view that the reserve system will never satisfy the Australian Democrats and there is no real capacity to satisfy the Democrats unless we have a complete plantation industry. I have never seen plantations of jarrah and I do not know whether there are many plantations of karri. I believe karri trees can be grown, but not very successfully. Does Hon Norm Kelly say we should grow only plantations of blue gum and pine?

Hon Norm Kelly: I am not saying those are the only plantations we should grow and I am not saying the plantations should be totally non-indigenous. I am saying there should be a shift from one to the other. Having an industry currently based on the native forest does not mean we should not also log plantations. My amendment could be amended to say "substantially based on plantations" which would still allow some logging of native forest. However, the Democrats say there is a need for a shift from one to the other but not entirely at the exclusion of the other.

Hon MARK NEVILL: I will move on to proposed new paragraph (w), which refers to maximising royalties paid for indigenous forest products. I have often wondered why we pay royalties on indigenous timber as it is a renewable resource. Normally we pay royalties on resources that are not renewable, such as minerals and oil. We do not pay royalties on wheat. Why should we pay royalties on timber when it is something that regrows?

Hon Norm Kelly: I am saying that it is not a publicly owned resource.

Hon MARK NEVILL: Paying royalties is not necessarily a logical thing to do. I do not know whether we allow a profit à prendre to be taken by third parties on minerals and oils - I think it is illegal under the Mining Act - but we can do that with timber. Timber is another category but there is a royalty on it; there has been for many years and I do not believe we will change that. It is important to continue to log our native forests. Although it is a good thing to make a profit, it is not absolutely essential. Even if we had not made a profit for the first 40 to 50 years from our timber industry, we must remember that it was karri and jarrah timber that built all the sleepers that underpin our whole rail system and that built the bridges, wharves and jetties around the State. Making a profit out of native forests is desirable but not essential, depending on what the timber is used for, not to mention the wonderful uses that these timbers are put to in furniture and finished products.

Hon Peter Foss: And panelling.

Hon MARK NEVILL: And panelling.

Hon Norm Kelly: However, if private timber companies are making a profit, should they be profiting without a return coming back to the Western Australian people?

Hon Peter Foss: There is a return.

Hon MARK NEVILL: They pay tax like any other company does. Does a wheat farmer pay a royalty for soil degradation?

Hon Peter Foss: He should do. There's more an argument for that than for any other royalty.

Hon MARK NEVILL: I suppose one could argue that they should pay for a salinity fund. That is what is called depleting a resource. The question is: Are we depleting a resource when we sustainably manage a forest? We possibly are; however, in higher rainfall areas we do not have the same salinity effects that obviously occur in the lower rainfall areas. I do not understand the notion of tying royalties into local government rates. Does Hon Norm Kelly suggest there should be a gross rental value rate on native forests? Mining companies pay rates on mining tenements. I am not sure whether any rates are paid on timber concessions for logging.

Hon J.A. Cowdell: No, but the shires would like to get their hands on some.

Hon MARK NEVILL: They might, and shires must contribute to roads. However, I suspect that the timber companies are probably contributing to many of those roads anyway - I may be wrong.

Hon Peter Foss: The Department of Conservation and Land Management will eventually have more roads than the local government authorities.

Hon MARK NEVILL: Yes. There may be an argument for it. I do not understand this competitive neutrality. Indigenous jarrah and karri should be worth a lot more than plantation pine and plantation blue gum. They are infinitely better timbers. I do not understand what Hon Norm Kelly is trying to get at in proposed new paragraph (v). I cannot support this amendment. I will vote against it.

Hon CHRISTINE SHARP: I support this amendment moved by Hon Norm Kelly. I am a resident of the Shire of Donnybrook-Balingup. Seventy per cent of that shire is covered by state forest. There are virtually no reserves in the shire, so it is all production forest; yet there is no major timber mill in the shire. One could say that the shire suffers from the disadvantage of a large amount of logging taking place within its boundaries, but there is no economic recompense for the activities to the shire in which that logging takes place. I am sure that the people who live in my district would be very supportive of this amendment and that they would believe that the activities of the Forest Products Commission within our district should be reflected in the activities of the shire, with particular regard to the rateability of the land. I note what the Attorney General said about multiple use forest. Certainly, the production forests have many other values apart from timber production. Therefore, there would need to be some kind of pro rata calculation of those components in the reflection of a contribution to rateable value.

In a sense, this opens a can of worms, because it always occurs to me that one of the uses of the forest for which no payment is made by the consumers is that of water. One is particularly aware that about half of the water that is drunk in the Perth metropolitan area is sourced from forested catchments, yet the metropolitan water drinkers pay nothing for that service. However, we must save that issue for debate on another Bill. Perhaps that will be reflected in the Rights in Water and Irrigation Amendment Bill. I have no idea whether anything about that matter is contained in that legislation which we will debate shortly. Nevertheless, the fact is that the Department of Conservation and Land Management and, after the passage of this Bill, the Forest Products Commission will have exclusive use of large areas of land for which no rates are charged. I note that the national competition policy review of this Bill mentioned this point briefly on page 5 of the report, although the report failed to come to any conclusions about the implications for national competition policy. However, it is also noted that this is a provisional review and that a more complete review of competitive neutrality and other aspects of competition policy will be undertaken by the Forest Products Commission. We may hear more about that matter.

The first part of the amendment, which refers to the shift from an industry based on forest products harvested from indigenous forest to one based on non-indigenous plantations, is very important. To have any hope of the genuine ecologically sustainable management of our state forests in the years to come, there is an urgent need to radically reduce the level of cut and to allow the regrowth forests to recover from many decades and many rotations of over-cutting. If we are to pursue that objective genuinely, despite the large area of state native forest, only relatively small amounts will be available for timber products. Everyone here would agree that the small amounts that will be available should be used for fine furniture. The Attorney General referred to the use of timber in this building. We would all concur that the little timber that will be available should be used for those purposes. That means that in the future our bread and butter timber will have to be resourced from the plantation industry. It means that the plantation industry must be able to make rapid progress to meet that demand. There are concerns whether there will be adequate radiata to meet the demand in future, particularly as virtually no increase in radiata plantations is taking place. They are pretty much in a static mode.

We face a big challenge in this regard - the challenge of meeting both ecologically sustainable forest management and our timber requirement needs. If this clause had been adopted earlier - for example, several weeks ago or before the winter recess - perhaps it would have had some influence on the final outcome of the Forest Industry Structural Adjustment Package, which was signed about three weeks ago by the State and Commonwealth Governments. My understanding of this arrangement is that the \$37.5m in the structural adjustment package for timber industry adjustment will be exclusively designated to the native forest timber industry and that none of that money will be dedicated to fostering the role of the plantation industry, which we will so critically need in the future. That is why inserting these additional functions for the commission would significantly strengthen the Bill, as the amendment in the name of Hon Norm Kelly attempts to do. Therefore, we will be supporting the amendment.

Amendment put and a division taken with the following result:

Ayes (5)

Hon Helen Hodgson Hon Norm Kelly	Hon J.A. Scott	Hon Christine Sharp	Hon Giz Watson (<i>Teller</i>)
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Noes (21)

Hon Kim Chance Hon J.A. Cowdell Hon Max Evans Hon Peter Foss Hon G.T. Giffard Hon Ray Halligan	Hon Tom Helm Hon Barry House Hon Murray Montgomery Hon N.F. Moore Hon Mark Nevill Hon Simon O'Brien	Hon Ljiljanna Ravlich Hon B.M. Scott Hon Greg Smith Hon Tom Stephens Hon W.N. Stretch Hon Bob Thomas	Hon Derrick Tomlinson Hon Ken Travers Hon Muriel Patterson (<i>Teller</i>)
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Amendment thus negatived.

Hon NORM KELLY: I move -

Page 12, after line 9 - To insert the following new subclause -

- (7) A copy of a memorandum of understanding made under subsection (1)(l) must be tabled in each House of Parliament not later than 14 sitting days of each House from the day on which that memorandum of understanding was executed.

Clause 10(1)(l) reads -

to enter into a memorandum up of understanding with the Department relating to the performance of the Commission's and the Department's respective functions and any other matter prescribed under the CALM Act;

This will be a significant split in the responsibilities of the existing Department of Conservation and Land Management. The amendment will ensure that a memorandum of understanding is made publicly available by way of tabling within a reasonable period. I do not think there is a pressing urgency to have an MOU tabled immediately, which is why we specified 14 sittings days rather than three. A huge degree of concern exists within the general public about the interrelationship between the new Department of Conservation and the Forest Products Commission. This will help to clarify the responsibilities, given the fact that the Forest Products Commission will have responsibility for the harvesting and management of these forests and that clause 10(1)(h) allows for those functions to be contracted out. It is important that we see exactly how the commission and the department will work together.

Hon PETER FOSS: This obligation already exists under the Conservation and Land Management Act. The amendment will provide that the two obligations are the same, so that both the Minister for the Environment and the Minister for Forest Products will have 14 days in which to table MOUs. I do not know whether we need to include it in both Acts, but as we are including it the provision should be the same. I do not have any problem with this amendment.

Hon MARK NEVILL: I support the amendment. I would not have supported tabling within three sitting days because that would be inadequate. The change to 14 sitting days brings it into line with the CALM Act.

Hon J.A. COWDELL: Just as it supported the amendment moved by Hon Norm Kelly in clause 15 of the Conservation and Land Management Amendment Bill, the Opposition supports this amendment in the amended form of 14 days rather than three days. It adds to the transparency of the activities of CALM and the Forest Products Commission.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 11 put and passed.

Clause 12: Principles on which Commission is to act -

Hon NORM KELLY: I move -

Page 12, line 17 - To delete "ensuring".

I ask members to consider the amendment along with the next two on the Supplementary Notice Paper. The Australian Democrats' concern relates to the terminology of the existing clause 12, which states -

Hon John Cowdell; Hon Peter Foss; Hon Mark Nevill; Hon Norm Kelly; Hon Dr Chrissy Sharp

The Commission in performing its functions must try to ensure that a profit that is consistent with the planned targets is made from the exploitation of forest products while ensuring -

- (a) the long-term viability of the forest products industry; and
- (b) the principles of ecologically sustainable forest management . . .

The Democrats' concern is that these two principles would hopefully act together but that may not necessarily be the case. Maintaining the long-term viability of the forest products industry could be at the expense of the principles of ecologically sustainable forest management. Unfortunately, we are not adding the principles of ESD in there as well. If the three amendments 8/12, 9/12, and 10/12 were successful, the clause would then read -

The Commission in performing its functions must try to ensure that a profit that is consistent with the planned targets is made from the exploitation of forest products while -

- (a) promoting the long-term viability of the forest products industry; and
- (b) ensuring the principles of ecologically sustainable forest management to be applied -

Although with the Attorney General's amendment, it would be "are" applied -

in the management of indigenous forest products located on public land.

That is a subtle shift in wording, but the Democrats believe it is important with the slightly different emphasis on the way in which the commission will be acting to ensure the principles of ESFM.

Hon PETER FOSS: We do not see this as a subtle shift; we see it as a fairly substantial shift, and it takes away the fact that the two currently have to be balanced. Perhaps an example of this is the very significant investment by the timber industry in value adding for jarrah. It was extremely difficult to get the industry to do that without some sort of security of timber to justify their investment and some sort of guarantee that they would get a return on that investment. Obviously there have been significant benefits to everybody as a result of that investment in value adding. I know that some outstanding achievements are being made in various places regarding value adding of jarrah.

The Government believes it is appropriate that in all these matters there be a balance and it may well be that from time to time when we are looking at these two subclauses various factors may result in a major one at a particular time. I would be reluctant not to keep them in balance but to give an absolute priority to one.

Hon J.A. COWDELL: As to these changes, clause 12(1) states -

The Commission in performing its functions must try to ensure that a profit that is consistent with the planned targets is made from the exploitation of forest products while . . .

According to the proposed amendment by Hon Norm Kelly, we are still ensuring, as we were with the original wording, that the principles of ecologically sustainable forest management are to be applied in the management of indigenous forest products located on public land. That is not a change. It appears that the change is with respect to paragraph (a), so instead of ensuring the long-term viability of the forest products industry, we are promoting the long-term viability of the forest products industry. I do not see why this change is particularly substantive; perhaps it could be explained to me. I see no reason to make the change. Members may be able to explain this more clearly to me, but the difference between promoting the long-term viability and ensuring it in the context of paragraph (a) is not dramatically different.

Hon MARK NEVILL: I cannot support this amendment. I agree with Hon John Cowdell that paragraph (b) does not change. Paragraph (a) changes from ensuring the long-term viability of the forest products industry to promoting the long-term viability of the forest products industry; "ensuring" it is much more desirable. The amendment weakens the clause; therefore, I will oppose it.

Hon CHRISTINE SHARP: Although this amendment would fit, I have some concerns. Although I understand and share the objective of Hon Norm Kelly, I am concerned that by changing "ensuring" to "promoting" the long-term viability of the forest products industry we may be helping the Forest Products Commission to fail to ensure that. As a result of this it may adopt a shorter-term perspective and not manage the forests as carefully as I hope that it will. The amendment is not desirable and I will not support it.

Hon NORM KELLY: The concern that have been expressed to me by the conservation movement is that, as paragraphs (a) and (b) currently stand, there may be an argument that paragraph (a) could override paragraph (b). However, I take on board the Attorney General's comments about value adding and the like. When talking about the principles of ecologically sustainable forest management as defined in subclause (2), paragraph (e) states -

improved valuation, pricing and incentive mechanisms should be promoted.

The principles of ESFM identify the need to value add our forest products as an integral component of such work. In addition, paragraph (a) of the definition of the ESFM provides that the decision-making process should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations. ESFM is a broad application of these principles, which in itself could be said to help ensure the long-term viability of the forest products industry. I am concerned that the industry could not remain viable if those principles of ESFM were maintained. As I said, the definition of ESFM allows the greatest possibility for that to occur. However, concerns have been expressed to me by various groups that the current wording could have a disadvantageous effect in the mid to long term. Although it is subtle, I realise this amendment will not be successful, but I believe it is a responsibly significant shift in emphasis.

Amendment put and negatived.

Hon PETER FOSS: I move -

Page 12, line 21 - To delete "to be" and insert instead -
are

Amendment put and passed.

Hon PETER FOSS: I move -

Page 12, lines 23 to 25 - To delete the lines and insert instead -

(2) For the purposes of subsection (1)(b) the principles of ecologically sustainable forest management are -

Page 12, line 26 - To insert before "the" -
that

Page 12, line 29 - To insert before "if" -
that

Page 13, line 3 - To insert before "the present" -
that

Page 13, line 7 - To insert before "the" -
that

Page 13, line 10 - To insert before "improved" -
that

These amendments are completing the grammatical changes and also bringing this Bill into line with what we did with the Conservation and Land Management Amendment Bill.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 13 to 18 put and passed.

Clause 19: Half-yearly reports -

Hon PETER FOSS: I move -

Page 19, line 6 - To insert before "A" -

The Minister must within 14 days after being given

Page 19, line 6 - To delete "shall" and insert instead -
cause a copy of it to

These amendments will provide that, consistent with the tabling of other documents provided for in the Bill, the minister will cause a copy of the half-yearly report to be laid before Parliament or dealt with under clause 69, and this must appear within 14 days of the minister's receiving the half-yearly report.

Amendments put and passed.

Hon PETER FOSS: I move -

Page 19, line 7 - To insert after "Parliament" -
or dealt with in accordance with section 69

This completes the series of amendments.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 20 to 30 put and passed.

Clause 31: Matters to be included in statement of corporate intent -

Hon PETER FOSS: I move -

Page 23, line 15 - To insert before "principles" -
application of the

Page 23, line 16 - To delete "to be applied" and insert instead -
set out in section 12(2)

These amendments will provide consistency with the grammatical changes to clause 12 and a cross-reference to clause 12(2). This provides a meaning for the principles of ecologically sustainable management.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 32 to 34 put and passed.

Clause 35: Minister's agreement to draft statement of corporate intent -

Hon J.A. COWDELL: I move -

Page 26, lines 13 to 24 - To delete the subclauses.

This will delete the subclauses that permit the Forest Products Commission, with the concurrence of the minister, to delete commercially-sensitive information from its statement of corporate intent. The Labor Party does not support these subclauses because they would weaken the transparency and accountability of the new Department of Conservation structure. This provision is unnecessary.

Hon PETER FOSS: Some of us believe that we do not need the entire clause. However, if we are to have statements of corporate intent and this commission is to be engaged competitively with other groups, this amendment would ensure that it is the only entity in the marketplace required to release commercially-sensitive information. It would be ludicrous to suggest that, having gone this far in accountability, the commission must go further and give away the very things that would enable it to compete in that marketplace. No-one would sensibly require an entity that is expected to act commercially not only to make its corporate intent public - no other competitor is required to do that - but also to give information to competitors and thus enable them to compete unfairly. The Government opposes this amendment.

Hon NORM KELLY: The Australian Democrats support this amendment. Such matters of commercial sensitivity should not be excluded from the public arena. We are talking about making a profit from the utilisation of a publicly-owned resource. The public should be able to see what the Government is doing. We congratulate the Labor Party for moving this amendment. There appears to be a shift in Labor Party policy in supporting amendments of this type. I encourage it to continue on that path if it wins government.

Hon CHRISTINE SHARP: I strongly support this amendment. We are talking about monopolistic access to a publicly-owned resource. It is critical that all the information relating to the use of that resource is available to the Parliament. I congratulate the Labor Party for moving this amendment.

Hon PETER FOSS: Some strange statements are being made here about a publicly owned resource. We are dealing with the Forest Products Commission, which deals with plantations and sharefarming agreements. We are just as likely to be talking about a resource that is on somebody's private land - the plantations that Hon Norm Kelly wants to take over from the native forests. I do not know whether too many people would be keen to have someone managing their plantation under a sharefarming agreement when the Australian Democrats are busy exposing their business to the public. These amendments are based on a false premise and I am glad that we did not agree to the amendments that Hon Norm Kelly proposed at the beginning. The Forest Products Commission would be very quickly driven out of business if it were forced to go into plantations, because nobody would be willing to do any deals with it.

Hon NORM KELLY: If the Government had agreed to the previous amendments we would not be supporting this amendment now. Clause 10(1) of the Bill allows the commission to enter into contracts with any person for

the management of forest products. We do not believe it is suitable that the Government or the commission enter into contracts and hide details of the contracts from public view.

Hon MARK NEVILL: If the two subclauses were deleted from the Bill then the information would not find its way into the statement of corporate intent. That would ensure that the information never sees the light of day. I suspect it may be better to leave the two subclauses that make it optional for the minister to decide whether he agrees. That would allow some capacity for the Legislative Council or its committees to find out what is the nature of the commercially sensitive information. If the two subclauses were deleted - which is an admirable intention - we would never find out. I am caught between a rock and a hard place. If it is thought to be important that the information be made public, it may be better to retain these subclauses and, if access to it is denied by the minister, to seek it through the committee system of the House. It would be counterproductive at this stage to support the amendment.

Hon CHRISTINE SHARP: The Attorney General said that many of the transactions that are referred to would be outside the state forest. My understanding of the scope of the Forest Products Commission's ambit is that it would encompass products such as sandalwood, the vast majority of which comes from crown land. The Forest Products Commission will have access to products from the maritime pine project that will utilise cleared agricultural land and thus will be party to all sorts of advantages from which private competitors are unable to benefit. Benefits would include loans from the state Treasury at special rates. It seems to me that, beyond the state forests, the activities of the Forest Products Commission - which would be included in statement of corporate intent - are very closely associated with all sorts of advantages accrued as a result of being a state-based commission. If it is to have those advantages it needs to be fully accountable to the people of Western Australia.

Amendment put and negated.

Clause put and passed.

Clauses 36 to 58 put and passed.

Clause 59: Components of contract price -

Hon CHRISTINE SHARP: I move -

Page 41, line 28 - To insert after "products" -

(including the costs associated with subsequent silvicultural non-commercial thinning necessary to tend future sawlog product)

The clause refers generally to managing. The purpose of this amendment is to further highlight the importance of the management costs associated with non-commercial thinning, which is necessary to ensure the long-term viability of the timber industry. This issue was discussed last night and this amendment relates to my arguments about the importance of factoring in the true costs of logging a complete rotation. Members are aware of those arguments and I hope they support this amendment on its merits, as they supported the amendments yesterday.

Hon PETER FOSS: I understand, and have no problem with, the sentiment of the amendment. However, I have a problem with what the member thinks the amendment will achieve. How could a cost be included in a price? The cost is how much the person selling the product must pay, whereas the price is how much he charges for that product. There might be no relationship between the two. In setting a price, a person would presumably hope to recover all his costs and make some profit; however, that is part of the bookkeeping process. A company might already take the cost of non-commercial thinning into account when it sets its price. One would expect it to take all its costs into account. What would it mean if a company were required to include the cost in the price? Would the price need to include an item called "non-commercial thinning" or would it not be required to show the cost as a component of the price, but ensure that the person setting the price takes it into account? This amendment would make sense only if the cost were shown as a component of the price, like insurance premiums, in which stamp duty is included as an additional cost. That would not do any good as complicated formulas would be needed to try to work out how the pricing structure should indicate the costs. I am sure the member does not intend for the cost of non-commercial thinning to be shown in the price, but rather for companies to take it into account when calculating their costs. I do not see why that would not already be done.

Hon Norm Kelly: I think you might be speaking against your Bill, which states that components of the costs need to be included in the price.

Hon PETER FOSS: Then why is there a need to state it specifically? The only way the cost could be included in the price would be by showing it separately. If that is one of the costs, how could it be included?

Hon Norm Kelly: You would just ensure that the cost of thinning was included.

Hon PETER FOSS: In what?

Hon Norm Kelly: In that component.

Hon PETER FOSS: It is already in there.

Hon Christine Sharp: What about the objectives of the Bill as amended, which are that the costs of managing should be included?

Hon PETER FOSS: That is already in there, because the definition of “manage” includes thinning.

Hon Christine Sharp: That is right, but the argument that you just made about the difference between the costs and the price applies to your original clause.

Hon PETER FOSS: What will this amendment add to the Bill? The Bill already provides that “manage” includes thinning. How can we add the costs of thinning all over again? Hon Mark Nevill may understand how we can do it. I do not know.

Hon MARK NEVILL: I do not see any point in this amendment. The amendment uses the words “subsequent silvicultural non-commercial thinning”. It seems to distinguish between non-commercial and commercial thinning. I would just use the words “subsequent thinning”, because we need to allow for both commercial and non-commercial thinning. The amendment is unnecessary, because we have already amended the definition of “manage” in clause 3 to include thinning.

Hon J.A. COWDELL: The Labor Party also believes this amendment is unnecessary and does not add anything to the Bill in terms of the costs of managing forest products; therefore, we will not be supporting the amendment.

Hon CHRISTINE SHARP: I seek leave to amend the amendment by deleting the words “silvicultural non-commercial”.

Hon MARK NEVILL: The change does improve the amendment, but I still agree with Hon John Cowdell that the amendment is unnecessary.

Leave denied.

Amendment put and negatived.

Hon CHRISTINE SHARP: I move -

Page 42, after line 15 - To insert the following new paragraph -

- (h) a component representing an appropriate rate of return on capital assets calculated in accordance with an applicable and appropriate Australian Accounting Standard.

This amendment would also be inserted in clause 59, which outlines the different components of the contract price. This would tie this important clause to the Australian Accounting Standards. Australian Accounting Standard 35 of August 1998 deals with self-generating assets and regenerating assets and is the current Australian Accounting Standard that I understand would apply to this kind of pricing. I am sure that the Australian Accounting Standard is evolving; therefore, my amendment is not specific to that standard. The amendment highlights the importance of an appropriate rate of return being achieved on capital assets. It is certain that some very complex calculations will be made in determining the components of price in the loss of capital asset in logging a forest. Difficult calculations must be made about the loss of tourism potential, habitats and such things. They are very complex matters which will be new to the world of accounting. Nevertheless, the Australian Accounting Standard attempts to give some recompense to the value of lost capital assets. That is why, through the amendment, I seek to build into the contract price a reference to the state of the art in accounting in factoring in that component of the cost.

Hon J.A. COWDELL: The Labor Party believes it is not possible to calculate the opportunity cost of not logging the forest. Therefore, it does not support the amendment.

Hon PETER FOSS: The Government takes a similar view to Hon John Cowdell’s, with a further complication. It is obvious from hearing Hon Christine Sharp’s speech that she seems to believe that the forest, or the asset, will belong to the Forest Products Commission. In fact it will belong to the Conservation Commission. I agree with Hon John Cowdell that we would not want to embark on Hon Christine Sharp’s complicated suggestion. I oppose the amendment.

Hon MARK NEVILL: I will not support the amendment. I do not fully understand the basis of calculating these rates of return on plantations and native forests. Stating an appropriate rate of return on capital would not add anything when one sold forest products. One would contract that sale to achieve some return; however, that return might be a loss because of the state of the timber market or the maturity of the forest. I cannot really

grasp the notion that one could determine what one might call an appropriate rate of return, particularly considering the issues Hon John Cowdell raised.

Hon CHRISTINE SHARP: The amendment will bring this clause of the Bill in line with some of the notions to be found in the Government Financial Responsibility Act, which refers to relevant Australian Accounting Standards in all government transactions. The fact that the Forest Products Commission does not own the resource is irrelevant, as it is charged with the responsibility under this clause to set the components of contract price. Therefore, this amendment will bring the clause into line with the Government's stated intention under the Government Financial Responsibility Act.

Amendment put and negatived.

Hon J.A. COWDELL: I move -

Page 42, after line 15 - To insert the following new paragraph -

- (h) a component representing local government rates and charges which would be payable by the party to the production contract if it were the owner of the land containing the forest products.

This amendment proposes an alternative paragraph (h). I overlooked the fact that my amendment was ahead of Hon Christine Sharp's on the last Supplementary Notice Paper but I somehow lost precedence in the changeover. I am sure there was a sound formula on which that was based!

This amendment proposes to insert a component representing local government rates and charges which would be payable by the party to the production contract if it were the owner of the land containing the forest products. I believe this amendment is far more quantifiable. It would include, as I said, a component representing local government rates. The Australian Labor Party believes that a component representing such rates and charges should be payable to the production contract as though it were the owner of the land. The provision would ensure that the native timber industry is not given an unfair price advantage over the plantation timber industry which must pay these rates and charges.

Hon PETER FOSS: Although I understand the intent of the amendment, there are some small problems associated with it. First, it assumes that the land provides only a commercial use; that is, timber. Much of the Conservation Commission of Western Australia land produces public goods, such as conservation, recreation and water catchment protection. Therefore, exacting the full equivalent local government rate would be inappropriate because for the majority of the time that the forest is being used to grow timber, it is principally being used for other purposes of public recreation, conservation and so forth.

The amendment also does not take into account that forest products can be sourced under a contract from separate locations over a wide area. That has some interesting aspects to it. Having worked out how much should be given for the use of growing timber, as opposed to all the other uses to which it can be put, we must then take into account from where the different parts are coming and the possible local equivalent rates that would apply to them. On the other hand, there may be difficulties with some products produced on commission land and some on private land. Therefore, a private owner would have to deal with paying his own rates and have to judge whether that price was appropriate. If the price also included a component for local government rates, it might be rather peculiar as to what would be recovered by the commission.

The idea of this amendment is a nice one but it would be incredibly complicated to work out, taking into account the multiple uses aspect and the wide range of areas from which timber can be sourced, and that for the majority of the time a forest is busy growing and being used for purposes other than producing timber.

Hon NORM KELLY: The Australian Democrats support this amendment. Although complex calculations may be involved in determining the appropriate rate, they are not insurmountable. The Dampier to Bunbury Pipeline Act provides for an equivalent amount of local government rates to be paid as the Act permits a private user to use that public land. The Rail Freight System Act contains similar provisions to permit the rateability of land which may run through numerous shires and the like. As I said when I moved an amendment which reflected on the similar impacts on the rateability of such land, it would be totally suitable if it were to be determined that it should be in proportion with the other uses that are derived from a state forest. However, it should be borne in mind that particularly during the harvesting period of a state forest, use cannot be made of that land for a considerable time. A clear-felled block of land is not conducive to increasing our tourism revenue. It actually detracts from the tourism revenue that can be attracted from other parts of our forest areas.

Progress reported and leave granted to sit again, pursuant to standing orders.