

ANIMAL WELFARE BILL 1999

Consideration in Detail

Resumed from 17 October. Debate was adjourned after clause 19 had been agreed to.

Clause 20: Defence - self-defence or protecting another person or an animal -

Mr McGOWAN: The Opposition is happy with this clause.

Clause put and passed.

Clauses 21 to 24 put and passed.

Clause 25: Defence - code of practice -

Mr McGOWAN: I move -

Page 19, line 3 - To insert after “acting” the words “humanely and”.

The amendment is quite straightforward. If a person is acting in accordance with a code of practice, he should act humanely. The clause fits with clause 23, which deals with the defence of normal animal husbandry.

I find it unusual that the responsible minister is not present for the consideration in detail. Although the member for Cottesloe is a capable minister, I do not believe he has knowledge of animal welfare. The minister and his advisers are not present to advise on this clause. I believe it shows some disrespect towards the parliamentary process. All members would be aware that I presented a petition on this matter containing 65 000 signatures. It is a subject of considerable public interest. I do not believe that any credit is reflected on the Government or the Minister for Local Government by having the member for Cottesloe deal with this Bill.

The amendment I propose lines up this clause with clause 23. It deals with the humane treatment of animals under specified circumstances.

Mr BARNETT: I agree that the situation is somewhat unusual. In our defence, I must say that the Minister for Local Government was not aware that this Bill would come on for debate so quickly during this afternoon's proceedings. I did not have an opportunity to contact him. However, as members can see, the minister has now arrived. I apologise for the situation. It was my responsibility.

Mr OMODEI: I am not able to respond to the member for Rockingham as I do not know what he said.

Mr McGOWAN: I will reiterate what I said. My amendment will line up this clause with clause 23. Both clauses provide a defence for cruelty to animals. The Opposition agrees with the general concept of having defences in the Bill - there is a range of defences in the legislation. The amendment lines up with what was proposed by the Royal Society for the Prevention of Cruelty to Animals. It adds the requirement to act humanely. I think it is a reasonable and sensible amendment.

Mr OMODEI: This issue has been covered in discussions with the RSPCA. I believe it is covered in another part of the Bill. It is not the Government's intention to support the inclusion of the words “humanely and”.

This clause relates to defences, and animals being dealt with humanely under the relevant code of practice. When a person has acted in accordance with generally accepted animal husbandry practices used in farming or grazing activity, or in the management of zoos, wildlife parks or animal breeding establishments, and has acted in a humane manner, under this clause that would constitute a defence. Other important defences are when a person was protecting a person or another animal from attack, unless the animal was being used for law enforcement, as in the case of guard dogs and police dogs; when the person's actions were authorised by law; when the person was killing pests, acting in accordance with the relevant code of practice; if the person allowed stock to roam on pastoral property to fend for itself, and the property was reasonably capable of sustaining the animals; if the person was releasing fauna back into the wild; when a person did not have responsibility towards an animal in certain cases; when a person is authorised to use a restrictive device and was using that device in an authorised manner; and when a person performed an authorised surgical operation in an authorised manner. The defence uses the word “humanely”, so the recommendation was that the Government oppose this amendment.

Mr McGOWAN: There is an anomaly between clause 25 and clause 23. Clause 23 says that if a person is engaged in general animal husbandry practice, and in farming, management of zoos, animal breeding or training of animals, that person is able to commit what would otherwise be an offence under this Bill, if the act is done in a humane manner. The RSPCA also believes that this is an anomaly. Perhaps the minister could explain why this anomaly exists.

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Mr OMODEI: These matters, including duty of care, the transport of animals, and the defence of normal animal husbandry, have all been raised by the RSPCA and responded to by the Government some time ago. The RSPCA's concern is that the defence will have too wide an interpretation, and that may allow mistreatment to occur. However, the defence still requires that the animal husbandry practice be carried out in a humane manner. This is only a defence to a charge, so it would be incumbent on the person charged to prove in a court that the animal was treated in accordance with a generally accepted animal husbandry practice. I would be interested to hear from the member for Rockingham what the responses of the RSPCA were to the issues we raised with it, including the defence of compliance with a code of practice, fish, scientific establishments, licensing for the supply of animals for scientific purpose, appointment of scientific inspectors, and so on. In all, 17 matters raised by the RSPCA were responded to, and it accepted those responses. On that basis it is deemed unnecessary to support this amendment.

Mr McGOWAN: The Opposition is obviously going to lose this amendment. My understanding is that the RSPCA last corresponded with the Opposition in relation to this Bill on 25 July 2000, and this was one of the areas of concern that was contained in that correspondence. The RSPCA was not satisfied with the Government's efforts in this and others areas. I do not wish to drag this matter out, so I will leave it at that.

Amendment put and negatived.

Clause put and passed.

Clauses 26 to 32 put and passed.

Clause 33: Appointment of general inspectors -

Mr McGOWAN: I move -

Page 24, line 8 - To insert after "schools" the words "and other educational institutions".

If any amendment is going to win the support of the Government, this is the one. When a general inspector, who is by definition an RSPCA officer, is appointed, he has power of inspection over farms and places where animals are kept, other than scientific institutions, which have their own class of scientific inspector. What I am proposing here, which I think is reasonable, is to extend the authority of such an inspector from schools to other educational institutions. The RSPCA has had this power for 80 years, since the last Bill was passed by this Parliament in 1920. It is a simple amendment, and I hope the Government will support it.

Mr OMODEI: The definition of "school" is referred to again in clause 37(1) and means a school as defined in the Education Act 1928, which is basically primary and secondary schools. The legislation will allow general inspectors to go into primary and secondary schools. It is not intended to cover technical and further education colleges or any other tertiary institutions, as they will be inspected by scientific inspectors who will be far more qualified than general inspectors.

Mr McGOWAN: I missed part of what the minister said -

Mr Omodei: I will say it again for the member.

Mr McGOWAN: The minister does not talk loudly enough. Maybe it is my hearing or maybe it is the fan.

Mr Omodei: If you stop talking to other people, you might hear what I have to say.

Mr McGOWAN: I know the minister came up with a complex answer about clause 37 and the definition of "school". However, I would have thought that other educational institutions should be covered by an RSPCA inspector, who is a general inspector under the Bill, simply because there has been an 80-year history of this. Those inspectors have performed their role well; they have never caused any trouble. Although they may not have letters after their names - some members will agree with this old argument - they have a wealth of experience and have done the job well historically. In effect the clause will deny RSPCA inspectors the opportunity to inspect such scientific institutions as TAFEs or universities. I have not heard of any excessive concern on the part of educational institutions. I have never heard the universities complain about the actions of RSPCA inspectors. The RSPCA accepts the need for institutions to carry out scientific experimentation upon animals in the training of veterinarians and the search for medical cures and the like. I would not have thought there would be a problem with this amendment. It is a carry-on of 80 years of fine history of a fine organisation. Maybe some secret submissions have been put forward by various educational institutions, but I am not aware of any. They have never contacted the Opposition on this matter. The five universities in this State have never raised this matter with me or in the media. The RSPCA is unaware of their having any concern. I do not understand why there is a concern.

Mr OMODEI: It is probably a bit more important than that. The legislation suggests that there be general inspectors as well as scientific inspectors and that the general inspectors do the kind of work the RSPCA inspectors have done in the past. There is no objection to that. Clause 33(5) simply allows for the appointment

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of a person as a scientific inspector in relation to schools. The reference to schools is simply part of the person's title and does not have any bearing on the functions that are set out in clause 37. Clause 37 says that it is a school as defined in the Education Act 1928, which is basically primary and secondary schools. It is not intended to cover TAFE colleges and other tertiary institutions to which the RSPCA referred. It was deemed that colleges and TAFE centres would probably undertake more comprehensive scientific experiments; therefore, the person should be a scientific inspector. We are not allowing general inspectors to go into tertiary institutions where very complex and valuable research and experiments - possibly worth millions of dollars - are being undertaken because we did not want a general inspector who was not as well qualified to be able to go into an institution and close down an experiment, which may be difficult to start up again or which may lose a lot of money as a result of restarting the experiment. That is why there are two levels of inspector, with the scientific inspector being a qualified inspector. There is no problem in RSPCA inspectors becoming scientific inspectors, provided they have the required qualifications to undertake those activities.

Mr McGOWAN: Will the minister give details of any examples during the past 80 years in which the RSPCA has acted in the fashion he suggested might be a problem; that is, closing down complex, necessary and expensive undertakings of some of the educational institutions? I would be interested to hear of any examples so that we can sort out this issue once and for all.

Mr OMODEI: The RSPCA has been an incredible organisation for well over 100 years. The rapport between the RSPCA and tertiary institutions has been very good during that time. Under this legislation it is deemed that inspectors of scientific establishments have appropriate qualifications, commensurate with the duties required to inspect a scientific establishment. It does not take anything away from the RSPCA. We had constructive discussions with RSPCA representatives on this clause. It is very plain: The legislation appoints scientific inspectors and general inspectors, and there is a difference between the two.

Amendment put and negated.

Clause put and passed.

Clause 34: Appointment of scientific inspectors -

Mr McGOWAN: I move -

Page 24, lines 10 to 14 - To delete the lines and substitute the following -

- (1) The Executive Director is to appoint as scientific inspectors -
 - (a) those members of the staff of the RSPCA nominated by the RSPCA, and whom the Executive Director considers to be suitably qualified or experienced for the purposes of the Act; and
 - (b) as many other people whom the Executive Director considers are suitably qualified or experienced for the purposes of the Act and are required for the purposes of the Act.

The amendment seeks to delete subclauses (1) and (2) of the existing clause and substitute a new subclause. The wording of this clause was suggested to me by the RSPCA. For the information of members, I did not accept carte blanche all the amendments suggested by the RSPCA; I examined them and added some of my own amendments. I also looked at some of the examples it provided, and if I thought they were fitting, I included them. This amendment will ensure that those RSPCA staff members who are considered to be appropriately qualified by the executive director as defined under this Bill will be appointed as scientific inspectors under the Act.

Again, the RSPCA inspectors may not have a Bachelor of Science, a Bachelor of Veterinary Science or some other tertiary qualification, but they have a wealth of experience and knowledge. The inspectors I have met on occasion have worked in this area for over 20 years. They are responsible people, and they are skilled in the university of life. I thought that it would be appropriate to remove all doubt and to insert this clause so that those people also may be appointed as scientific inspectors under the Act. The Royal Society for the Prevention of Cruelty to Animals is concerned that its inspectors, whom they pay without any government subsidy, will not be allowed to act in this position. It would be a good move to at least allay that concern of the RSPCA. As I said earlier, it is one of the most highly respected organisations in Australia, and its officers would do a good job in this capacity. I have never heard of any concern of the scientific institutions and I am unaware of any examples of RSPCA inspectors acting inappropriately with regard to scientific institutions. This amendment would go a long way towards resolving some of the differences that exist between the Labor Party and the Liberal Party on this issue.

Mr OMODEI: I do not know whether it is a difference between the Labor Party and the Liberal Party; it is just a question of commonsense. As members know, the RSPCA believes that its inspectors should have the right to

inspect all scientific establishments. That has already been established. However, I wonder whether all those inspectors would want to be responsible for inspecting a scientific establishment in which very complex experiments are going on. Members would be aware of the research now being carried out in some of the institutions. The legislation already makes specific provision for the appointment of RSPCA staff as general inspectors; therefore, the Bill covers them. Those inspectors would be entitled to inspect experiments at primary and secondary schools. In other words, they would be the sorts of experiments we used to do when we were young; that is, cut up frogs and so on.

Dealing with the specific appointment of scientific inspectors, it is intended that those people would have greater animal experimentation knowledge. In that case, their work and their knowledge would be more specialised than that of a general inspector. If, for example, an RSPCA staff member had been an inspector in the past and has the appropriate qualifications and experience, he could be appointed as a scientific inspector. However, it is really a matter for determination by the licensing authority on a case-by-case basis. I expect that some people currently in the RSPCA will become inspectors of scientific establishments. However, others may not wish to do so. Bearing in mind the complexity of some of the experiments and the amount of resources that tertiary institutions have had to put in place to enable the experiments to be carried out, the responsibility that will be placed on inspectors of scientific establishments will be significant and onerous. It is a very serious matter. It is not intended to deny the RSPCA any involvement or to downgrade or deny its contribution in the past. This is new legislation for a modern age in which complex scientific experimentation will be carried out.

Mr McGOWAN: Will the minister tell me again where there have been problems in the past? Secondly, who does the minister propose to appoint as the scientific inspectors, and who will pick up the tab for them?

Mr OMODEI: They will be people with appropriate qualifications. The executive director will appoint them. They will come from a number of walks of life. They could be people who are now in scientific establishments; they could be research people. Provided they have the requisite qualifications and they apply in the appropriate fashion, they may be appointed. That will be up to the executive director.

Mr McGOWAN: I do not want to labour this point. Will the minister tell me where there has been trouble in the past? Secondly, who will pick up the tab for these inspectors? Of course, taxpayers do not have to pay for the RSPCA inspectors. Who will pay for these new inspectors, and out of what budget will that cost be met?

Mr OMODEI: I do not want to repeat myself too much, but there have not been many problems in the past. However, there is a national code on scientific experiments. Science has come a long way in recent times. In some of the experiments being conducted for the benefit of mankind, RSPCA officers would not have had the same responsibility in the past as they have today. The member for Rockingham will acknowledge that what happened 50, 60 or 100 years ago was vastly different from the level of sophistication in experimentation today. Therefore, it is deemed that because the national code is complex, people should have appropriate qualifications.

Mr McGOWAN: It is interesting that the minister who often quips that he does not have a university degree is saying that someone should have a university degree to carry out the duties of this position; whereas I, as someone who has a university degree, am saying that somebody should not have a university degree to do this job. For what it is worth, that is a relevant observation.

I will ask the question of the minister again: Who will pick up the tab for these scientific inspectors? In light of the fact that currently we get this service free of charge from the RSPCA, who will pay for these scientific inspectors? Will they be employees of the Department of Local Government, or who will employ them, and what is the estimated cost?

Mr OMODEI: My advice is that some of them may be employed by the Department of Local Government and some may be paid for by the RSPCA. It will depend upon the situation.

Mr McGOWAN: What is the estimated cost of this per annum, above the cost at the moment? That is a relevant point. This is an opportunity cost-type situation. The money that will go to these inspectors could have gone to the RSPCA to meet its needs. However, it will not receive it.

Mr OMODEI: It is intended that there will be an animal welfare unit within the Department of Local Government and that at least one inspector of scientific establishments will be within that animal welfare unit. However, there may be others. I expect that that inspector of scientific establishments will cost somewhere between \$100 000 and \$150 000. The intention at the moment is to have a maximum of four people in the animal welfare unit. That compares favourably with animal welfare units in other States. Obviously, those people will be paid a salary commensurate with their qualifications. It will also depend upon the workload and how many inspectors there are. For the general things that happen, those people will be funded by the RSPCA, as they are now.

Amendment put and negatived.

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Clause put and passed.

Clauses 35 to 39 put and passed.

Clause 40: Care of animals -

Mr McGOWAN: I move -

Page 29, line 25 - To delete the line and substitute -

Penalty: \$20 000 and imprisonment for one year.

Mr OMODEI: The issue and relevance of penalties has been debated. The Government opposes this amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 41 to 56 put and passed.

Clause 57: Order for retention of seized property -

Mr McGOWAN: I move -

Page 43, lines 27 and 28 - To delete "forfeited to the Crown" and substitute -

if the offence was prosecuted by -

- (a) an inspector appointed under section 33(1)(a) to be forfeited to the RSPCA;
- (b) an inspector who is a member of the staff of a local government, to be forfeited to that local government; or
- (c) any other person, to be forfeited to the Crown.

As the Bill stands, if a local government authority pursued an offence of cruelty and a fine was imposed, the local government would receive the proceeds of the fine. For example, if the City of Rockingham pursued an offence under this legislation, it would receive the proceeds of the penalty, which would be a minimum of \$1 000. However, if the RSPCA or another competent authority pursued a matter, the proceeds of the fine imposed by a duly constituted court would go to the Crown. The legislation will enact two systems: A local government authority would receive the proceeds of the penalty when it pursued an offence of cruelty against someone who was starving his animals or who was deliberately cruel or negligent to them; yet, the Crown would receive the proceeds of a fine if the matter were pursued by the Crown or the RSPCA. This amendment is designed to ensure that when the RSPCA prosecutes an offence for which a fine or order for costs or reimbursement is imposed, it receives the proceeds of the fine to help it meet the costs of pursuing the matter. It is expensive to prosecute a matter, and as the RSPCA does not have any lawyers on staff, it briefs out the work. If its officers uncover an incident of cruelty, such as someone starving a horse or being cruel to a native animal or a dog, the organisation contacts a law firm - I think there are a few in the city that it generally uses - and provides it with the statements of its inspectorial service. The law firm then pursues a prosecution, for which the RSPCA is billed. It must pay the costs. It may obtain a costs order from the court, but that is generally small and fails to meet the costs of pursuing the prosecution. Under this Bill, when the volunteer staffed and funded organisation pursues a prosecution and an individual is found guilty of an offence of cruelty - which normally involves a horrible practice - the proceeds of the fine will be returned to the Government, whereas the RSPCA, which will have spent its own money, time and blood, sweat and tears pursuing the matter, will receive only a small allowance that will not meet its costs. That is wrong; the RSPCA should receive the proceeds of such a fine. Such a provision was part of the Green Bill put forward all those years ago and is supported by the RSPCA as a small measure to overcome the costs and burdens it must endure when pursuing these matters.

Mr CUNNINGHAM: I was engrossed in the member for Rockingham's argument, and would like to hear more.

Mr McGOWAN: I hope that was not the member for Girrawheen's valedictory speech.

Mr Cunningham: It was.

Mr McGOWAN: It is wrong that the RSPCA will not receive the proceeds of fines. Some people might argue that it is not wrong because such a provision would encourage the RSPCA to pursue prosecutions as it would become a revenue-earning stream. The obvious reply to that argument is that the proceeds of any fine invariably fail to meet the costs of the prosecution. It normally costs far more to brief and recruit lawyers to pursue a matter than the \$2 000 fine that is issued. The other rebuttal is that the courts ultimately determine guilt. If the defendant is not guilty, he will not have to pay a fine and the RSPCA will not get any money. I am sure that any

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self-respecting magistrate would have stern words to say if he thought the RSPCA was gold-digging. I do not think it unreasonable to try to find a mechanism to provide the organisation with even a small amount of recurrent funding. I understand the State receives about \$20 000 each year from fines imposed for animal cruelty offences. That is nothing compared with the totality of the state budget, but it would be a significant amount of money to the RSPCA. It is a reasonable proposition and has wide public support. A range of checks and balances would be in place to monitor its use. The courts would be the first and major check. Further, the cost to the RSPCA of prosecuting these matters is generally much higher than any proceeds received by the Government. Such a provision would cost the Government barely any money - around \$10 000 to \$20 000 per annum. I hope it supports the amendment.

Mr OMODEI: I hope I will allay some of the member's concerns by referring to clause 87, which refers to the disposal of forfeited property. It states -

- (1) Property forfeited to the Crown under this Act may be sold, destroyed or otherwise disposed of in the prescribed manner.
- (2) Proceeds from the sale of forfeited property are to be used -
 - (a) firstly, to pay any unpaid fines payable by the owner of the property;
 - (b) secondly, to pay any unpaid costs ordered under section 55(2)(f) or 56 to be paid by the owner; and
 - (c) thirdly, to pay any unpaid costs ordered under section 58(1) to be paid by the owner.

Clause 55(2)(f) would include the inspector's cost of providing sustenance and care of the animals and any court costs. Accordingly, if the RSPCA, a local government or other inspector has incurred costs relating to the care or seizure of the animal, or in the prosecution of the offence, they are recoverable from the proceeds of the sale of the forfeited property.

Mr MCGOWAN: I am slightly confused by what the minister said. Is the minister agreeing with my amendment, or is he saying that what I am proposing is, in effect, what the Bill proposes?

Mr OMODEI: I am saying that it is already provided for in the legislation under clauses 87, 55(2)(f) and 56. If the RSPCA, local government or other inspector had any costs applied, they could be taken out of any forfeited property. The member's concerns are covered under the legislation as it is drafted.

Mr MCGOWAN: I want an assurance that the full amount would be received by the RSPCA for all the costs incurred, including its inspectorial service, and for looking after an animal perhaps until it is back in good health and has a new owner.

Mr Omodei: Is the member suggesting that the RSPCA should be given more than the costs?

Mr MCGOWAN: I am. It is difficult to determine the actual costs. As I said, lawyers are a significant part of the cost. The RSPCA runs an inspectorial service using vans and RSPCA officers to investigate people. Every couple of weeks I receive a press release from the RSPCA detailing a misdemeanour it has uncovered; that is expensive. Under the provisions, I wonder whether the cost of running that service will be met, even if it is apportioned on a pro rata basis, until each of the offences is prosecuted. As the minister is aware, the RSPCA is seeking some recurrent funding to cover the expenses it incurs for the work it does on behalf of the people of this State. I would like those costs incurred by that fine organisation to be met.

Mr OMODEI: In the run-up to any court action, the activities of the inspector in providing sustenance and care for the animal and any court costs are covered under clause 55(2)(f). The costs in the court are covered under clauses 56 and 87. Other costs are normally borne by the RSPCA. It is open to the RSPCA to approach the Government for funding should that be required. Up to date this year, through government sources and the Lotteries Commission, the Government provided about \$1m to the RSPCA for capital works for new facilities. If it requires further funds, I am sure it will come forward to the Government with a request.

Mr MCGOWAN: Why is it that under clause 86, when a local government pursues an offence under this Bill, that local government will receive the full proceeds of the fine and not just this special arrangement, which the minister detailed earlier, whereas if another organisation pursues the matter, any proceeds of that fine will be credited to the consolidated fund? A distinction has been drawn between local government and an organisation such as the RSPCA.

Mr OMODEI: I prefer to discuss that when we deal with clause 86.

Amendment put and negated.

Clause put and passed.

Clauses 58 to 85 put and passed.

Clause 86: Application of fines -

Mr McGOWAN: I move –

Page 58, after line 7 - To insert the following -

- (b) an inspector who is a member of the staff of the RSPCA, the RSPCA; or

The Opposition has not pursued the other amendments concerning penalties because it became plain during an earlier debate that the Government would not agree to them. The Government decided that the amendments would be soft on crime; therefore, we will not pursue them. It would not be relevant to delay the House further on those points.

Clause 86 relates to the application of fines. An anomaly exists between the fines imposed as a result of a local government prosecution and a fine imposed as a result of a prosecution pursued by the RSPCA; that is, if a fine is imposed as a result of a prosecution by a local government, the proceeds of that fine will go directly to that local government. It is required under this Bill that the proceeds be credited to that local government. If one of the 144 local governments pursues a case of animal cruelty, that fine goes directly into its coffers, yet if another organisation such as the RSPCA pursues an offence, the proceeds of that crime go to the consolidated fund, subject to the other mechanical provisions in the Bill. As I said to the minister earlier, that is an anomaly. It would be appropriate if the RSPCA received the proceeds of those fines. That would give consideration to an organisation which carries out a range of roles on behalf of the State and the people of Western Australia for which it receives little thanks or understanding. In fact, when I mention to people that the RSPCA is an organisation which receives no recurrent funding from government and that it carries out all these roles on its own simply because it is funded and staffed by people who have a love of other living things, they are amazed. This is one small way that we can overcome the funding problem faced by this organisation when it is pursuing cruelty to animals issues in our State. This would allow the organisation to expand its role and make sure it is able to follow up offences. When talking to people who work for the RSPCA, they will always say that they are overburdened with work, and they are able to follow up only a minuscule number of the matters that are brought to their attention. Members of the general public have telephoned me and complained that things should have been followed up, and there is little I can or am disposed to do about that. However, giving the organisation some additional income would assist. The organisation is run by a board of committed and professional people, some of whom are from the farming community and are very conservative. It is a bipartisan and apolitical but responsible organisation, and I would like to see it receive a little help - a hand-up rather than a handout.

Mr OMODEI: I thank the member for Rockingham for his sincerity. The regard that the Government has for the RSPCA has been demonstrated by what it has done over the past 12 months in the new education centre and the new facility at Malaga. Of course, the member for Ballajura was instrumental in lobbying the Government for those funds.

Mr McGowan: The minister was not at the opening.

Mr OMODEI: I went to the more important part - the turning of the first sod - but I have certainly been involved. The Government has an excellent relationship with the RSPCA and, like the member for Rockingham, I respect the contribution the RSPCA has made to this State - it is absolutely remarkable - and the regard in which the community holds the organisation. This Government is very proud of the RSPCA in Western Australia.

This aspect can be looked at in two ways. Firstly, the RSPCA could receive the proceeds of fines. Obviously some costs would be associated with any court proceedings, so the organisation would receive what is left out of the fines, together with some supplementary funding from the Government. Alternatively, the organisation could receive supplementary funds from the Government. As the member for Rockingham rightly says, clause 86 refers to the revenue going into the consolidated fund. I do not know whether he has thought about the school of thought put forward by some of our members and people from country areas; that is, if all the proceeds from the fines went into the coffers of the RSPCA, a problem could occur from time to time if there were an overzealous inspector, and because the RSPCA has said that the fine revenue would be insignificant as far as it was concerned, it would prefer to receive supplementary funds from the Government. Discussions have taken place between the Executive Director of the Department of Local Government and the RSPCA, and should the RSPCA require further funding from the State, it will put in an application under the normal procedure, in the same way that other organisations apply for funds. In other States this process varies, but the Government does not agree with the member's amendment, because it believes that if the RSPCA is not to receive proceeds of fines, it will make an application to the Government, and the Government will give that due consideration.

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Mr McGOWAN: Recurrent funding from governments of all persuasions is notoriously unreliable. I recall that in 1992, the RSPCA received some government funding and the new Government in 1993 subsequently cut that off.

Mr Omodei: I can remember the Keep Australia Beautiful Council receiving funds from government, those funds being cut off after three years by the Carmen Lawrence Government and then being reinstated by our Government. I think that is a nonsense argument.

Mr McGOWAN: The minister just repeated my argument. How can he say it is a nonsense argument; he said exactly what I said. Maybe he should go and turn a few more sods.

What I am saying is that Governments sometimes have other responsibilities and other pressures. If I were Minister for Local Government, I would be absolutely adamant about keeping funding for the RSPCA. However, I may not be the Minister for Local Government and another minister may not have that as a priority. This is a small measure that would give the organisation some funding security. I know the Government supports this; and I know it is in its position paper. Every other State has some recurrent funding. The organisation has made a budget submission to the minister for a number of years and has received nothing. I do not know how it can trust the Government when the Government says that it should make application to the Government for money, because it has done that before and has received nothing. This is a solid provision that gives the organisation some security. This is not a rabid, crazy organisation; as I told the minister previously, it is four times older than the Liberal Party and is almost 60 years older than the Labor Party. It is a sensible and respected organisation with a number of farmers on its board. At the opening in Malaga I sat next to one of the farmers who told me that he used to teach the Premier how to ride horses when the Premier was a boy. He seemed to be very chummy with the Premier.

Mr Omodei: That is significant!

Ms Anwyl: He must have been old.

Mr McGOWAN: He was an older gentleman and he was quite conservative. Therefore, I think we can have some trust in this organisation.

Mr OMODEI: I cannot let those comments go unchallenged. As I said, we reinstated funding for the Keep Australia Beautiful Council. The member is becoming very flexible with the truth, as he did with his petition. Let me state, so that it is in *Hansard*, that the 62 000 people who signed that petition were never told that there were increased penalties in this legislation. It was a very deceptive little move by the member for Rockingham - bordering on the dishonest. However, sticking to the facts, the only time that the Labor Party gave the RSPCA an allocation of funds was \$50 000 in its centenary year - a lousy \$50 000 for an organisation that has existed for 60 years longer than the Labor Party has existed and umpteen times longer than any other party has existed. It has existed for more than 100 years and the Labour Party gave it a lousy \$50 000. The record of the current coalition Government reveals that this year just over \$1m went to the RSPCA, and the organisation was very grateful for and deserved those funds. Those opposite cannot question the bona fides of the current Government when it comes to supporting the RSPCA. Their Government should have given the RSPCA \$500 000 for its centenary year.

The RSPCA is well aware of the meetings that have taken place. We are in regular consultation. The organisation is well aware that if it does not receive the proceeds from fines, the Government will expect it to make submissions to it for recurrent funding.

Amendment put and negatived.

Clause put and passed.

Clauses 87 to 98 put and passed.

Title put and passed.

Third Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [5.21 pm]: I move -

That the Bill be now read a third time.

MR McGOWAN (Rockingham) [5.21 pm]: This has been a long process. I have long had an interest in animal welfare. It is something I care about, as do many people in our community. The Government has not recognised the emotional commitment of the community to this issue. The broader community has a great love of animals, whether pets or native fauna. Today, there is wide acceptance of the significance of broad environmental issues that cover our country - such as salinity, endangered species, the greenhouse effect and the destruction of native forests. Animal welfare falls into the same category. It has shown that people are also concerned about issues other than those that only affect their hip pockets.

Extract from Hansard

[ASSEMBLY - Tuesday, 14 November 2000]

p2815b-2823a

Mr Mark McGowan; Mr Colin Barnett; Mr Paul Omodei; Mr Cunningham; Mr Cunningham; Ms Megan Anwyl

I was gratified that many people contacted me about my animal welfare petition. Despite Government protestations, the petition was not a stunt. I took up this issue because I thought it was important. Although I was unsuccessful in my attempts to amend and improve this Bill, at least in this House I was gratified by the level of support and the range of people who indicated, and continue to indicate, their support on this issue. I am regularly stopped in the Rockingham City Shopping Centre by people who say to me, "We don't care about politicians or politics but we are grateful that someone has taken up an issue that we are concerned about and care about." It is a good feeling when that happens. People in public life do not often get that reaction because people always think the worst of them. I was pleased that nearly 65 000 people signed my petition and 800 community members were involved in its distribution. I am also pleased that the member for Girrawheen managed to capitalise on this issue in his twilight days as a member of Parliament. I was interested to see photographs of pets by the member for Vasse, the member for Greenough and the member for Murray-Wellington, who looks very dapper in his shorts. Those who attend events organised by the Royal Society for the Prevention of Cruelty to Animals, such as the Million Paws Walk, will find widespread interest in this issue, which is gratifying. People across the State - not just in the metropolitan area or the big towns but also in little country towns - contacted me about this issue. The feeling about this issue in small country communities would surprise many National Party members of Parliament. I think it was in the community of Salmon Gums that a woman managed to get all of the community, bar four people, to sign the petition. This is an issue that has touched a nerve. I am grateful that I could try to do something about it.

I am committed to doing something, in government, about this issue. If Labor is fortunate to be in government in a couple of months, it will be one of my highest priorities to ensure improvement to this legislation. To give the minister his due, this Bill is an improvement on the current situation. I appreciate that the Government has spent money on the RSPCA Animal Welfare Centre in Malaga. However, action on this legislation is 80 years overdue. The inaction by Governments of both persuasions over the intervening 80 years since legislation was first introduced reflects poorly on this Parliament. Other Parliaments improved their legislation but this Parliament did not seem able to. I am pleased that this Bill will pass through this House; however, the Opposition will attempt to amend it in the upper House. If there is any time between now and the election, the Opposition will seek to make amendments along the lines that I suggested - in the areas of providing support to the RSPCA, binding the Crown, increasing penalties, giving RSPCA inspectors broader responsibilities and providing ongoing funding to the RSPCA. I hope that I have a future opportunity to do more on this issue.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [5.27 pm]: I thank the member opposite for his support of the legislation. Apart from the amendments to penalties that the Opposition proposed, which were really out of bounds, there were very few amendments to this legislation. This proves that the consultation that took place between local government, animal organisations and the State Government was productive. There is no doubt that an act of cruelty to an animal engenders a feeling of disgust and rage - it generates high emotions. The general public has been interested in this issue for a long time - a testament to the fact that this is important legislation that should not be trivialised. I agree with the member opposite that the 1920 legislation was in dire need of updating and upgrading. The fact that it took the Labor Party 10 years to set up a mandatory committee is testament to that. I am not proud that it took the coalition Government another seven years to introduce this legislation to Parliament. There was a lot of consultation in the lead-up to that.

I remember that the first body that came to me as the minister was the Canine Association of Western Australia. It had 4 000 members who were not represented on the animal welfare advisory committee. Had their representatives, along with all other interested parties, been put on the advisory committee, it would have been a committee of over 100 people. We had to restrict the committee membership to a reasonably small number of people. The contribution of the animal welfare advisory committee was very valuable. The input, questioning and contribution of the RSPCA during the legislation's drafting phase were invaluable. I thank them for it.

I thank members of the Opposition for their general support of the legislation. I think the legislation will provide a good blueprint for handling animal welfare issues in the future. If the legislation is discussed in the upper House in a sensible way, there should be close scrutiny of the penalties that are proposed in the legislation. We should not have higher penalties for cruelty to animals than exist for breaches of the law against human beings. The Sentencing Act has been used as a benchmark in determining the level of fines. The member for Wagin was very concerned about the minimum fines that have been set. To a degree, I share his concern, but I believe the community is demanding strong penalties in the legislation. The Government has been able to deliver them. I thank members for their contributions. I believe the legislation is not before time.

Question put and passed.

Bill read a third time and transmitted to the Council.