

## **ANIMAL WELFARE BILL 1999**

### *Consideration in Detail*

#### **Clause 1: Short title -**

Mr McGOWAN: I am pleased the minister has decided to come along for this debate after its long gestation period. The Opposition will attempt to amend this Bill in a number of ways. We have a range of amendments on the Notice Paper, some of which relate merely to fines and penalties and others which relate to a range of more substantive changes to the Bill, such as providing assistance to the Royal Society for the Prevention of Cruelty to Animals and closing loopholes in the Act which may enable people to escape prosecution under the current laws.

The Opposition consulted widely with a range of organisations, and we put out a direction statement on this matter. I received some good feedback on the direction statement and it has certainly proved to be a good way of teasing out some of the issues on this matter. Members would have noticed that eight to 10 members of the Opposition spoke on this issue during the second reading debate. Many of those members were quite impassioned about their views on this issue, which was gratifying. We certainly put up some good arguments about why this matter is a serious and significant issue that must be dealt with by the Parliament.

I principally will be handling this Bill on behalf of the Opposition. Some of our members, including the member for Girrawheen, are away and will miss the consideration in detail stage. The Opposition regards this as a very serious issue and has wanted to debate it for a considerable period. I hope that the Government does not delay this Bill for no good reason over the next few sitting weeks of Parliament, and I hope we can deal with it. I will not be filibustering on this matter. I will discuss the matters, try to tease them out, put our amendments, listen to what the Government has to say and try to get this Bill passed.

This clause provides that, on proclamation, this legislation will be known as the Animal Welfare Act 1999. That raises the issue of when the Government expects it to receive royal assent. A number of other matters need to be debated as part of this process, including the codes of conduct provisions. They are a necessary part of this Bill and must be put in place for the delegated enforcement agencies to exercise their powers. When will this Bill receive royal assent and when will the codes of conduct that will enable effective operation of the Bill be put in place? The codes of conduct will involve a range of industries. What work has been done in compiling them, given that the Government has been promising the Bill since 1995?

Mr OMODEI: The citing of this legislation as the Animal Welfare Act 1999 will change as a matter of course, because it will be passed in 2000 or 2001. The legislation will be proclaimed when the regulations are completed and passed by the Parliament. The work on the regulations has begun, and it will take about six months to complete. Therefore, the proclamation will be in about six months.

#### **Clause put and passed.**

#### **Clause 2 put and passed**

#### **Clause 3: Content and intent -**

Mr McGOWAN: This clause contains a statement of content and intent of the legislation. It states that the legislation will provide regulations for people who may use animals for scientific purposes and prohibit cruelty or inhuman treatment of animals. It then states the aim of the legislation, which is to promote and protect the welfare and safety of animals, to ensure proper and humane care and to reflect the community's expectations.

The wider issue of a philosophical statement, a directional position or a duty of care has been debated often by people interested in animal welfare. I have received correspondence from the Royal Society for the Prevention of Cruelty to Animals stating that although clause 3(2) describes an intent, it does not include an overriding duty of care. It has suggested that a clause be included providing that a person who has the care or charge of an animal, regardless of the circumstances, has a duty of care to take all reasonable measures to ensure that animal's welfare. It has also suggested in other correspondence that the statement of intent should be more comprehensive and contain the five freedoms that form the logical and comprehensive framework of analysis of animal welfare. They include freedom from hunger, freedom from discomfort, freedom from pain, injury or disease, freedom to express normal behaviour and freedom from fear and distress. They are all very laudable. The RSPCA believes that the lack of provisions covering these issues is one of the greatest failings of the Bill. It points out that it was also a major flaw in the old Act because people were able to escape prosecution on the basis of avoiding their duty of care. I tried to draft an amendment along those lines but, given my restricted resources, I could not work out how to do it. Is the minister considering including a philosophical statement, which many Bills contain, to provide for a duty of care or a broader, more sweeping statement of the intent of this legislation? If such a statement were included, judges would be able to determine more clearly Parliament's

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

intention with regard to interpretation. My understanding is that that intention is to impose a duty of care on those who have the control and care of animals, and to imply these five freedoms from hunger, discomfort, pain, injury, fear and distress and the freedom to express normal behaviour. Did the minister consider such a generalised approach and providing a more philosophical statement for interpretative purposes?

Mr OMODEI: The department considered including a statement about duty of care during drafting. The entire Bill is about duty of care. Clause 19 provides that anyone, whether in charge of an animal or not, is under an obligation not to be cruel to an animal. Reference is made to failure to provide sufficient food, water and shelter, abandoning the animal, causing harm and so on. Those issues are dealt with under the offence provisions. This entire Bill is about duty of care and the person in charge having that duty.

I am aware of the RSPCA's concerns and we have discussed them on numerous occasions. I have recently written to the society responding to those concerns, and I am sure it will be placated by my response. We have had a number of meetings; it is not as though this legislation has been developed off the cuff. As the member knows, it has been in the system for a long time. In the early days when I became the minister, the old mandatory committee was in place. We got the committee to report, prepare the discussion paper, take that discussion paper out into the community, and then come back and have further discussion on the Green Bill. Deliberation on this Bill has extended over a number of years. It has been in the Parliament for eight months. Therefore, everybody who has an interest in animal welfare has had the opportunity to provide input to either the member for Rockingham, as the opposition spokesperson, or to me, as the minister, on the whole range of issues. They include people who are concerned about animal welfare, scientific establishments, the agricultural industry, the animal husbandry industry and so on.

Dealing with the member's question, yes, a preamble was considered during the drafting. The legal advice was basically that the whole Bill related to duty of care, and on that basis a preamble was not included.

Mr RIEBELING: The heading of this clause is a descriptive title of what is supposed to be the content and intent of the legislation. My concerns about defining more clearly the protection of animals that people keep as pets and for various commercial purposes are somewhat different from those of the member for Rockingham. I am concerned about those notorious incidents when people are attacked by their pets, mainly dogs, and the degree to which this legislation should reflect the concern that Parliament has about keeping savage dogs in metropolitan areas - large dogs which are clearly, because of their breeding, not suited to being kept in confined spaces in the metropolitan area. The main characteristic of some of these breeds is that they are savage. Pit bull terriers and the like are notorious for being savage. Certain people seek out that type of animal as some sort of status symbol. When they allow these animals to run on the beach or in the park, the animals sometimes do what they are bred to do; that is, savage another animal, a child or an adult. Of course, the Press writes that up as an awful occurrence, and the animal is normally destroyed.

I hope that the intent of this legislation is to address, in a serious manner, the responsibilities that the owners of those animals should have - their duty of care to the general public. It is not good enough any more to say, "It was my dog. I didn't do it." Some of the dog attacks that take place are far more serious than if a person had physically assaulted someone with a deadly weapon. Some of these animals should be considered lethal weapons. Too often in the past half a dozen years, people have sustained major injuries purely because the owner of an animal has been irresponsible and the animal was doing exactly what it was bred to do.

I suppose I am in a unique position because I am attacked by dogs about four times a year when doorknocking.

Mr Pandal: What has been the fate of those dogs?

Mr RIEBELING: Probably a reward from the owners. In my electorate, I have found that the blue heeler cross is potentially the most savage dog. It will attack, no matter what the owner may try to say about the intent of the dog. That dog will bite more frequently than other dogs. I am fortunate that I have not come across pit bull terriers and the like in my electorate, although they are there.

Mr Omodei: Is this cruelty to animals or cruelty to humans?

Mr RIEBELING: Cruelty to politicians is something in which I have an acute interest, especially in my electorate. It is an ongoing problem that people are keeping bigger and bigger dogs in metropolitan areas.

Mr OMODEI: The member for Burrup raised a matter that is of concern in the community, but it really relates more to the Dog Act and its requirements, rather than to the animal welfare legislation - unless he is talking about the confinement of animals and their resultant aggression. We intend to review the Dog Act in the near future. That is a major area of concern that we will pursue when we return to government after the next election, whenever that may be - this year or next year.

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

I will deal with the breeding of animals. People are entitled to own a dog. I suppose it is a question of educating people about the size of dog they should keep on confined blocks of land in the metropolitan area. The member is right that all dogs are bred for specific purposes. Under the Dog Act, people are entitled to appeal to be allowed to keep more than two dogs. In at least the past three years, I cannot recall approval being given to keep more than two large dogs. The only time I have agreed to an increase in the number of dogs was when one of the dogs was dying or when the dogs were very small. That is really a matter for the Dog Act rather than for the Animal Welfare Bill.

Mr RIEBELING: I appreciate what the minister said. I still think that people have responsibilities when it comes to the type of dog being kept and the area available for it. Pit bull terriers and whippets need an area in which to run. When those animals are kept in metropolitan Perth and are allowed to run only in parks which people use, the owners of those animals should have a duty of care in the management and control of them. This Bill deals with cruelty to animals and the like. It is my view that this legislation should at least endeavour to set out rules that give guidance in some way to the courts and to the population in general. When an animal is confined in a way that nature did not intend, even though the animal may not be in pain, there is a degree of cruelty involved in a psychological sense. I think the major problem with savage animals is that they have been treated in such a way that it leads them to act savagely. However, I do not know how a provision dealing with that could be put into the content and intent of this Bill. It is more than just physical injuries to animals that should be the responsibility of the owners of animals.

Mr OMODEI: The member for Burrup obviously is concerned about big dogs and dangerous dogs and how people care for them. We have already amended the Dog Act in order to deal with dangerous dogs in Western Australia, and we have considerably increased penalties. If he is concerned about how animals are cared for, in this case dogs, he must bear in mind that we have zoos where we confine animals and, of course, people confine animals in and around their homes, particularly in the metropolitan area.

Mr Riebeling: We confine animals in a zoo. We do not let lions run around the park.

Mr OMODEI: No, they would have to be on a leash! Let us be serious. If the Labor Party intends to introduce legislation that will take people's big dogs from them, it needs to say so and get some feedback. I do not think the member's constituents would be too happy about that.

Mr MCGOWAN: The minister said he had a number of meetings with the Royal Society for the Prevention of Cruelty to Animals. The RSPCA wrote to me about this issue in late July of this year and suggested that the clause be put into the Bill. The minister said that he had written to the RSPCA about the matter and he thought the RSPCA would be satisfied with his response. I would like to know why he thinks that, because the RSPCA wrote to me suggesting that the legislation be amended. What steps is the minister taking to sort out his concerns?

With the resources available to me I could not come up with a form of words to meet the RSPCA's request but I would have thought that, with the resources of parliamentary counsel's office, the minister might be able to provide a form of words conveying the general intent and statutory interpretation that would satisfy the RSPCA's concern. The concern is valid because the Act has been in existence for 80 years without any provision along these lines, and that has been one of its major failings. I would be quite happy to return to this clause at a later time, if the minister wants to provide some form of words which meets the concern and gives a philosophical intent to the Bill. The Parliament will break for a couple of weeks, during which time there will be frantic activity in our electorates, but we might be able to approach the matter in a cooperative, bipartisan fashion to meet the concerns of the RSPCA. It will probably do us good as members of Parliament to cooperate, negotiate and adopt a bipartisan approach to improving this Bill.

Mr OMODEI: This comprehensive Bill is about the duty of care to animals. Parliamentary counsel know more about drafting than the member, and certainly more than I know. The inclusion of a preamble was considered on a number of occasions. From the RSPCA's point of view, a preamble would probably have been more appropriate under the old Act which was more specific in its nature than this Bill, which is much broader legislation to meet modern expectations. Parliamentary counsel considered on a number of occasions whether the Bill should contain a preamble and decided it was not necessary. Whether the member wishes to be friendly towards me and adopt a bipartisan approach, in the end parliamentary counsel will tell us what is advisable. To this date they have advised that the whole Bill is about duty of care.

Mr MCGOWAN: I will not labour the point but I ask the minister to reconsider it. I will not move an amendment because I could not come up with a suitable form of words. Should the minister wish to reconsider the point, I would be happy to do that with him at some other time.

Mr Omodei: I do not intend to reconsider it.

**Clause put and passed.**

**Clause 4: Act binds the Crown -**

Mr McGOWAN: I move -

Page 3, lines 1 to 4 - To delete the lines.

The clause binds the Crown in right of the State and, so far as the legislative power of Parliament permits, in all its other capacities. Subclause (2) reads -

Despite subsection (1), the Crown in any capacity -

- (a) is not required to hold a licence or obtain an approval under this Act; and
- (b) is not liable to be prosecuted for an offence.

The clause seems schizophrenic and does not mean anything. Subclause (1) is contradicted by subclause (2). The minister might say that it is a general statement of principle that government agencies should be bound by the provisions of this Bill in the same way that private individuals, corporations and other entities are bound, but an enforcement mechanism will not be in place to deal with government agencies. That is a flawed approach. The way that practice has developed in a whole range of government areas, of which this should be another example, is that government is put in the same position as any individual or other entity. The Hilmer report recommended that government entities be put in the same competitive position as all other parts of the economy because they should not have an unfair advantage. That is a broad analogy but if government agencies and departments have care and control of animals, they must obtain the same licences and approvals as every person in our community. A corporation that owns animals and wants to carry out testing on them or export them is required to obtain certain licences. If government departments or agencies have animals, they must also be required to obtain licences and go through the same approval process. This Bill places an obligation on a corporation or private individual who owns or has care and control of an animal to not be cruel to that animal. That is right and just, and everyone, with the exception of the National Party, would agree with that. However, why are government departments and agencies that have care and control of an animal not liable for prosecution in the same way as everyone else under this Bill? A person in control of a government agency who is cruel or inhumane to an animal should be liable to the same prosecution provisions as a corporation or a non-profit association that is convicted of cruelty under this Bill.

Mr RIEBELING: I rise to allow the member for Rockingham to continue with his train of thought.

Mr McGOWAN: A corporation or non-profit association that was convicted of cruelty under this Bill would receive penalties that were five times higher than those for a private individual who had committed the same offence. Surely if these rules will apply to a corporation, they should apply also to a government entity or institution. The Government and members of Parliament should not be exempt from the same rules that apply to everyone else.

Mr Omodei: We are not.

Mr McGOWAN: That is right. Members of Parliament are not exempt from the same rules that apply to everyone else, with the exception of ministers, who have the right to go to Rottnest without going through the ballot like everyone else. Apart from that exception, members of Parliament are not given any special privileges, and certainly opposition members are not given any special privileges, above the general community. It strikes me as absurd that the Government should place itself in this position, and we should change that.

The direction statement that I issued outlined the position that I am taking on this amendment. I have not received a submission from any group to say it is opposed to this amendment. It is supported by the RSPCA, and by the National Farmers Federation, which did contact me, but did not say that it objected to this amendment. No local government has contacted me to say it objects to this amendment. This amendment will put the Crown and government agencies in the same position as everyone else.

Mr OMODEI: The Crown is already bound. Subclause (1) states -

This Act binds the Crown in right of the State and, so far as the legislative power of Parliament permits, in all its other capacities.

The only area from which the Government will be exempt is licensing and prosecution. The member for Rockingham said that the Government should be prosecuted as much as anyone else. The RSPCA's concern was more about Crown-owned experiments, of which there are very few; I am unaware of any at the moment, but there may be one from time to time. Most of the research is done by universities, and they will be licensed. It is a nonsense to suggest that the Crown can prosecute itself, or one arm of government can prosecute another arm of government. Any details of crown activities will be lodged with the central licensing authority, which will be the animal welfare unit within the Department of Local Government, and any concerns about undesirable practices will be dealt with through government intervention. If something was taking place within a

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

government department or instrumentality with regard to animal welfare, cruelty or any other aspect, that matter would go to the head of that department, and, if necessary, to Cabinet, to be resolved. It is a nonsense to say that one arm of government can prosecute another arm of government. They are the same body. It would be like the member prosecuting himself. Any problem that arose with regard to the Crown would be dealt with internally by government.

Mr RIEBELING: I had not intended to speak on this clause, but after hearing the minister I am now more concerned than I was before. The minister is saying that if any government department or instrumentality were involved in some sort of cruelty to animals, it would be fixed internally.

Mr Omodei: It would not happen. It should not happen.

Mr RIEBELING: That is not what the minister said. The minister said that if that did occur, it would be fixed internally. We are supposed to be in the era of open and accountable government. What the minister is saying in response to the member for Rockingham's amendment is that the Government does not need to be open and accountable, because it will not do it; and, if it does do it, it will be fixed internally.

Mr Omodei: Why not address the issue of government prosecuting government? Try to bend your mind to that and realise what a nonsense it is.

Mr RIEBELING: If an employee of the Environmental Protection Authority committed an offence under this Bill as part of the operations of that department under its Act, it should be prosecuted.

Mr Omodei: You do not punish an individual.

Mr RIEBELING: Such an employee would be able to claim that because he is an employee of the Crown, he is exempt from prosecution, because the Crown is exempt from prosecution under this Bill. Employees of a government department who are cruel to animals should be prosecuted, and a department which directs an employee to be cruel to an animal to achieve some sort of result for that department should be brought to task. What the minister is saying is that individuals in government can do whatever they like.

Mr Omodei: I am not saying that.

Mr RIEBELING: The Crown is the Government, is it not, in subclause (2)?

Mr Omodei: Read subclause (1).

Mr RIEBELING: Read subclause (2). It states, "Despite subsection (1)" - that means we can forget about subclause (1) - "the Crown in any capacity is not required to hold a licence or obtain an approval under this Act". The point the minister is trying to make about subclause (1) does not matter, because we are doing away with it. If the minister can give some justification for why a department that is carrying out some form of experimentation and is cruel to an animal -

Mr Omodei: Give an example. You cannot find one.

Mr RIEBELING: The minister said if it does happen, it will be fixed internally, so the minister must think there is a possibility that some sort of cruelty to animals will take place. No-one in western governments that are transparent believes that governments should be able to fix things internally. The "let's do it behind closed doors so that no one can find out about it" mentality of the Government has gone. The Hilmer report, as the member for Rockingham has clearly pointed out, said that if licences and the like are to apply, they should apply equally and the Government should not be exempt from them. If the minister thinks there is any reason that the Government should be allowed to be cruel to animals, he should tell us. If there is no reason for it, there should be no problem with licensing them. There would not be a problem, because it would not happen. The minister should not say that all will be well because the Government will fix things behind closed doors. Why does the State need the protection of this clause?

Mr McGOWAN: Governments should not be exempt from the rules that apply to everybody else, particularly when those rules are applied to corporations and artificial entities such as non-profit associations. These rules should apply to government. WorkSafe has, on occasion, prosecuted government departments and agencies for failing to do certain things, and the Environmental Protection Authority has pursued agencies over actions that caused some environmental harm or damage. Other state government departments have pursued local councils for things they have or have not done. Therefore, I do not see why this Bill should exempt government institutions from prosecution.

Agriculture Western Australia has thousands of animals in its care through research, testing, trial, production and the like. It also acts as an agent for the Australian Quarantine Inspection Service, with direct animal handling, treatment and slaughter roles. A number of statutory authorities are responsible for the care and control of animals at various times, such as port authorities and the Western Australian Meat Industry Authority, which

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

both play a role in the care and control of animals. As such, the rules that apply to everybody else should also apply to the individuals who work in those institutions, or the institutions themselves, if they act in a manner that is cruel or inhumane to animals and are not exempted by the research provisions of the Bill. This provision is a substantial concern of the Royal Society for the Prevention of Cruelty to Animals. As an entity, the RSPCA is subject to the provisions of this Bill and could be prosecuted if it were found to be acting cruelly to animals. I find it difficult to understand why Agriculture Western Australia, but not the RSPCA, will be exempted from the provisions. Officers of the Department of Conservation and Land Management are directly involved with thousands of animals for research through reproduction programs, rehabilitation programs, the conservation of endangered species and the like every year. I am interested to know why that institution charged with the care and control of animals should be exempted from the provisions of this Bill. Studies at TAFE and university level involve research into animals and the direct handling and housing of them, although other provisions in the Bill deal with the licensing procedures for research.

Mr KOBELKE: I am keen for the member for Rockingham to continue his remarks.

Mr MCGOWAN: Various institutions might have cows, pigs or horses under its control. Agriculture Western Australia's Vasse research station has a range of cows under its care and control. I fail to see why it should not be liable under the animal welfare laws in the same way that a dairy farmer would be. Why should it not have the same responsibilities?

Mr OMODEI: To all intents and purposes, the Crown will be required to do things the same way as everybody else. The only difference is that it will not need a licence. The Crown will not prosecute itself. However, people will still be able to be injuncted by another body. The port authorities would need to adopt a duty of care and adhere to the requirements of the codes and regulations set out under this legislation. Local government authorities are not the Crown, and will be bound by this legislation. The clause states that -

This Act binds the Crown in right of the State and, so far as the legislative power of Parliament permits, in all its other capacities.

Despite that, the Crown will not need a licence or be able to be prosecuted. It will not prosecute itself. However, all the details of any activities undertaken by the Crown will need to be lodged with the animal welfare unit, as I have already mentioned. If there is any undesirable practice, somebody will get the sack, and the practice will change. It will not be good enough for the Crown to undertake practices that are unacceptable to anybody else. If such a thing were to happen within a government department now, whether it related to animal welfare or anything else, people would be brought to account, either by the minister in charge of the department or the Cabinet.

Mr Riebeling: How will the public know that?

Mr OMODEI: I expect Governments are elected because the public trusts them to govern in the best interests of the general population. That is what this Government does; I do not know about a Government led by members opposite.

Mr MCGOWAN: It is amusing to hear the naivete of the minister. He thinks that Cabinet will take up the issue of an agricultural institution being cruel to a cow and ensure that action is taken. The minister said that people could trust Cabinet to investigate how pigs and cows are treated by government institutions and whether someone is cruel to a horse. I am pleased the people in Cabinet have such high morals and enough time on their hands to investigate these institutions. The naivete of the Government in thinking that institutions will monitor their own activities is breathtaking.

The minister asked why the Crown should prosecute itself. He said it would be a silly proposition. I do not know if the minister has read the Bill, but one of the agencies that will be given some authority to enforce it is an external agency - the RSPCA. It is not a crown body. It is not part of the crown. One does not have the Crown prosecuting the Crown. The Crown does not follow up what the Crown does. One uses an external body which has 170 years of experience in this area to keep an eye on these matters.

Mr Omodei: Does the member want the RSPCA to be able to prosecute the Crown?

Mr MCGOWAN: I do. I think the Government needs to have people keeping an eye on it. Members of the Government become too focused on defending their activities. The Government must realise that there are decent people and organisations outside government. Government is not a be all and end all in itself. I know that members of the Cabinet will be checking on piggeries and pounds - I know that the Deputy Premier will be very keen to check up on the horses. I know that the Cabinet thinks it will be carrying out an inspection role, but it should realise that the RSPCA has been given powers of inspection and prosecution under this Bill. Under the provisions of this Bill it can prosecute any corporation in the State. We all agree with that role. The only exemption is the Government. The RSPCA should have this role. It will keep institutions on their toes. It

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

would make sure that agencies did not feel secure in the knowledge that they were keeping an eye on themselves and were responsible for prosecuting themselves. We need to have faith in institutions outside our direct control. The minister said that people trust the Government. If a poll were held on which institution was trusted more - the RSPCA or the Government of Western Australia - the RSPCA would win four-fold over the Government of Western Australia.

Mr OMODEI: If a poll were held of the public's opinion of politicians collectively they would rank fairly low. However, politicians are elected by the same public. If the public were polled about its local members, electorate by electorate, one would find that most local members are well regarded by the community. It is a nonsensical argument by the member. I hope the member will debate this legislation sensibly and that we do not have to have the antics we had during the second reading debate.

Mr RIEBELING: Once again the minister has goaded me into speaking. I love the proposition that the Cabinet will look after the welfare of little animals and be a benevolent, transparent body in which the public will have faith. Every 30 years cabinet documents are released to the public. In 30 years' time we will be able to find out how good this Cabinet has been.

It is indicated to me that the minister has no faith that departments that have control over animals will do the right thing. If he had faith that they would do the right thing he would have no problem in removing the protection of the Crown. The minister would be able to say that the various bodies will do the right thing and that the Government should be subject to the same rules as the private sector. He should say that the Government has no problem in meeting the standards that it sets for others. The minister is saying that standards will be set, but if they cannot be reached by the Government, the Government will have the protection of the Crown. He is saying that the Government will look after itself but will impose rules that other bodies are expected to meet. If the minister were confident that the Crown could achieve it, why would he not remove the protection of the Crown? There is only one reason: He is fearful that the Crown will be found wanting in relation to the protection and welfare of animals.

Mr Omodei: If there were a prosecution of the Government and the prosecution were successful, who would pay for that?

Mr RIEBELING: Under the minister's system, the Cabinet would.

Mr Omodei: Let us be sensible for once.

Mr RIEBELING: Whichever department was involved would pay the costs into the court revenue system. Departments have budgets and allocations for these sorts of things. Under the minister's system, if the RSPCA found that a government department or agency was cruel to animals, the Cabinet would have sanction over the department and pull it into line. If the same set of circumstances applied to a corporation or private body, it would be charged with an offence. Why is that so? Why should a government department's actions - even if there were no monetary fine - not be referred to the courts? It defies logic that the Cabinet will oversee the protection of animals under this legislation.

Mr McGOWAN: I have some more examples for the minister. The Western Australia Police Service has care and control of animals. It cares for and controls its own dogs and horses and it is often tasked with catching animals and returning them to their owners. Another example is the Rottnest Island Authority. It is tasked with the care and control of the animals that live on Rottnest Island. We all know that some shocking attacks have been made on some of the animals on the island. We have all heard about people kicking quokkas, especially over the Christmas holiday period. Everyone is now outraged by that sort of behaviour towards beautiful, defenceless animals. They are but two examples of government agencies that have care and control over animals, yet the Police Service will not be liable for prosecution for cruelty to animals. The Police Service will not be required to hold licences or obtain approvals as every other body in the State is required to do under this Bill. I want government departments to be placed in the same position as everybody else. I do not see why government departments should be in a position separate from the rest of the community. It is incumbent upon government departments to understand the rules and regulations and the obligations that are imposed upon every other individual in our society. We should enforce that system upon all government departments and agencies.

I worked for the Department of Defence for a number of years. I believe it makes departments better if they are forced to comply with conditions that are placed on all other members of society. If public servants are not subject to the same rules and responsibilities as everyone else, they will be ignorant of their obligations. If they must comply with universally enforced rules and regulations they will become more aware and proactive and better at applying such laws and regulations. Government departments often have a general attitude of compliance with rules and regulations, but I believe we should make it law and thereby lift the respect for the departments in the general community. I would like to know the minister's view in respect of the Rottnest Island Authority and the Police Service.

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Mr OMODEI: Is the member suggesting that police officers would be deliberately cruel to the animals they handle?

Mr Riebeling: What if it happens?

Mr OMODEI: They will not be in that animal handling unit for very long. Members opposite can make smart comments about the Cabinet being in piggeries; however, if the responsible government department did not control that situation, in the natural progression of events the Cabinet would deal with the matter. I do not think that government employees would deliberately cause harm to animals. If they did they would be brought to account by their department. One government department prosecuting another government department or one minister prosecuting another minister might rate a story in the newspaper, but who pays the fine? In the case of one arm of government prosecuting another, the Government will pay the fine. That does not seem to have sunk in with members opposite. That is why the legislation is drafted in this way.

Mr McGowan: What about the individuals in those government departments?

Mr OMODEI: If individuals in the department did not apply the Act and exercise their duty of care and they breached the Animal Welfare Bill, they would be brought to account. I would say that their future in the department would be in jeopardy. The Crown will not be able to prosecute itself, and will not need to hold a licence.

Mr McGowan: What about an employee?

Mr OMODEI: If employees caused harm to animals in their home, for example, they would be liable, but during working hours they will be employed by the government department.

Mr Riebeling: They will not be liable if they are at work.

Mr McGOWAN: I accept that 99.9 per cent of government employees will not be cruel to animals, but government employees who are cruel to animals should be liable; they should not be exempt from the rules of law.

Mr OMODEI: If they are acting in good faith in carrying out the business of government they will not be prosecuted. If they are not acting in good faith or are acting outside the department's responsibilities they will be subject to the requirements of this Bill.

Mr McGOWAN: I thank the minister for that comment. A simple way to resolve all conflict would be to support the amendment and delete the clause.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 5: Interpretation -**

Mr McGOWAN: I seek some clarification of the definition of animal which exempts humans and fish from the operation of the Bill. Does the Bill cover every other animal? The clause refers to live vertebrates and live invertebrates of a prescribed kind. What sorts of animals will be covered by this Bill, and why are fish exempt? Are animals like yabbies and crayfish exempt or do they come under the Bill?

Mr OMODEI: I am advised that prawns and crayfish are defined as fish under the Fish Resources Management Act.

Mr McGOWAN: What about other species such as crawfish, yabbies, marron etc? What other animals will be included as live invertebrates of a prescribed kind?

Mr OMODEI: We do not have any plans to prescribe any other animal. It is there in case it is needed in the future.

Mr McGOWAN: Does the Bill cover insects? This is important for future statutory interpretation. I am not proposing that it cover insects, but it says live invertebrates of a prescribed kind. What is a live vertebrate or an invertebrate of a prescribed kind? A vertebrate is an animal with a backbone. What sort of animal without a backbone is proposed to come under this Bill?

Mr OMODEI: We can prescribe blowflies if the member wants, but we do not intend to at this stage.

Mr McGOWAN: I am asking about "a live invertebrate of a prescribed kind". The minister has said he will not prescribe anything.

Mr Omodei: Not for the moment.

**Clause put and passed.**

**Clause 6: Unlicensed use of animals for scientific purposes prohibited -**



Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Mr McGOWAN: Persons must not use animals for scientific purposes unless they are either a scientific establishment that holds a licence or a member of staff of a scientific establishment that holds a licence, and the animal ethics committee of a scientific establishment has given approval for them to use the animals. I move -

Page 6, line 14 - To delete the line and substitute the following -

Penalty: \$50 000 and imprisonment for five years.

Page 6, line 18 - To delete the line and substitute the following -

Penalty: \$50 000 and imprisonment for five years.

This is the first of a number of amendments I will move in relation to penalties. These amendments will lift the maximum penalty from a fine of \$20 000 and imprisonment for one year to a fine of \$50 000 and imprisonment for five years. The Opposition does not propose to change the clause about scientific experimentation on animals in any substantive way, apart from amending the penalties involved. We understand that as awful and as unpalatable as it may be to conduct experiments on animals, there is a valid requirement for it to take place in the cause of medical research and science.

The Opposition does not propose to try to stop that. However, members of the Opposition support a strict licensing regime for valid experiments and a strict mechanism for investigating people who infringe the provisions of the Bill. Later on, therefore, the Opposition will move that the Royal Society for the Prevention of Cruelty to Animals personnel be authorised to carry out inspections of these institutions. Documentaries have provided evidence of institutions that carry out vivisections and experiments on animals for the sake of developing new cosmetics or perfumes, for example. I hope we are past that standard of treatment of animals in Western Australia, because it is horrific and unwarranted treatment of living creatures.

However, I acknowledge that experimentation on animals plays an important role in the training of veterinary surgeons, in the teaching of science and in medical research. In those circumstances it should be compulsory for animals to be unconscious or sedated during the experiment. Subject to those criteria the Opposition supports the present regime.

However, to satisfy the public's concerns about animal welfare, severe penalties should be in place. Experimentation on live animals, although necessary in some circumstances, can be horrific. The penalties must therefore be very severe for people who contravene the law.

Mr KOBELKE: I look forward to hearing some more remarks from the member for Rockingham.

*Visitor to Parliament House*

The DEPUTY SPEAKER: Order! I welcome Mr Roland Sagah Wee Inn, who is leading a delegation from the Legislative Assembly of Sarawak.

[Applause.]

*Debate Resumed*

Mr McGOWAN: If anyone carries out unlicensed experiments in uncontrolled conditions in an inhumane and unnecessary way, the full force of the law should be brought to bear. We should signal to the courts that the Parliament thinks those acts are very serious. One way of doing that is to provide a severe maximum penalty. The Government's proposed maximum penalty of a \$20 000 fine or imprisonment for one year is not severe enough. The Opposition's amendment will make the penalty for offences of that nature more severe. It will also give the court the opportunity to express its full displeasure at people or institutions that carry out those experiments.

It is a simple amendment that will allow the Government to put on record its bona fides on the seriousness with which it is treating animal welfare.

Mr OMODEI: The amendment proposed by the member for Rockingham seeks to impose a \$50 000 fine and imprisonment for five years for breaching this clause. The Labor Party has played politics with the issue of penalties, particularly during the past six months. Members will be aware that the member for Rockingham tabled a petition containing 60 000 signatures -

Mr McGowan: It had 65 000 signatures.

Mr OMODEI: I stand corrected. The petition called for increases in penalties for acts of cruelty to animals. However, the member did not tell the people who signed the petition that a Bill proposing a significant increase in penalties had been on the Notice Paper for eight months. I remind the member for Rockingham that in drafting legislation the Government seeks the best legal advice. Parliamentary counsel has suggested penalties that are commensurate with the intentions of the Government and that are appropriate for blatant cruelty to animals. The penalties were determined in line with penalties for misdemeanours, or acts against human beings.

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Under the Sentencing Act 1995, the standard conversion rate for penalties is one month's imprisonment, equating to a fine of \$1 000, and under this Bill it is six months, equating to a fine of \$10 000, or one month, equating to a fine of \$1 666. The penalty is almost double the rate under the Sentencing Act. On that basis, these penalties are appropriate. It is a shame the member for Rockingham did not brief himself on the matter and ensure the people who signed the petition were aware that the Government was proposing significant changes to penalties in this legislation.

A discussion paper and, later, a Green Bill on this issue were circulated, to which the Government received a series of responses. The penalties shown in the discussion paper were revised by the time the Green Bill was released, in line with the community's expectations. Originally, the maximum fine for cruelty offences against animals was \$12 000. However, after receiving a significant number of responses to the Green Bill, we increased the fine from \$12 000 to \$20 000.

The Government is well aware of the community's concerns about cruelty to animals. In the past few months acts of cruelty, such as a person deliberately driving over a dog and then jumping on it, and orchestrated dog fights and cockfighting, have been reported in the Press. They are abhorrent to all humane and sensible people. This Bill provides penalties that are commensurate with community expectations in this modern age.

Under the Prevention of Cruelty to Animals Act 1920, such acts of cruelty attracted a \$5 000 fine or imprisonment for a year. This Bill increases the maximum penalty to a \$20 000 fine and imprisonment for one year. The penalties have been increased significantly. We have discussed the issue with the RSPCA, which sees no reason to increase penalties to any great extent.

The Labor Party proposes that a corporation should receive a penalty of \$250 000 and 25 years' jail. It is a bit of a nonsense. It is a shame that the member for Rockingham did not seek briefings on this matter.

Mr McGOWAN: The minister cannot help himself. I brought a petition into this Parliament; I would have thought that was one's role as a member of Parliament. Of course, the minister probably has not presented a petition in this place for 10 years. Members take a petition and consult with members of the public and say, "This is an issue I feel strongly about." The minister obviously does not feel strongly about anything. I felt strongly about this issue, so I did something about it. Opposition members supported me, and 800 members of the community took the petition and got other members of the community to sign it. I have no doubt that we are debating this Bill now only because I brought that petition into the Parliament. The Government has been promising a new Bill since 1995. Every year it said that the Bill would be introduced that year and it would be debated. It made promises to the animal welfare organisations and the Royal Society for the Prevention of Cruelty to Animals. If the minister likes, I can quote the articles from *The West Australian* in which he said that the Bill would be introduced. In 1995, 1996, 1997 and 1998, the Bill was not introduced. However, in the last few minutes of the last day of sitting in 1999 a Bill was introduced into the Parliament. That means that there were six years in which the Bill was not introduced into Parliament. For the minister to come in here and say that in some way I have been duplicitous in this matter is quite breathtaking.

Mr Omodei: It took you eight months to get your amendments on the Notice Paper.

Mr McGOWAN: I did not have amendments on the Notice Paper because I had no doubt that the minister would not bring this Bill into the Parliament to be debated. The reason he did not do so is quite clear - he does not really care. It is not an issue that the Government cares much about. The National Party is vehemently opposed to it, so why would I bring in amendments? As it turns out, I have six pages of well-thought-out and considered amendments to this Bill.

Mr Omodei: How many of them do not relate to penalties? About three.

Mr McGOWAN: That is what the Opposition has done, whereas the Government has procrastinated on and delayed this matter. I put on record that I care about this issue and I want to do something. To increase the penalties for people who do not comply with this aspect of the law on licensing and the carrying out of experiments on animals would have wide community support; it certainly has wide support in my family. It would go some way towards allaying the fears of members of the public on this issue. I have not grandstanded and said that we will do away with experiments on animals or anything like that. I think that many members of the public would not want us to do that. However, I have said that, first, the laws should be strict and, secondly, there should be severe penalties. That seems to be a very moderate approach. That is why we will stick with these amendments, and it will be on the Government's head if it decides to vote against it.

Mr OMODEI: I will speak on this issue again, and I will not reiterate my comments during the debate. Most of the amendments that the member for Rockingham has put on the Notice Paper relate to penalties. The amendments simply take the numbers that we have put in the legislation and double them. There is only one reason for that: It is for a political purpose, because the member for Rockingham runs around the community telling everyone that we will double the penalties for acts of cruelty against animals. No-one in this State is

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

more passionate about the care and use of animals than I am, as a farmer and as the Minister for Local Government responsible for the RSPCA. The Government has the runs on the board when it comes to the RSPCA and the development of its facilities. This year over \$1m of government money will be spent on those issues. That is in stark contrast with the activities of the Labor Party. This legislation is 80 years old. In the years between 1983 and 1993 when the Labor Party was in power, not one -

Ms MacTiernan: How many years were you in government?

The DEPUTY SPEAKER: Order!

Mr OMODEI: In those years not one amendment was made to the Prevention of Cruelty to Animals Act. When we came into government, the Labor Party had set up the good old mandatory committee; that is, if there is a problem, and a few people might be upset, it establishes a committee. We have overturned that and consulted extensively with the community by way of a discussion paper, direct contact and a Green Bill. Members could not have had a more thorough process than this, and we have dealt with all the players involved with the care of animals in this State. If the penalties in this legislation are compared with those in the current Sentencing Act, members will find that they are almost double. What does the Labor Party want to do? It wants to play the old game of one-upmanship and, because an election is around the corner, double the penalties. What a load of nonsense! The member for Armadale knows it is rubbish. I will not allow the Labor Party to get away with this stunt, because that is what it is. I have explained the rationale that parliamentary counsel has used to arrive at this level of penalty in the legislation. The penalties are appropriate. They are significantly harsher than they were in the past and are in line with other penalties, even those that are applied to human beings in this State. I oppose these amendments.

Mr McGOWAN: I have worked out the minister's rationale: He does not have it in him to object to what parliamentary counsel has to say. All he has had to say the entire way through this Bill - we are only on clause 6 - is that parliamentary counsel said that that is what we must do and that we cannot have a preamble or a broad statement of intent. Parliamentary counsel might as well be sitting at the Table instead of the minister. Why is parliamentary counsel not in here handling this Bill instead of the minister?

Ms MacTiernan: It is the same as Doug Shave's problem.

Mr McGOWAN: He has the same problem as the member for Alfred Cove.

The DEPUTY SPEAKER: The next time the member for Armadale interjects, I will formally call her to order.

Mr McGOWAN: Governments are elected to govern. If the minister is passionate about animal welfare, why does he not make a few decisions on this matter rather than run behind parliamentary counsel all the time? Parliamentary counsel must be a fairly big fellow because the minister stands behind him all the time and does not come up with any ideas of his own.

The minister is not listening when I tell him that I put out a petition to the people of the State asking that penalties be addressed and that the people of the State have spoken. Despite what parliamentary counsel might say, parliamentary counsel is one person; whereas 65 000 people signed the petition.

These amendments reflect public concern, and they are a necessary part of ensuring that the public is satisfied about the activities in scientific institutions.

Mr OMODEI: I will not let that matter go unchallenged. Parliamentary counsel - I have already mentioned this and I will not repeat myself for the rest of this Bill -

Mr McGowan: You said that last time!

Mr OMODEI: This is the last time I will tell the member for Rockingham. Parliamentary counsel recommended a maximum penalty of \$12 000. In line with the expectations of the community when the responses came forward from the Green Bill, we raised that penalty to \$20 000. That increases by four times the penalty in the previous legislation and is almost twice as much as parliamentary counsel recommended. The member should not give me this nonsense that parliamentary counsel tells me what to do. I am the minister. However, as a matter of process, we take advice from parliamentary counsel. If ministers did not do that, we would have a lot of very ordinary legislation in the Parliament.

**Amendments put and negatived.**

**Clause put and passed.**

**Clause 7: Carrying on business supplying animals for scientific purposes -**

Mr McGOWAN: I move -

Page 6, lines 21 and 22 - To delete "carry on a business of supplying" and substitute the word "supply".

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

This amendment relates to people who supply animals to scientific institutions for experimentation. Obviously, a university, a research institution or an agricultural college that carries out experimentation on animals must get the animals from somewhere. The animals are normally provided to institutions by businesses that breed them, and the animals, whether they be rats or even dogs, are provided to the institution at a cost. The institution buys the animals, and it then distributes them to whatever part of the institution will use them. The animals may be sent to a veterinary laboratory in a university, to students in an agricultural institute or to a scientific laboratory at the University of Western Australia that is carrying out scientific research on people's eyesight or on the effect of various medications on people. Those institutions can obtain the animals from people who are in the business of supplying animals and, normally, under this Bill, those people must have a licence. However, there is a loophole in this Bill; that is, if somebody supplies an animal to an institution for research, that person is not required to have a licence unless he is in the business of supplying animals.

My amendment is designed so that people who supply animals to an institution, in whatever capacity, must be licensed. If a person is conducting a business which supplies animals, it seems to me that those animals are being supplied for a profit. Some people could potentially provide animals to an institution on a non-profit basis, or they may do it irregularly or as a one-off situation. They may say they are not carrying on a business, but they are providing animals irregularly to the institution for experimentation. In those circumstances, people should be licensed, and that is what this amendment provides.

This amendment is supported by the Royal Society for the Prevention of Cruelty to Animals. It believes that this is an important loophole that should be closed to ensure that people who provide animals are subject to all the conditions of a licence. That seems to me to be very straightforward and simple, and it should not be controversial. It would meet a major concern of people involved in animal welfare.

Mr OMODEI: The intent of the clause is to make sure that people who are in the business of supplying animals for research - in other words, they make a profit from supplying those animals - are covered by the legislation. It is not intended that individuals be licensed. For example, an animal lover may wish to let go of his animal, but for the benefit of mankind he will provide that animal to an institution for scientific purposes. After all, in most cases when animals are euthanased, a barbiturate or whatever is used. The same process is used in experimentation. When young veterinarians at Murdoch University are taught to operate on animals, the animal is given an anaesthetic, the operation is completed, and then the animal is given a further anaesthetic and is euthanased. One reason that veterinarians in Western Australia are among the best in the world is that we use live animals to teach our young students when they are studying to become veterinarians. If somebody wants to give his animal to a research facility, at no cost, should that person be licensed for that one act, which will be of benefit to the institution and to the general community? The policy decision behind this was to make sure the provision encompassed people who supply animals for profit. Those people in the business of providing animals for monetary gain will require a licence; those who are not in that business do not need a licence.

Mr MCGOWAN: I object to the minister's comments. The amendment is reasonable. If somebody had a Maltese dog which was not expected to live much longer, it would be a very rare occurrence for that person to take it to the UWA to be experimented upon. I am trying to cover the loophole, which I will explain. Under this clause, a pet owner, a farmer, a greyhound breeder and a pound which supplies animals for experimentation on an occasional basis do not have to be licensed. That means that a greyhound owner who provides animals to an institution on an occasional basis and obtains money for them does not have to comply with all the requirements that apply to people who breed animals for scientific purposes. It does not seem to have a basis in logic.

The instance to which the minister referred is extremely rare. Very few people would take their cat or dog to an institution for the purposes of experimentation. It is so unusual that it is almost unheard of. However, there could be circumstances in which greyhound breeders, who have a range of dogs - they race them and usually do not get too attached to them - would take their dogs, when they get on a bit, to an institution to be euthanased, and they would be paid for that. If that happened, the same licensing requirements that apply to everybody else should apply to those people. Indeed, farmers and those other people I mentioned should have those obligations placed upon them. That is eminently reasonable and is in line with the general public view on this matter.

Mr WIESE: Let me point out the real world to the member for Rockingham. He has talked about farmers. I could have been in a situation in which I provided sheep for experimentation by either the Commonwealth Scientific and Industrial Research Organisation or Agriculture Western Australia. The CSIRO and Agriculture Western Australia could have used my sheep, or any of the other 30 million sheep running around Western Australia, to undertake scientific work. Those organisations may examine how those animals process protein and food, for instance, and they may look at means to improve the ways in which they process protein and food. As a farmer, I can sell my sheep to the CSIRO or Agriculture WA, or I can sell them in the market and they will go to the abattoir. Why on earth should I be required to have a licence if the CSIRO or Agriculture WA wants to use my sheep, rather than some of the other 30 million sheep running around Western Australia? Under the amendment, I would be required to have a licence. Why on earth should I have a licence?

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

The same situation applies in the cattle industry. If the CSIRO or Agriculture WA wants to do scientific research work on somebody's cattle, why should that person be required to have a licence? Those cattle could either be sent to an abattoir or be used for scientific research. Under the amendment, that person would be required to have a licence. That is an absolute nonsense.

Mr McGOWAN: If we follow the member for Wagin's logic, he is saying that no-one should need to have a licence.

Mr Wiese: I am not.

Mr McGOWAN: The member is saying that a farmer who wants to give an animal for experimentation should not be required to have a licence. Experimentation is different from taking an animal to an abattoir. Experimentation can mean that quite horrendous practices are perpetrated on an animal. We need to ensure that conditions apply to the people who give animals for experimentation. If a farmer or a breeder of greyhounds is not required to have a licence, why should anyone need to have a licence? Why have a licence at all? There is an illogical inconsistency here. Either everyone should be licensed or no-one should be licensed.

Mr OMODEI: I will put it in terms that the member can understand, because I am sure the member for Rockingham does not understand sheep and cattle. People who want to give their white mice or hamster to the local university for research do not need to have a licence. However, people who breed white mice for the specific purpose of animal experimentation and do it for money as a business will be required to have a licence.

**Amendment put and negatived.**

Mr McGOWAN: I move -

Page 6, line 24 - To delete the line and substitute the following -

Penalty: \$50 000 and imprisonment for five years.

These penalty provisions reflect public opinion, and it is reasonable for the Opposition to propose them. They meet the intent of the petition that I presented and are a valid means of ensuring compliance with this Bill.

Mr OMODEI: I would not have said anything if the member had not referred to the petition. The people whom the member approached to sign that petition did not know that this legislation had been in the Parliament for eight months and that the penalties being proposed were significantly more than those in the previous legislation. Again, I oppose the amendment.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 8: Application for issue or renewal of licence -**

Mr McGOWAN: I presume that the licence referred to in this clause is a licence to carry on the business of supplying animals or of using animals for vivisection. For how long will the licence be valid, and what conditions will apply to the licence? Will the minister delegate to other people or institutions the authority to approve applications for a licence?

Mr OMODEI: Licensing will be dealt with by the animal welfare unit within the Department of Local Government, and whether it will be an annual licence or a licence for more than one year will depend on the type of licence. Those matters will be dealt with by the licensing authority, which will be the animal welfare unit.

Mr Kobelke: Will there be a maximum period for which a licence may be issued?

Mr OMODEI: Not that I am aware of. I am advised that the regulations will specify those matters.

Mr McGOWAN: An issue arose some years ago about licences for institutions which carry out experiments, and a regulation was gazetted, but was disallowed in the upper House, to extend from one year to three years the time for which scientific institutions can hold a licence. A licence to supply animals for experimentation or to conduct scientific experimentation on animals should not be an indefinite licence. It should be a short-term licence, and a mechanism should be put in place to ensure that before a licence is issued, an inspection process is undertaken. The minister cannot always believe what he is told by people who apply for a licence. I do not know how big the animal welfare unit is - I will be interested to know - but what inspections will be undertaken to ensure that the people to whom licences are issued are appropriate people to be given a licence?

Mr OMODEI: The duration of the licence is covered in clause 15, which states -

A licence remains in force for 3 years or any shorter period specified in it, unless before then it is suspended or revoked or the licensee is disqualified from holding the licence.

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

As I recall, the other place disallowed a regulation which would have extended from one year to three years the licence for people who conduct vivisection. That licensing is currently conducted by the Health Department. Hundreds of people are involved in vivisection at either the universities or animal experimentation laboratories, and it was deemed sensible to give those people a three-year licence. However, the other place, in its wisdom, rejected that proposal, so the current situation with regard to vivisection is still a one-year licence. Whenever I take these applications to Executive Council, the Governor asks whether we can do something about this, because in most cases they are recognised organisations, and most of the people involved are students.

Mr McGowan: Will the old rules remain in place, or will it be extended to three years?

Mr OMODEI: We will have the discretion to make it three years, or any shorter period. With regard to regulations, as the member well knows, they are disallowable by the Parliament.

Mr McGOWAN: What mechanism will be put in place to inspect premises before a licence is issued, and how will the minister ensure that the people to whom a licence is issued act in the appropriate fashion? How many staff are in the animal welfare unit?

Mr OMODEI: Clause 9 states the minister must not issue or renew a licence to use animals for scientific purposes unless the minister is satisfied that the scientific establishment either has an animal ethics committee; or has made arrangements for the animal ethics committee for another scientific establishment to act as its animal ethics committee; and so on. The matters are covered under that situation. There will be inspectors of scientific establishments and that is covered later in the legislation.

**Clause put and passed.**

**Clause 9: Matters to be considered -**

Mr McGOWAN: I move -

Page 7, line 14 - To insert after "licence to" the words "supply or".

This amendment supports the amendment I moved earlier about the supply of animals to institutions. The amendment basically states that if a licence is to be issued to a person to supply animals, other matters must also be considered. The Bill, as it stands without my amendments, goes over the things the minister needs to satisfy himself about - supplying animals, issuing a licence to people who use animals in scientific establishments, and for scientific purposes.

Mr OMODEI: My understanding of the member for Rockingham's comment is that if I want to give away my three white mice and my hamster, I must go through an animal ethics committee, or I must make arrangements with an animal ethics committee from another institution. I do not think it is applicable to this situation and I will not accept the amendment.

Mr McGOWAN: Earlier in the proceedings, I asked the minister about the animal welfare unit within the Department of Local Government. This is the third time I have asked about it. It is relevant to this amendment as it covers the enforcement that will be put in place for these matters. I would be interested to know who is involved, and how many people are involved, in the animal welfare unit.

Mr OMODEI: My apologies, member for Rockingham. In the main, the animal experimentation section will self-regulate through animal ethics committees, which will be put in place, and scrutiny of scientific establishments. At this stage, we will employ three or four people within the department's animal welfare unit. That would be commensurate with what happens in other States that have animal welfare units. We examined the legislation that is in place around Australia when we put this legislation together. The personnel requirements of the unit will depend on its workload.

Mr Kobelke: How many employees are there now?

Mr OMODEI: None. When this legislation is passed we will move to set up the animal welfare unit.

Mr Kobelke: Obviously there is an issue because local government handles these matters and someone within the Department of Local Government must be responsible for queries from local government. Is it just part-time officers at the moment?

Mr OMODEI: No. The officers who are responsible for dogs and a whole range of other things would be capable of doing this work and I imagine they would be part of the animal welfare unit. We may have to increase the size of the department. It is not a very large department.

Mr Kobelke: I accept that, minister, but the residue or core of staff with knowledge in this area is currently within the Department of Local Government.

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Mr OMODEI: I have been advised that we will employ a person with veterinary experience and qualifications to head the animal welfare unit. The people who currently deal with matters concerning dogs and cats and local laws are already employed in the department and may form part of that unit.

Mr KOBELKE: My comments will mostly be in support of the position the minister has put. My son is a third-year science student at the University of Western Australia and he is involved in subjects that deal with animals. He has explained to me at some length the requirements of the university's ethics committee. Researchers and students must go to considerable lengths to ensure they meet the requirements of the ethics committee when they conduct experiments on animals. We know that these standards are upheld within this State's major teaching and research institutions. From some people's point of view, the standards may seem a little burdensome or restrictive, but they are essential. It is good to know that our institutions maintain a high standard of care for animals when they undertake research that could lead, one hopes, to the benefit of the wider community, whether it be through increased production in agriculture or in the areas of medicine and health, where research provides greater understanding of things such as medical techniques and drugs that can be used for people. Therefore, it is important that animals be available for research. These institutions understand the community's concern for the proper welfare of animals. These institutions must go to considerable lengths to put in place, through their ethics committees, a whole range of controls and procedures that consider the welfare of those animals. I am confident that the institutions of which I have some knowledge - the UWA, through my son, and Murdoch University, where I was shown the veterinary school by the professor - are concerned about the welfare of those animals and they have the procedures to do that. The issue I think the member for Rockingham is coming to is that, with the growth in the importance of science and scientific experimentation, smaller or fly-by-night operations may be established. I know that the minister and his department would be keen to ensure that those smaller operators reach the same standards as other operators. That is something that will have to stand the test of time - whether the department will have adequate resources, both in the number and skill of staff that it will require, to establish an effective licensing system. If this is just a matter of putting in place legislation that underpins the existing structure, I do not think that we will have a problem. However, I share the concern of the member for Rockingham; that in an area where there may be considerable growth, new operators may have a fair bit of work to do to come up to scratch. We will have to place confidence in the administration of this section of the legislation.

Mr Omodei: When you say new operators, do you mean new people supplying animals?

Mr KOBELKE: Yes, and also in totally new areas that we have not even thought about, because this whole area of biological sciences is rapidly expanding. Although very little in the way of private money is going into medical research involving animals in Western Australia, we may suddenly find that many new enterprises will suddenly spring up. In a case like that, this legislation will be crucial to ensure that those new operators accept, and comply with, the standards that have been set. That will be a matter for the administration of this agency, to ensure that it is adequately staffed with the right people so that it can maintain compliance. I do not have any doubts about whether the current research establishments in Western Australia of which I have limited knowledge will comply, but this Act hopefully will be effective for some years. Therefore, ongoing management is very important, and we will have to place some confidence in the minister of the day and the officers employed in the agency who will have that responsibility.

Mr OMODEI: I thank the member for Nollamara for his contribution. I too have been to Murdoch University and have witnessed students undertaking experiments on live animals. I was very impressed with the way that institution carried out those experiments. The educational institutions expressed concern about this legislation in its early days. That is why I am grateful for the length of the consultation that we undertook because a number of issues arose as this legislation was developed that could have seriously inhibited what would be regarded as research to the benefit of mankind.

Revenue from speed cameras is used for spinal research in Western Australia, in which research on animals is undertaken for the benefit of mankind. The clause provides that the minister must not issue or renew a licence for scientific purposes unless certain requirements have been met. If people are in the business of experimenting on or supplying animals, they must have a licence and comply with the guidelines set out in clause 9. Other provisions in the Bill give inspectors the power to inspect scientific establishments and so on. Therefore, I think the legislation covers the concerns of the member for Rockingham, and his amendment does not need to be included.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 10 put and passed.**

**Clause 11: Conditions on licences -**

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Mr McGOWAN: I move -

Page 9, line 13 - To insert after “involved in the” the words “supply, use or”.

I think this is an oversight in the legislation. The clause prescribes that a range of businesses must be licensed. Various things need to be considered when a licence is to be issued, irrespective of my defeated amendment that everyone involved in the supply of animals should be licensed. One of the relevant considerations when issuing a licence under clause 11 should be the people who are involved in the supply or use, as well as care, of animals. It would be in the Government's interests to support the amendment as I believe it strengthens the Bill.

Mr OMODEI: Subclause (2)(f) refers to people involved in the “care” of animals, and applies in every sense of the word. The member's concerns are covered by the wording of the clause.

Mr McGOWAN: Subclause (2) deals with the conditions for issuing a licence. People who carry on the business of supplying animals for scientific institutions should be required to have a licence. The amendment is a tidying-up provision that enhances the Bill and saves the House amending the legislation at a later stage.

Mr OMODEI: I believe the question of supply is covered by the wording of the clause.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 12 put and passed.**

**Clause 13: Licensee to ensure staff and students comply with conditions -**

Mr McGOWAN: I move -

Page 10, line 5 - To delete the line and substitute the following -

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

Clause 13 requires people in possession of a licence to ensure their staff and students comply with the conditions of the licence and imposes a fine if they fail to do so. If the institution is a government institution, such as a university -

Mr Omodei: A university is not a government institution.

Mr McGOWAN: A university is a commonwealth government institution. In any case, it is funded by the Commonwealth. The minister said earlier that university-style institutions could not be prosecuted. How will they be dealt with?

Mr OMODEI: The member should not put words into my mouth. I did not say that at all. Universities in this State are funded by the Commonwealth but are created by state Acts of Parliament, as are local governments. Universities will be subject to the laws and penalties prescribed by this legislation.

Mr McGOWAN: Clause 4 exempts universities from prosecution. It states that although the Act binds the Crown, it is not required to hold a licence and cannot be prosecuted. The minister now says that, under clause 13, universities can be prosecuted. Is that not inconsistent?

Mr OMODEI: A university is not the Crown as envisaged under clause 4. The amendment refers to the penalties that could be imposed, and seeks to increase them to \$20 000 and 12 months' imprisonment. On recommendation by parliamentary counsel, the penalty contained in the Green Bill was \$6 000. After the public consultation period, it was decided to increase the penalty to \$10 000, which is probably in excess of what is in the Sentencing Act. Therefore, the monetary penalty prescribed in the Bill is appropriate. On that basis, and for all the arguments I have previously given, the Government will not support the amendment.

Mr McGOWAN: The amendment is designed to ensure the penalties reflect public opinion. I, and the Opposition, stand by the amendment.

Mr OMODEI: The member keeps saying that the penalties proposed by the Labor Party are in line with community expectation and opinion. The legislation before the House went through an extensive public consultation period, through both the initial drafting of the Bill and the early discussion papers. The Government received hundreds of responses to the discussion paper, and further responses were received after the Green Bill was tabled. The Green Bill contained a penalty of \$6 000. After the public consultation process, it was deemed that the penalty should be \$10 000. When the member circulated his petition, he forgot to tell people that this Bill had been in the Parliament for eight months and imposed significantly higher penalties than those that were canvassed in the Green Bill and are contained in the Act. I will keep on reminding the member.

Mr KOBELKE: The minister is a bit touchy because the member for Rockingham has taken such a keen interest and put pressure on the Government.



Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Mr Omodei: No. I am delighted that he is interested but I am unhappy that he is trying to mislead the public.

Mr KOBELKE: The minister is trying to mislead us. There are a lot of people who are concerned at the tardiness of the Government in doing something serious about this issue.

Mr Omodei: The legislation was already in the Parliament when the petition went out.

Mr KOBELKE: Many of the people who signed the petition knew that. They knew that in signing the petition they would stop the minister from back-peddalling.

Mr Omodei: We would not have introduced the legislation if we did not want to.

Mr KOBELKE: There was huge community pressure. The member for Rockingham had a very important role in building up the political pressure.

Mr McGOWAN: I contacted the public about this issue. The minister says that he also consulted the public. I consulted 65 000 people in relation to this matter. A total of 65 000 people signed my petition. The reason that the minister is so touchy is that the day I wheeled the petition into this place he acted as though he had a firecracker under him: He was red-faced, he was agitated and he was running around the building. For once he got excited about an issue because someone had forced him into something. I introduced this Bill last November, which is almost 10 months ago. As a result of the public opinion that we managed to bring to the attention of the Parliament through the petition, we are finally debating the Bill. I did not do it as a stunt - I did it in good faith. I feel strongly about this issue. In my speech at the second reading stage I stated that when I was growing up I often went on bushwalks. As a result of my family upbringing, I have had a long involvement with animals. This is an issue in which I strongly believe. The members for Perth, Girrawheen, Armadale and Peel expressed their concerns.

Mr Johnson interjected.

Mr McGOWAN: Did the minister speak?

Mr Johnson: We want to get this Bill through the House as soon as possible.

Mr McGOWAN: The member for Hillarys would not know what was in the Bill. He did not speak on it and he is carrying on now about how much he supports it. People who live in glasshouses should not throw stones.

The Opposition wants to see the penalties toughened up. It is a legitimate concern that reflects the wishes of the parliamentary Labor Party. We have the right to introduce this legislation into the Parliament as we received a large amount of support at the last election and it is our obligation to act on behalf of the people who supported us.

The DEPUTY SPEAKER: I ask that members pay attention to the relevance of standing orders.

Mr OMODEI: The Chairman has me there.

The penalty that has been suggested is in line with community expectations. The community demands greater penalties and the demands were responded to once the Green Bill went out. I remind the member for Rockingham that he failed to tell people that a Bill dealing with this matter was in the Parliament. It has been here for eight months. The reason it was not debated was that the Labor Party was filibustering on the Address-in-Reply and other amendments. If it had not done so, this legislation would have passed through this Parliament a long time ago.

Mr McGOWAN: I have an article that appeared in *The West Australian* in 1995 and in which the minister states that a Bill will be introduced within the year. In 1996, the same thing happened. I have done a search in the library and I have a number of articles. I imagine that the minister sits in his office in Dumas House thinking about the positive news stories he can put out. Every now and again he tells the media that he will be bringing on the Animal Welfare Bill. He put out the same press releases in 1997, 1998 and 1999. The Bill has come up for debate only because the Opposition has got off its seat and developed some public interest in the issue. That is a legitimate role of members of Parliament. I believe members of Parliament should consult with the community more often.

The DEPUTY SPEAKER: I am tempted to suggest that the minister should take those comments on the chin so that we can get on with the Bill.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 14: Display of licence and code of practice -**

Mr McGOWAN: I move -

Page 10, line 12 - To delete "\$1 000" and substitute "\$2 000".

I reiterate what I said before: We think there is a need for tougher punishment for people who engage in cruelty to animals.

**Amendment put and negatived.**

Mr McGOWAN: I move -

Page 10, line 20 - To delete "\$1 000" and substitute "\$2 000".

Page 11, line 3 - To delete "\$1 000" and substitute "\$2 000".

Page 11, line 8 - To delete "\$1 000" and substitute "\$2 000".

**Amendments put and negatived.**

**Clause put and passed.**

**Clauses 15 and 16 put and passed.**

**Clause 17: Suspension and revocation -**

Mr McGOWAN: I move -

Page 13, line 4 - To delete "\$1 000" and substitute "\$2 000".

I want to put on the record that the Opposition has moved the amendment. I acknowledge that the Opposition will not win this vote.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 18 put and passed.**

**Clause 19: Cruelty to animals -**

Mr McGOWAN: I move -

Page 15, lines 4 and 5 - To delete the lines and substitute the following -

Penalty: Minimum - \$2 000.

Maximum - \$50 000 and imprisonment for five years.

This clause is the crux of the Animal Welfare Bill. The Opposition has been true to its word. We have been debating the Bill for about two hours and we are now at the most substantive part of it. We realise that this provision and the provisions that follow are the most complex and significant part of the Bill. This amendment will increase the minimum and maximum penalties strictly for people who are deliberately cruel to animals or are cruel to animals through negligence or a failure to exercise a duty of care. The penalties will double the fines put in place by the Government and will increase the term of imprisonment from one year to five years. These are not mandatory sentences. They are discretionary sentences that are available to the courts to apply in cases of heinous cruelty. I will refer to some examples of heinous cruelty that were reported recently in *The West Australian* and which were contained in articles that I have received from the Royal Society for the Prevention of Cruelty to Animals that detail the sort of things that people get up to in their of treatment of animals. Some people engage in dog fighting, and cases were reported in Albany and the wheatbelt. Some people keep dogs such as Rottweilers, German Shepherds and pig dogs chained on their property, so that people can gather to watch these dogs rip each other apart as a form of entertainment. This is a shocking, cruel, inhumane and heinous activity. The Bill imposes a penalty on anyone who is a spectator at one of those events, which is a good move. These sorts of offences need to be stamped out. We need to give the courts the capacity to stamp them out and to impose harsh penalties on people who do these sorts of things. I acknowledge that as a result of some people's background and upbringing they do not have the same respect for living things as most people in our society. However, people engaged in these sorts of practices, and actions like that of the young man who killed his mother's dog at Lake Grace, need to be dealt with harshly in the courts. Although the penalties in the Bill are an improvement on the existing Act, they are not sufficient to deal with people who are involved with dog fighting or other cruel activities that result in unspeakable torture of living things.

We are concerned about not only cruelty to dogs, but also maltreatment of horses. There have been recent newspaper reports of maltreatment of horses, and horses in a pitiful condition brought upon by starvation. Nothing sickens people more than this sort of treatment of living things. I detailed in the second reading debate that 70 per cent of households own pets, and people love their animals. I know that many farmers love their animals.

Mr Mark McGowan; Mr Paul Omodei; Mr Fred Riebeling; Mr John Kobelke; Deputy Speaker; Mr Bob Wiese

---

Mr Omodei: You sound surprised. All farmers love their animals.

Mr McGOWAN: I grew up in a country town and went to school with many children whose parents owned farms. I visited those farms on the weekend and I know that many farmers love their animals and that some do not have that sort of love for their animals.

The executive committee of the RSPCA comprises a range of people, some of whom have farming backgrounds. I attended the opening of the RSPCA's animal welfare shelter and met some of the executive committee of the RSPCA who were cattle and sheep farmers. I know that a lot of people involved in the RSPCA have respect for animals.

Mr Omodei: Not "a lot"; all of them - bar none.

Mr McGOWAN: Why do we need the RSPCA then?

This provision is designed to crack down on people who are cruel to animals. It is a vast improvement on the Prevention of Cruelty to Animals Act 1920 that this Bill will replace. However, the Bill does not go far enough in the specific area to which the animal welfare petition that I presented was directed. The penalties applied recently to people who were convicted of cruelty to animals created a public outrage. In particular, the public comment on the fine imposed on the young man who ran over his mother's dog, parked his car on the dog and then beat it to death with a tyre lever while his mates watched was testament to the fact that people want to see a range of penalties available to the court to deal with these serious matters.

Mr OMODEI: I agree with most of the comments of members, particularly those that relate to the incidents of cruelty mentioned by the member for Rockingham. I remind the member that the petition he presented stated that the penalties for acts of cruelty towards animals were not severe enough and needed to be changed so that the courts treated these matters seriously. I concur 100 per cent with those sentiments, particularly as they referred to the penalties for cruelty to animals in the existing Act. The Act did not have a minimum penalty for the offence of cruelty. The maximum penalty was five years. The new penalty proposed under the legislation is a minimum of \$1 000. That means that for any matter of cruelty in which the judge deems a fine will be applied, the fine will be a minimum of \$1 000. In the past the judge had the capacity to apply a \$100, \$200 or \$300 fine and there was community outrage about the leniency of the penalties. Under the current Bill the fine is a minimum of \$1 000. If someone is reported to the authorities for kicking a dog, if convicted, that person will be fined \$1 000. People need to be aware that the penalties in this legislation are significant. The maximum penalty is \$20 000 and imprisonment for one year. The judiciary has the capacity to apply penalties that are in keeping with the views of the general public, and take into account the severity of the case. The Government is responding to the concerns of people in the community that the penalties for offences against animals are not strict enough. The penalties for corporations are five times \$20 000. The penalties we are proposing under this legislation are significant. The penalties that the Opposition has proposed are unrealistic.

Mr WIESE: I record my absolute abhorrence of minimum penalties. My view has been reflected in this Parliament many times before. When we were in opposition I successfully moved that all minimum penalties be taken out of all the agricultural legislation. I do not believe that minimum penalties are defensible. They are a bad thing, and should not be in our legislation. For all of the reasons the minister has spelt out, minimum penalties should not be in legislation, especially in an area like this. The potential exists for minimum penalties to cause grave injustices to people who are charged with offences. I accept that even minor offences are indefensible. Nobody condones cruelty to animals; nonetheless, grave injustices will occur on many occasions because the judiciary will be denied discretion.

Debate adjourned pursuant to standing orders.