



Speech by

Mr P. PURCELL

MEMBER FOR BULIMBA

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ANIMAL CARE AND PROTECTION BILL

Mr PURCELL (Bulimba—ALP) (4.53 p.m.): It gives me great pleasure to speak on the Animal Care and Protection Bill 2001. This bill replaces the 1925 Animals Protection Act. One of the major differences between the two acts is that the 1925 Animals Protection Act could only be applied after an act of cruelty had occurred. This bill is a proactive bill and it can apply before the fact rather than after.

Another major difference is in clause 108, which gives authorised officers the power to enter non-residential premises without a warrant. This is where this bill will put a stop to a lot of cruelty to animals that has occurred over the years and has caused a lot of heartburn to departmental officers and RSPCA officers.

Serious animal welfare problems can develop when animals are used for commercial purposes because many such acts take place on private property away from scrutiny. To protect the welfare of animals used for commercial purposes, the bill provides for monitoring programs to be developed in consultation with the industry to ensure that basic standards of animal welfare are met. These relate to large feed lots, piggeries, chicken producing places and so forth. They are to sit down with the department and to come up with a program.

Clause 107 provides that the powers given to authorised officers in clauses 108 and 111 are restricted in that they may only be exercised for the purpose of monitoring a program. This would remove a lot of frustration that officers have felt in the past when they have not been able to enter premises because they did not have a warrant and needed to give 48 hours notice to get a warrant. That meant that they could not go in and look at animals or check out piggeries, hatcheries or places like that when they believed that there had been some transgression of laws. Whether it was happening or not, those officers who were trying to gain access to the premises probably believed that it was happening because the owners refused to let them in. This clause will stop a lot of that angst felt by different people trying to enforce this law.

To ensure compliance with a monitoring program, clause 108 provides authorised officers with the power to enter only the non-residential areas of the place without a warrant. This power is consistent with the bill's proactive approach that will help stop animal welfare problems from arising in the first place instead of reacting to problems after they have developed. The power to enter is limited by requiring that 48 hours written notice of the proposed entry is given to the occupier.

Where a breach of the monitoring program has been discovered after entry and an animal welfare direction is given to rectify a problem, authorised officers are also provided with the power to enter at a specified time to ensure compliance with the direction. For the same reasons, that power to enter is given to authorised officers in clause 108 to enter non-residential premises. Entry by an authorised officer or vehicle used to transport animals is permitted by clause 111 for the purpose of ensuring compliance with a monitoring program.

As we know, a lot of stock in this state is transported by, in many cases, double deckers, triple deckers and vehicles that travel from one spot to another fairly quickly. This clause will ensure that these animals are looked after. From having stock transported myself, I know that the cheaper operators would put on more animals and would not care for them in the same way as would those people who would charge the right rate to get them from point A to point B. Responsible owners would use those transport operators because they would know that their animals would be looked after and

would arrive in a good condition, whereas those who did not care about the animals would just whack them on a truck for the cheapest price and let them rip.

Also, if the person in control of the vehicle has received an animal welfare direction, entry may be made at the stated time to check compliance with that direction. Clause 209 provides that responsibility for an offence under the bill committed by a corporation is sheeted home to the executive officers of that corporation. However, a defence is provided to the executive officers in clause 209(4) and (5) to avoid harsh results arising from the clause. I do not agree with those clauses. I think an executive officer of a corporation who does not know what is happening in his corporation with regard to animals deserves what he gets. It is good husbandry and good business to know what is happening in your business. If a corporate person does not care, that is too bad.

It is arguable that these subclauses contain a reversal of the onus of proof. However, it should be noted that the matters to be proved by the defence are not elements of the offence. Therefore, placing the onus to prove the defence on the executive officer is justified because the facts that support the defence will usually be entirely within the defendant's knowledge and would be impossible for the prosecutor to prove in the negative.

A person committing an offence knows that they have committed it. It is nearly impossible for them to prove that they have not committed an offence unless they have 24-hour a day surveillance and they are on private property with a video and so forth to prove it. You walk in and see the results. But in Australian courts it is nearly impossible to walk into a court and prove it because what has been happening has not actually been seen. This clause provides that it can be proved because the defendant has to prove that they did not do it. If the animals are there dead, dying or suffering, they have to prove that their actions were not the cause. I think that is pretty fair.

I can see that the member for Hinchinbrook is giving me some fairly piercing looks. That explanation was just for his benefit. The 1925 Animals Protection Act is based mostly on a reactive approach to animal welfare issues and does little to encourage and advance animal welfare standards, particularly with regard to livestock production. This bill aims to educate all people who have any form of contact with animals. It does not just cover the family pet but all animals, whether they be domestic, commercial, exotic or wildlife. It covers basically any animal that comes into contact with humans.

This fact is clearly spelt out in clause 11(d) of the bill, 'What is an animal'. This section of the bill came as a surprise to me, because I did not think that the animals listed in it were animals. However, it covers all animals that people come into contact with, and there will be no comments from the peanut gallery. This clause provides that the regulation includes animals of a certain class—that is, molluscs and animals which have tentacles attached to their heads such as cuttlefish, squid, octopi and soft-bodied animals like crabs, crayfish, lobsters and prawns. These animals come under the protection of the bill by prescribing them to be 'animals' for the purposes of the act. Many people come into contact with these animals when fishing and so forth. This legislation ensures that they are treated correctly. There is increasing concern in the community that some methods of preparing these animals for consumption are inhumane, and the bill prescribes ways that they can be dealt with.

The educational focus of this legislation is very important. The Queensland government has announced that it will assist the RSPCA to educate people about the importance of caring for and the protection of animals with a \$90,000 commitment towards a mobile education unit which will tour the state. The RSPCA brought this proposal to the government to promote responsible animal care and welfare to the community, and the Queensland government has responded appropriately. This bill is flexible and responsive to the changing animal welfare needs and technological advances that are being made in the care of animals. There are constant advances in our education and comprehension of animal biology and behaviour. This bill is written in everyday language so that it will be easily understood by all. The duty of care is enforceable on anyone who has control of animals and also defines what their duty of care is. It is not about animal control but the care of animals for their best welfare.

Clause 184(2) states that there are some people who own animals—and this proposal has caused a lot of problems for the RSPCA and departmental officers—who are incapable of properly caring for them because of their old age, their financial circumstances, psychological or intellectual impairment or mental illness. Although such people may not be committing animal welfare offences themselves or may not mean to, their incapacity may contribute to the commission of animal welfare offences on those animals by another person.

In cases like these, if the owner is incapable of exercising their duty of care to their animals, the court is empowered to make a disposal or prohibition order in relation to animals owned by that person when the person who committed the offences is convicted. We have all seen stories on the news of people who own a couple of hundred cats where the cats have taken over the house and their owner cannot afford to feed them and cannot look after them because they are incapable of doing so. To protect the interests of the person subject to the order, clause 186 provides that the court must give the

person subject to the order an opportunity to be heard. If they can look after them, the order will not be made against them, but if they cannot it will.

This bill has been roughly 10 years in the making. It has had a long gestation period. Everybody interested in having input into the bill has been consulted. The RSPCA has had major input into this legislation, and I thank that organisation for the time and effort it has put into the bill with many officers over a number of years. It is very pleasing that the community is becoming more and more aware that animals do need to be correctly cared for. Products that have the wording 'Not tested on animals' as a marketing symbol, particularly on women's cosmetics, are becoming more and more commonplace in our society. This bill does allow for certain products to be tested on animals, but the bill ensures that this practice is accountable, open and, most importantly, responsible. The use of the national code applying to animals in scientific research will be made compulsory under this legislation.

This bill creates specific offences so as to make it easier for departmental officers and the RSPCA to prosecute such things as dogfighting, cockfighting, the bleeding of greyhounds and other offences that I could but will not mention. It will also make it an offence to be present at such prohibited events. Sometimes a fee is charged to go into the event and bets are placed on the outcome. The maximum penalties for these types of offences will be very severe. The maximum penalty for cruelty can be up to \$75,000 or two years in jail for an individual. The inspectors who enforce the provisions of the bill will be DPI stock inspectors and veterinary officers, and the RSPCA will continue its important enforcement role in animal welfare under this bill. This bill covers animals in all situations and the national code of practice is used with regard to cattle, sheep, pigs, lot feeding and the transportation of horses and other animals.

If people carry out activities in line with the recognised national code they will not commit an offence under this legislation. First and foremost, this bill is about the appropriate actions in the circumstances when dealing with animals. The general public expects that a deliberate act of cruelty to an animal will be punished appropriately. The penalty levels in this bill reflect the seriousness of the offence and will hopefully discourage others from following in their footsteps. The bill is written in plain English and is pretty much based on commonsense.

Animal welfare is an international trade issue in relation to the export of animals and animal products. Some countries have indicated that they expect the countries they do business with in this regard to have corresponding animal welfare standards. The introduction of this legislation is one way to show overseas markets our responsibility with regard to falling in line with animal welfare standards. That is very important, because we are a large exporter of live animals and we need to ensure that we comply with international standards. If a person is in the presence or control of an animal and it is accidentally injured, the responsibility rests with them to do all that is reasonable to have the animal treated by a suitably qualified person or to provide suitable treatment themselves.

I will give the House an example where something like this could happen. Say it is early in the morning on a nice day with the fog lifting over the dam and there is a fence running through a paddock with a mare on one side and a stallion on the other. The mare had never been put to the stallion before. In fact, she was thought to be barren. She was as wide as two gate widths in the rump and it was thought that she could not come into foal. But on this very romantic morning she was prepared to give it a try and backed up to the barbed wire fence. The stallion, of course, was always ready to assist any mare in her endeavour. As a result, the mare was not hurt at all and quite enjoyed the event. However, in the process of getting over the fence to get at the mare—or through the fence, because he went over the fence with one part of his body and through it with another—the stallion was injured. I do not think any owner could be held responsible for that injury, but the owner should take the appropriate action to look after that animal and to get veterinary assistance.

By the way, the mare, an eight-year-old, did come into foal. Roly, the pensioner who owned her, could not believe it. He thought it was a miracle, an immaculate conception!

An honourable member interjected.

Mr PURCELL: He did not pay a service fee, no. Billy, the stallion, who was a great stallion known throughout the Texas district for his endeavours, was only \$10 a pop. So he was very affordable. I remember that one day we had to cut the fence to get an autoheader in to strip some wheat. Billy went out into the reserve. There would have been about 50 to 60 mares on the reserve. Billy brought them all in through the fence and put them up the back paddock behind the shearing shed and Billy was as happy as could be for the next couple of weeks until we found out about it and got rid of the mares, who had eaten all our free grass.

Members can see that an animal may be injured without the owner's knowledge, but owners are to do everything in their power to make sure that an animal is looked after if it is injured. It is commonsense that it is an owner's responsibility to take appropriate action relevant to the situation.

This bill provides a modern legislative framework for dealing with animal welfare issues. It also takes into account the fact that it is not always appropriate to legislate a generic set of standards to

apply to all animals. The main positive feature of this bill is that it is focused on the safety, needs and protection of animals.

I congratulate the departmental officers who have worked so hard to put this bill together and to bring it before the parliament. Some people might say that after 10 years it is about time this legislation was introduced, but I would not say that. I would just say that officers probably had other things to do during the formulation of this bill and that it was probably not a high priority at the time. I also thank the minister for bringing the legislation to the House. I know it will have a speedy passage.
