

ANIMAL WELFARE BILL 2001

Second Reading

Resumed from 18 September 2001.

HON RAY HALLIGAN (North Metropolitan) [3.16 pm]: We have just had a fiasco in this place. We have heard some ranting and raving, and I will not go on to -

The DEPUTY PRESIDENT: We have just dealt with that issue, and we are now dealing with the Animal Welfare Bill 2001. If members will confine their comments to that Bill, I will not interrupt. That debate is now finished, and we are moving forward with the debate on the second reading of the Bill.

Hon RAY HALLIGAN: I only wanted to make mention of the fact that it has taken some time for this Bill to reach this stage in this House. As a matter of fact, it has taken some 14 months. All the Opposition has ever asked is that the Government bring it on for debate.

Hon Tom Stephens: Well now we have brought it on, so get on with it.

Hon Norman Moore: I think Hon Tom Stephens should sit outside for a while.

Hon RAY HALLIGAN: That might be a good idea, because I do not think he can contribute all that well to this debate.

It is important that we place on record words from the second reading speech of Mr Mark McGowan in the other place, speaking about the introduction of this Bill -

It meets this Government's commitment to urgently bring this Bill before the Parliament so that new animal welfare legislation is enacted as soon as possible.

I emphasise the word "urgently". There is no doubt that this legislation has been some time in its gestation, and it is replacing the current Prevention of Cruelty to Animals Act 1920. A lot has happened since 1920. A lot of work has had to be done to determine what should be in this new Bill to cover the circumstances of this day and age.

Mr McGowan said on 13 September 2001 -

I will not speak for long because I would like the Bill to pass through this House today. It has been in gestation for about 16 years, and much has been said about it in past debates.

That was a recognition that this legislation had been around for a considerable time through successive Governments.

Several members interjected.

The DEPUTY PRESIDENT (Hon Barry House): Order, members! Past debates have finished. If members want to hold conversations or discussions between themselves, I would be much obliged if they would take themselves outside the Chamber to do that and came back into the Chamber prepared to take part in this debate.

Hon RAY HALLIGAN: I would be a lot happier if the Government would take this Bill seriously. There was a suggestion that it would take it seriously, but all I can hear is interjections and cross-Chamber laughter and carry on. Mr McGowan went on to say -

Essentially, this Bill was drafted over the past 15 years. It is not possible to address each activity; we would have to address rodeos, steeplechasing, polo and greyhound racing, and some people would see pigeon racing as cruel. If we addressed each of those activities or, for example included provisions to deal with the docking of dogs' tails, we would open up the floodgates, and we would have to detail thousands of things and set out whether they were cruel in particular circumstances.

There is no doubt that this Bill, which will replace an Act that has been around for many decades, has had to take on new circumstances associated with animal ownership and husbandry. I am fully aware that this Government has taken on board the legislation that was drafted by the previous coalition Government and has made some minor amendments. One of the amendments has been to increase the penalties, in some cases tenfold, and I will talk about those penalties later. Some people consider some of the penalties a bit harsh. Some of the penalties appear not to start from zero; therefore, they appear not to be up to a certain figure but rather to start at a certain figure. The Bill recognises that in the case of animal cruelty offences, there may be appropriate defences in special circumstances; for example, normal animal husbandry by people on the land; allowing stock to fend for itself; the killing of pests; the use of devices prescribed in regulations - and that will become an issue once the regulations are provided for scrutiny - self-defence; veterinary care; releasing animals into the wild; and other practices authorised by law. There will be some grey areas until such time as we have further information about

what will be contained in the regulations. As has been said all too often, the devil is in the detail. I am not suggesting for one moment that this detail should not be in the regulations. However, we often have to wait for a considerable time for the regulations. That means we may pass legislation in this place and then find that the regulations are not as appropriate as we would like.

This Bill is divided into seven parts. Part 1 is headed "Preliminary" and deals principally with the binding of the Crown, the content and intent of the Act and various definitions for the purposes of the Act. The legislation defines an animal as a live vertebrate or a live invertebrate of a prescribed kind, other than a human or a fish. The legislation specifically excludes from its operation both fish and pearl oysters. I have no doubt that when the subsidiary legislation comes before the Joint Standing Committee on Delegated Legislation, quite a few people will take a close look at those regulations.

Part 2 is headed "Use of animals for scientific purposes". I understand that the Act does not provide a great deal of direction in this area. This part deals with the prohibition on the unlicensed use of animals for scientific purposes; the carrying on of businesses that supply animals for scientific purposes; applications for the issue or renewal of licences to use animals for scientific purposes, and the revocation of those licences; offences associated with not complying with the conditions of a licence; and a register of licences for scientific establishments. This is an important aspect of the Bill, because I understand that the Act does not deal with any certainty with issues associated with the use of animals for scientific purposes and that a great number of people are concerned about the uses to which these animals can be put. Penalties are associated with the misuse of animals for scientific purpose, and I do not think there will be any argument about some of the penalties that are prescribed. It is also particularly important that there be a register of licences so that we can identify the licensees whom the Government and the authorities consider appropriate to perform these experiments.

Part 3 of the Bill deals with offences for acts of cruelty to animals, legal defences against a charge of cruelty, and other activities involving animals that are prohibited under the Act. I have already mentioned that there are what are termed appropriate defences for special circumstances associated with what is generally termed cruelty to animals.

Hon John Fischer probably has a problem with areas in the Bill such as clause 19(2), which states that a person is cruel to an animal -

... if the person -

- (a) tortures, mutilates, maliciously beats or wounds, abuses, torments, or otherwise ill-treats, the animal;

And subclause (3) -

... if the animal -

- (a) is transported in a way that causes, or is likely to cause, it unnecessary harm;

In the city we have all driven behind a vehicle transporting chickens, sheep or cattle. Suddenly, we see the leg of one of the birds or animals on the vehicle sticking out between the slats or through one of those chicken crates. Often, they cannot get their leg back in because of the weight of the other animals pushing against them. If the driver of that vehicle was pulled up, I wonder whether he would be charged with transporting animals in a way that causes, or is likely to cause, unnecessary harm to the animals.

Hon Jim Scott interjected.

Hon RAY HALLIGAN: There is that but again I suggest there is the difficulty in getting the leg back in, particularly with the larger animals.

Hon Paddy Embry: It may not be necessary if the leg is sticking up in the air.

Hon RAY HALLIGAN: That is also a possibility. However, this area may well be of concern to some people.

Hon Ken Travers: This is your speech in the second reading debate. I want to know what you think.

Hon RAY HALLIGAN: The member will hear what I think; he should just sit back, close his eyes and listen. It might be necessary to examine the receptacles -

Hon Jim Scott: Don't you mean the trucks?

Hon RAY HALLIGAN: No, not the truck itself. Often the receptacles that carry the animals are placed on the back of the truck but may not be part of the truck. That is often the case with chickens.

The DEPUTY PRESIDENT (Hon Barry House): Order, members! Perhaps the member might direct his comments to the Chair and the Chamber in general rather than one or two specific members.

Hon RAY HALLIGAN: I must admit that I was looking for support, but obviously it was not forthcoming from members opposite.

Several members interjected.

Hon Ken Travers: He has not taken a position on the matter yet.

The DEPUTY PRESIDENT: Order, members!

Hon RAY HALLIGAN: I do not have to take a position. I am telling members all about the Bill first.

Hon Bill Stretch: Circuses with animals have problems with -

Hon RAY HALLIGAN: Circuses are another matter altogether. Many people on the land suggest that they need to cull animals. Recently, we heard about the huge numbers of emus running along the rabbit-proof fence and causing enormous problems. In the minds of some, it is natural to cull them. In the minds of others, however, it is cruel. I am unsure as to whether we should have a body or bodies that determine who can do what, when and why. However, there must be some commonsense associated with many of the issues related to animals or we will become far too prescriptive. The concern of many people on the land is that they may find themselves placed in a position where substantial fines are imposed on them for doing something that their forebears have done for 150 years. People may have to be re-educated in the way they do things. Provided the legislation provides the flexibility to enable that type of thing to happen, then I am sure we can find a way forward so that people on the land are reasonably happy with what is expected of them and people, like the inspectors, that are included in this legislation can assist people in their handling of animals by educating them about the best possible way of doing so, rather than being an adjudicator or imposing fines.

Part 4 of the Bill deals with inspectors and mainly with the appointment of both general and scientific inspectors and their functions and powers. There has been a need to differentiate between these inspectors; one is called a general inspector and the other is a scientific inspector. The legislation provides general inspectors with the capacity to enforce laws relating to scientific establishments when it involves activities in schools. It will form a wide-ranging inspectorate and I am sure people will cross over certain lines. There will be - for want of a better term - some grey areas that will result in arguments about which inspector can inspect what establishment. Hopefully, as we pass through the committee stage we will see exactly what is being proposed and whether there are avenues through which these problems can be overcome.

Part 5 deals with enforcement, the issuing of warrants and infringement notices, appeals, the commencement of proceedings for offences and penalties for bodies corporate. Part 6 is a miscellaneous part that allows the minister and director general of the department to delegate some of their functions under the legislation. It provides some protection from liability for people performing a function under the legislation. It also allows for the making of comprehensive regulations. In the majority of legislation that comes before this place, comprehensive regulations are available to the minister, not to circumvent the legislation or the scrutiny of Parliament, as we know, but to provide the minister and the department with flexibility. Provided the instruments are disallowable, I suggest that members should not be too concerned about them, and particularly about the process. However, the content of the provisions may be a different matter. Part 7 deals with repeal, consequential amendments and transitional provisions.

This Bill is a substantial document containing 98 clauses. From what I can see, it is a re-run of the previous coalition Government's legislation with minor amendments such as the chief executive officer now being called the director general and a number of changes to the penalties. The Opposition supports the legislation and we have been anxious for it to come forward for debate. Hence the reason for the Opposition's motion on Tuesday. There is not much more I can say in the second reading debate other than the fact that the Animal Welfare Bill 2001 has been a long time coming. Indeed, the sooner it is passed by this Chamber the better. All too recently people who have been convicted for cruelty to animals have received a minimum penalty. I understand that the judiciary has been most upset because the legislation has not been available to allow it to impose far greater penalties. From what I have read in the newspapers there is no doubt - certainly not in my mind - that far greater penalties should have been given to such people, who certainly deserved them. It is important that we pass this legislation as quickly as possible.

In conclusion I refer to a petition that was presented in the other place by the member for Rockingham, which contained 65 000 signatures - I understand that the member for Innaloo also brought forward a petition containing 15 000 signatures - requesting that the Bill be enacted. It is a great pity that the Bill has been brought on for debate in this manner. Rather than go down that path again, the Royal Society for the Prevention of Cruelty to Animals has given the legislation a nine out of 10. Given that it is the peak body for issues relating to animal cruelty, that says a great deal for the legislation.

HON JIM SCOTT (South Metropolitan) [3.42.pm]: As has been said on a number of occasions, the Bill has taken a long time to progress. Certainly, as far as I know, the previous Government began the process - it may have even started with the Government before that, I do not know - and further amendments have been made by the present Government. Finally it has been brought before this House. As I have also said, a great deal of pressure has been applied by various groups that have wanted the legislation to come into being. I recall delivering a petition relating to cruelty in animal transport - it contained 20 000 signatures - during my first period in Parliament. That was just one batch; many more came with that petition. The number of signatures reflected the level of community concern about animal cruelty.

A good aspect of the legislation is that it seems to have the support of all the peak animal care bodies, including the Royal Society for the Prevention of Cruelty to Animals, which wants the legislation passed as soon as possible, because there are incidents involving animal cruelty every day. Recently a newspaper article referred to a repeat offender who had mistreated horses and was at it again. The RSPCA would have liked the authority to prevent that person from having animals again. If the legislation had been passed, that would have been possible.

Hon Tom Stephens: If you stay over the afternoon tea break, you and I could keep talking and we could probably get it through it. Why do we not just keep going through the afternoon tea break?

Hon JIM SCOTT: Because we will probably be stopped.

Hon Tom Stephens: I am sure that if you asked the House to keep debating -

The DEPUTY PRESIDENT (Hon Barry House): Order, I will determine that!

Hon JIM SCOTT: If I can continue, I will finish my contribution reasonably quickly.

Hon Ray Halligan referred to situations in which sheep and cattle that are being transported get their legs stuck between the slats

Debate interrupted, pursuant to standing orders.

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Sitting suspended from 3.45 to 4.00 pm