



Speech by

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MEMBER FOR MULGRAVE

Hansard 1 March 2000

ANIMALS PROTECTION AMENDMENT BILL

Mr PITT (Mulgrave—ALP) (4.26 p.m.): I am pleased to speak briefly to the Animals Protection Amendment Bill. As caring, thinking human beings, no doubt all members of this House support legislation which protects animals from abuse. In a perfect world, there would be no need for legislative measures, but we all know that some people lack basic empathy for domestic and non-domestic animals. Animal cruelty cannot be tolerated in a civilised society, and effective measures to bring to account the perpetrators must be enshrined in law.

Unlike humankind, animals are not able to speak up for themselves. I sometimes wonder what they would say if they could. The Beattie Government recognises the need to have laws which are both practical and appropriate. That is why the Government intends to completely replace the existing legislation passed by this House some 75 years ago. We need modern legislation capable of meeting contemporary issues. As the previous speaker said, even animal husbandry practices have moved on in those 75 years. What was appropriate then is not necessarily appropriate now.

That said, it is also important that we empower officials charged with enforcement duties with appropriate powers that are commensurate with the circumstances surrounding any alleged offence. The Bill before the House appears designed to bring redress to a limited number of issues. While the Bill is of generally sound intent, in my view it is less than comprehensive. It is important that the whole range of issues relating to animal cruelty be placed under the microscope. The Government intends to do just that.

The Bill that we are debating today falls short of the complete rewrite of the Act that I believe is necessary. Today I intend to concentrate on those sections of the Bill that refer to the need for warrants to enter properties. Under the existing Act, RSPCA officers may enter any place without a warrant. As has been said before, this is inconsistent with the powers of entry for inspectors under other legislation and clearly does not have regard to the fundamental legislative principles as set out in the Legislative Standards Act 1992.

RSPCA officers should have only those powers necessary for the effective discharge of their duties. The Bill before the House today proposes that a warrant be 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. Clearly, that does not go far enough.

On the other hand, the Government Bill proposes two additional circumstances under which entry without a warrant may be executed. These are, firstly, where an inspector reasonably believes that there is an imminent risk of injury to or death of an animal—for example, when an animal is being beaten or tortured in a dog fight or some other activity, it is important that the inspector intervene when appropriate—and, secondly, where an inspector reasonably believes that any delay in entering a place will result in the destruction or the concealing of evidence of the commission of that offence. Failure to do so within a reasonable time can lead to the inability to prosecute, and the perpetrator can continue his activities.

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 an individual's rights. However, the need for an inspector to be able to act immediately to save the life of or to 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, in my view, to attract severe criticism—and justifiably—from both the public and the RSPCA. Unfortunately, the private member's Bill has the effect of protecting the perpetrator of cruelty in so far as it does not go far enough. For this reason, I believe that it must be voted down.

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. I am sure that this will be discussed further with Parliamentary Counsel during the drafting of the Government's Bill. In conclusion, I cannot support the Bill. In my view, it is far too fragmented to be a worthwhile tool in the battle to maintain acceptable standards of human behaviour in respect of animal welfare.
