



Speech by

Hon. HENRY PALASZCZUK

MEMBER FOR INALA

Hansard 1 December 1999

ANIMALS PROTECTION AMENDMENT BILL

Hon. H. PALASZCZUK (Inala—ALP) (Minister for Primary Industries) (10.51 p.m.): I rise to speak against this private member's Bill. I begin by saying that I believe that the honourable member for Lockyer does make some good points in his Bill. He is right: in many ways the current legislation is deficient. That is why the Government is developing a totally new piece of legislation to replace what currently exists. It is my fundamental position, which I will outline in more detail this evening, that this House should await that new legislation and not amend the current Act in a piecemeal way.

This Bill proposes to amend the Animals Protection Act 1925 to: require that RSPCA inspectors have appropriate qualifications or experience to enable them to perform their functions correctly and objectively; require RSPCA inspectors to obtain a warrant before entering a property unless they have consent to enter or it is a public place—strict procedures for the obtaining of consent would apply; require RSPCA inspectors to carry and produce photographic identification when entering a place under a warrant and; remove the existing power of the Minister to order the forfeiture of an animal that has been seized under the Act.

The Bill appears to have been prompted by discontent within the dairy industry with the RSPCA's actions in pursuing a cruelty case against Wondai dairy farmers Ken and Ruth Schloss. In this case, Mr Ken Schloss pleaded guilty to one charge of cruelty involving dairy calves. No conviction was recorded. It is true that there is a lack of accountability provisions both for individual inspectors and the RSPCA generally in the 1925 Act. I understand that RSPCA management is happy to accept greater accountability provisions in the Act in respect of its officers.

As part of the consultation process on the development of the policy principles for the new animal care legislation, it was acknowledged that the 1925 legislation was antiquated, generally fails to address contemporary animal welfare standards and issues, and fails to meet contemporary legislative standards. The Government is well progressed in replacing the existing legislation with a new animal care and protection Bill, which I will call the Government Bill. As the majority of the 1925 Act is considered deficient, the intention is to replace it in its entirety, rather than patch it in a piecemeal way via amendments. I will bring this Bill to this House early next year.

I would like to deal with the issues that the honourable member's Bill raises and how they will be dealt with in the Government's Bill. First, there is the issue of appropriate qualifications for RSPCA inspectors. The Bill is proposing that currently appointed RSPCA inspectors should cease to be inspectors after two years unless they obtain a relevant qualification. The requirement for inspectors to have undertaken appropriate training or have relevant experience before being appointed is consistent with requirements of inspectors under other legislation. However, the Bill proposes that the qualifications and experience can be those which the RSPCA itself considers to be appropriate. In other words, the Bill will allow the RSPCA to continue to set its own standards of qualifications for inspectors.

The proposed Government Bill will achieve better and more consistent standards of qualification in animal protection inspectors by: requiring all inspectors, including the RSPCA, to undergo training conducted by the Department of Primary Industries to achieve a proper level of competence and obtain standards set by the department in the enforcement of the Bill; and, considering each individual inspector's level of training in determining his or her role and hence the specific powers they will then be authorised to use under the Bill.

Second is the issue of identity cards. The Bill is proposing that inspectors produce an identity card before entering a place under a warrant. The requirement to have an identity card is consistent with other legislation which has inspectors. The Bill proposes that the identity cards are issued by the RSPCA and meet certain criteria. The Government Bill has a very similar proposal but in addition requires that the identity card be in a form approved by the chief executive of the Department of Primary Industries and that inspectors must produce their identity card for inspection when exercising any power under the Bill, not just the power of entry under warrant.

Third is the issue of the need for warrants to enter properties. Under the existing Act, RSPCA officers may enter any place without a warrant. This is inconsistent with powers of entry for inspectors under other legislation and clearly does not have regard to fundamental legislative principles as set out in the Legislative Standards Act 1992. The Bill proposes that a warrant is required to enter a place in all circumstances except where the occupier consents to the entry or it is a public place and the entry is made when it is open to the public.

The Government Bill proposes two additional circumstances under which entry without a warrant may be executed. These are where an inspector reasonably believes there is imminent risk of injury to or death of an animal, for example, where an animal is being beaten or tortured or a dogfight is in progress, and where an inspector reasonably believes that any delay in entering a place will result in the destruction or concealing of evidence of the commission of an offence.

It is acknowledged that fundamental legislative principles as outlined in the Legislative Standards Act 1992 must be considered as the above powers raise concerns about the infringement of individual rights. However, the need for an inspector to be able to act immediately to save the life of or prevent injury to an animal is a critical part of animal protection legislation, and powers enabling this are present in the legislation of most Australian States and Territories.

The Bill's proposed removal of the ability of inspectors to enter places without a warrant in situations of immediate risk to animals has a high potential to attract severe criticism from both the public and the RSPCA. The Government Bill proposes that where an inspector entered a place without a warrant on the basis that evidence was likely to be concealed or destroyed, there may be an external review of this power. This provision would be similar to that provided in the Police Powers and Responsibilities Act 1997. That Act provides that as soon as reasonably practical after exercising the power the police officer must apply to a magistrate for an order approving the search.
