




Speech by

David Kempton

MEMBER FOR COOK

Hansard Wednesday, 12 September 2012

ANIMAL CARE AND PROTECTION AND OTHER LEGISLATION AMENDMENT BILL

 **Mr KEMPTON** (Cook—LNP) (4.51 pm): The Animal Care and Protection and Other Legislation Amendment Bill is not intended to restrict or remove the rights of any native title holder in the exercise of their native title rights and interests in respect of the hunting of turtle and dugong. The amendments will balance such rights against the community expectation that all animals will be protected from cruel acts and omissions. Native title rights to hunt, although not yet clearly defined, have been the subject of much judicial decision and are enshrined in the Native Title Act 1993, which is of course federal legislation. It is my view that these amendments will, in fact, afford greater protection of the rights and interests of native title holders by providing clarity of definition of those traditional practices which will not fall foul of this legislation.

The amendments will remove the current exemption from the Animal Care and Protection Act which provides a defence for all acts and omissions undertaken by persons claiming to be exercising native title rights to hunt irrespective of the impact on the animal concerned. In order to take a turtle or dugong under the proposed amendments without offence there are several prerequisites. Firstly, the person must hold native title rights and interests. Secondly, the person must be exercising those rights and interests in an area in which they hold native title; residence will not suffice. Thirdly, the act or omission must not be cruel in that it must not offend the Animal Care and Protection Act.

This raises the issue of cruelty. It is my view that there is a range of behaviours in relation to the dispatch of a turtle or dugong. On the one hand, we have animals dispatched according to traditional lore, L-O-R-E, and custom as practised for thousands of years which, on the face of it and as described to me by traditional owners, is not a cruel method of dispatch and will not offend the act. On the other hand, we have the kind of unacceptable and despicable actions that we saw depicted on the ABC's 7.30 which are, in any measure, acts of gross cruelty without any regard whatsoever for the animal. I believe that the proposed amendments will draw a divide somewhere in between—a divide that will define which acts and omissions will fall to the left of the line and will not offend the act and those which are unacceptable and will clearly result in prosecution. Where this line will lie will be the subject of discussions and consultation during the ensuing 12-month period of grace. It is anticipated that proper traditional practices will be identified and if adhered to will avoid prosecution.

The issue of what constitutes 'cruel' will be a matter of finding that balance. What is cruel in the eyes of a traditional hunter in the Torres Strait may well be at odds with the view of a Brisbane witness the killing of a turtle on a beach of a remote Torres Strait island by whatever means. I am confident that the Animal Care and Protection and Other Legislation Amendment Bill, when passed into law, will afford the proper mechanism to achieve this balance. I commend the bill to the House.