

FOREST PRODUCTS BILL 1999

Committee

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

Clause 60 put and passed.

Clause 61: Contracts subject to this Act and the CALM Act -

Hon J.A. COWDELL: I move -

Page 43, after line 5 - To insert the following new paragraph -

- (b) the principles of ecologically sustainable forest management; or

I move this amendment so that the clause will read -

A provision in, or condition of, a production contract or road contract that is consistent with -

- (a) this Act or
- (b) the principles of ecologically sustainable forest management; or
- (c) in the case of a contract relating to forest products located on departmental land -
- (i) the CALM Act; or
- (ii) the relevant management plan,

is of no effect, but without prejudice to other provisions or conditions of the contract.

This amendment will require all production or road contracts awarded by the Forest Products Commission to be consistent with the principles of ecologically sustainable forest management. This is an important amendment because it will complement clause 12(1)(b), which requires the commission to abide by ecologically sustainable forest management principles in the performance of its functions to ensure that all timber and roading contracts are environmentally responsible.

Hon PETER FOSS: This amendment will require provisions or conditions of production contracts and road contracts to be consistent with the principles of ecologically sustainable forest management, irrespective of the tenure of the land to which the contracts apply. The principles on which the Forest Products Commission must act in the performance of its functions are prescribed in clause 12, and they already provide the conditional circumstances intended to apply to the application of the principles of ecologically sustainable forest management - that is, where indigenous forest products are located on public land. Existing clause 61(a) provides that contract provisions and conditions that are inconsistent with the Forest Products Act will have no effect. Therefore, there is no point to this amendment. If the contract is in any way inconsistent with the Act, that provision is void. If production is from private plantation land, it would be inappropriate to include the proposed new paragraph. In those cases, the Bill as it is currently drafted works effectively. This proposed new paragraph is contradictory and inconsistent.

Amendment put and negatived.

Clause put and passed.

Clauses 62 to 68 put and passed.

Clause 69: Supplementary provision about laying documents before Parliament -

Hon PETER FOSS: I move -

Page 48, line 27 - To insert before "24(5)" -

19(5),

This amendment is consequential to the amendment to clause 19(5) - that is 47/19 on the Supplementary Notice Paper - with regard to the tabling of half-yearly reports in Parliament by the minister when Parliament is not sitting.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 70: Regulations -

Hon Bill Stretch; Hon Peter Foss; Hon John Cowdell; Hon Norm Kelly; Hon Mark Nevill; Deputy Chairman

Hon NORM KELLY: I do not intend to move my amendment unless I get an indication from the Government that it is willing to support it. I remember during the debate yesterday that a couple of members talked about the way in which we add padding to various statutes. Clause 70(2)(1) is a classic case of padding. It is very much a catch-all paragraph. Clause 70 deals with the regulation-making power. Subclause (1) states -

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

That is an extremely wide-ranging power to make regulations. We do not have a problem with that; it is legitimate. However, subclause (2), which in no way implies a limitation on proposed subsection (1), states -

Without limiting subsection (1), regulations may provide for -

. . .

- (1) any other matter relating to the Commission's functions in relation to forest products whether on public land or sharefarmed land.

It is clear that it is an unnecessary paragraph. That is totally covered in earlier parts of the Bill. It is padding. As I said, I do not think that does not add one thing to the Bill.

Hon PETER FOSS: The Government does not accept that proposition. This is drafted in a fairly usual way. Obviously, a broad regulation-making power is needed. If people do not like the regulations being made, those regulations can always be disallowed in the Parliament. I do not think we should overrule the draftsman on this matter.

Clause put and passed.

Clause 71: Review of Act -

Hon NORM KELLY: I move -

Page 50, line 30 - To delete "as soon as is practicable after" and substitute -
within 6 months of

This amendment should be read in conjunction with amendments 20/71, 21/71 and 22/71. This clause deals with the review of the Act. This Government seems to have two streams of consistency in its legislation. Quite often in the review of Acts we refer to a review being carried out "as soon as is practicable". The Australian Democrats believe that a definitive time line should be placed on these review clauses so that the public is given an indication of when it can expect to see the results of such a review. Under some Acts - one that springs to mind is the Liquor Licensing Act - reports on a review can be delayed for years, and the industry is left waiting and wondering about the changes which may eventuate. If the four amendments in my name are read together, subclause (1) will read -

The minister is to carry out a review of the operation and effectiveness of this Act within 6 months of the expiry of 5 years from its commencement.

Subclause (3) would read -

The Minister is to prepare a report based on the review and is to cause the report to be laid before each House of Parliament as soon as practicable after it is completed, and in any event not later than 12 months after the expiration of the 5 year period referred to in subsection (1).

I note that Hon John Cowdell has an amendment which I believe will improve and strengthen what I have put forward. I point out that this is to try to achieve consistency. By way of example, I refer to the Commercial Tenancy (Retail Shops) Agreements Act, the Gas Pipelines Access (Western Australia) Act, the Rail Safety Act, the Land Administration Act and the Country Housing Act, which were passed recently and in which the Government accepted the need for a definitive time line for a review of the Act. This year, the Health Professionals (Special Events Exemption) Act was passed by this Parliament. I have not done a full search, but I believe the Government, on its own initiative, included a time line. I commend this amendment to the House.

Hon J.A. COWDELL: I move an amendment to the amendment as follows -

To delete "6" and substitute "12".

This is in line with changes I proposed to a similar amendment put forward by Hon Norm Kelly to the Conservation and Land Management Amendment Bill. I do not believe that six months is enough time. A 12-month time span would be appropriate for such a review. It should be more specific than "as soon as is practicable after". Obviously, I am happy to support the deletion of those words. However, the words proposed to be substituted should be "12 months" rather than "6 months".

Hon Bill Stretch; Hon Peter Foss; Hon John Cowdell; Hon Norm Kelly; Hon Mark Nevill; Deputy Chairman

I make the following point, as Hon Norm Kelly foreshadowed the impact of his amendments that follow on in sequence. He proposed a particular regime by that set of amendments. I propose an alternative regime; that is, subclause (3) will read -

The Minister is to prepare a report based on the review and is to cause the report and the review to be laid before each House of Parliament within six months of the completion of the review.

Taken in conjunction with my amendment, it will allow 12 months for the review and a further six months for a report on the review. That is a superior way of proceeding, in the sense that Parliament is then provided with not just the report, which may be a very much edited and oblique commentary on the review, but also a copy of the review. I hope to have the support of Hon Mark Nevill, as I had his support in exactly the same terms on the previous Bill when he so eloquently argued that it was a suitable form of amendment. I look forward to consistency in his argument and stance on this occasion.

Hon PETER FOSS: My views on these amendments are fairly well known, but we should be consistent with what we did with the Conservation and Land Management Amendment Bill. Hon Norm Kelly should either withdraw his amendment or accede to Hon John Cowdell's proposal so that we do not put in place two regimes resulting in total and utter confusion.

Hon MARK NEVILL: I am not enamoured of any of these amendments. I do not understand how a report and a review can be tabled in the Parliament. The review is the process, and if I want to see a review I go to a seedy hotel. Only the report of a review is tabled in Parliament. I have difficulty understanding that concept.

Hon J.A. Cowdell: Presumably the review is presented to the minister before he makes a report on the basis of that review.

Hon MARK NEVILL: I thought the reviewers gave the report to the minister.

Hon J.A. Cowdell: The report is what the minister edits to come before the Parliament.

Hon MARK NEVILL: I stand corrected. That was not my understanding; I thought the minister was provided with a report, and I rather naively assumed that report was tabled in the Parliament. I learn something new every day! I hope the minister will disabuse me of that notion.

A 12-month period is preferable to a six-month period. The review clause requires the minister only to carry out the review, not to complete it. It could be interpreted that he must commence it, but nothing states that the report must be tabled within 12 months of the expiry of five years from the commencement of the Act.

In future I shall move that some of these review clauses be deleted. One is probably warranted in this case, but for the life of me I cannot understand why we use all these resources on reviewing every Act that goes through the Parliament. The Police Act of 1892 still has not been rewritten, and a new Bill was supposed to be produced within two or three years of my becoming a member of this place. I still have not seen it. I would prefer some of those resources to go into that area, rather than into a set review of every Bill after five years. The power should probably be extended to the Legislation Committee for it to recommend reviews of legislation. It could have a term of reference that every two years it invites submissions on which Acts should be reviewed.

The DEPUTY CHAIRMAN (Hon W.N. Stretch): The debate is ranging rather widely on the amendment, to which Hon John Cowdell has moved a further amendment. We should concentrate on those matters in that order, and deal with the review of the Police Act at some future time. I ask the member to address those amendments, and we may make some progress.

Hon MARK NEVILL: I am prepared to support the amendment proposed by Hon John Cowdell. I was considering voting to remove this clause altogether.

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