

## LEGISLATIVE COUNCIL

16 October 2007

### PREVENTION OF CRUELTY TO ANIMALS (ANIMAL WELFARE) AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 31 July 2007. Page 550.)

**The Hon. A. BRESSINGTON (22:05):** I am an animal lover. Believe it or not, I am very fond of my dogs and my birds, and I abhor any act of cruelty that is done to an animal. Like most people in the community, I believe that animal protection is extremely important and I, for one, would like to see this done responsibly and efficiently. I am also aware that many people have spoken of their concerns about the RSPCA, which has attracted a great deal of angst within the community. The Hons. Mark Parnell and Sandra Kanck have highlighted in the past the concern that its critics are given few opportunities to be heard and that its AGMs often attract heated debate.

I acknowledge the concerns expressed by constituents who have contacted my office about a perception that the RSPCA may be operating under a possible conflict of interest (or influence) by the fact that its President's legal firm attracts significant income from the RSPCA for prosecutions—indeed, more than three times that earned by any other firms retained by the RSPCA. I also recognise, on a more personal level, comments by the Hon. Rob Lawson seeking to dispel any adverse suggestions about the integrity or intentions of the RSPCA's President. At the centre of these concerns there appears to be some consensus that there is a deeper conflict between the roles of the RSPCA as a charity and as a law enforcement body. Certainly, many question whether it is going about its business as an enforcement body effectively much less responsibly.

On Tuesday 5 December 2006, the Minister for Environment and Conservation (Hon. Gail Gago) told us that, among other things, these amendments would allow welfare inspectors to enter a property to rescue an animal even if the owner is not present. The minister has misled us into believing that the RSPCA did not previously have such powers. This is a bold-faced untruth, which she must have known to be so. By way of example, I would like to share the story of the scandalous treatment meted out to Glynne Sutcliffe Huilgol, a highly educated and articulate Adelaide woman, whose Australian kelpie dog, Banjo, died when over 16 years of age. On Sunday 17 December 2000, her dog Banjo was seized by the RSPCA while Ms Glynne Sutcliffe was out for a few hours and, subsequently, the dog was euthanased without consultation or her consent. Ms Sutcliffe was charged by the RSPCA for ill-treating an animal, but this was later refined to failure to alleviate distress, in order to avoid the implication that Ms Sutcliffe had actively hurt her dog. However, this did not stop Ms Sutcliffe from being prosecuted, being the subject of a news item in *The Advertiser* of 2 July 2002 and being branded as an animal abuser.

Her dog Banjo was 16 years old, and he was dying. Banjo was originally her daughter's dog, and was given to her as a Christmas present in December 1984. Over

the years, Banjo became Ms Sutcliffe's very close companion. Although the dog suffered from arthritis, when he became immobile in that last week of his life he also became incontinent and, at that point, he was placed outside. As he was a heavy dog, Ms Sutcliffe could not lift him. She put him on a blanket and pulled him into the shade under a tree. The dog had access to water, which was close to him, and was given aspirin to relieve his arthritic pain. One such day Ms Sutcliffe left her home to attend a meeting for a few hours. When she arrived home she found an RSPCA notice of seizure on the door and the dog was missing. She immediately rang the number indicated on the note and protested about what had been done, only to learn that her dog, Banjo, had already been put down. Being summer, the days before the RSPCA raid were quite warm, but when the RSPCA arrived the dog was in the afternoon shade of Ms Sutcliffe's veranda.

Grieving for the loss of her dog, Ms Sutcliffe asked for the return of his body so that she could bury him on the property where he had lived his entire life with her family, but the RSPCA told her that was impossible. Presumably, it was impossible because the RSPCA had immediately cremated him. This fact was pertinent to Ms Sutcliffe's defence when later, during her trial, certain errors and inconsistencies emerged in the RSPCA's evidence before the court. Although the RSPCA did not admit to the dog's cremation, it did inform Ms Sutcliffe that, once an animal had gone into the Veterinary Pathology Services building at 33 Flemington Street, Glenside, it could not leave that building.

The RSPCA described Banjo's death, due to old age, as 'hideous' but, as Ms Sutcliffe puts it, 'Death is not ever pretty' and suggests that claims made by the RSPCA that sick, injured or dying animals should be routinely put out of their misery are a specious rationalisation to claim moral virtue for human convenience. The fact of the matter is that Ms Sutcliffe was taking very good care of that dog and was actually trying to make his passing as comfortable as possible with him knowing that he was still part of the family and still greatly appreciated and greatly loved. Regardless of what we individually believe about euthanasing sick, injured or dying animals, Ms Sutcliffe's case raises many moral and philosophical questions than just the desirability and need to protect animals.

First, we are deliberately intending, through this bill, to impose a legal requirement that a dying animal must be put down. As the Sutcliffe case represents, most pet owners are not aware of this compulsory direction of the RSPCA and how it interprets its powers and enforces its legislation. Indeed, many responsible pet lovers would simply never have the heart to destroy their cat or dog if they believed that they could actually make the animal's last days comfortable. Secondly, if the government requires that a dying animal should be put down (apart from the moral and emotional aspects of the situation), is it legitimate to compel families with limited resources to spend large sums of money on getting a pet—admittedly ill or suffering—either killed or placed on long-term and ongoing medications for the term of its life?

There are people who just do not agree with this medical approach to animals. They just want to be with the animal and comfort it. There are enough research studies around now to show that the bond between humans and animals is so strong that it can make sick people well and vice versa. I believe that where we are going with much of this legislation is imposing on people standards that do not suit the

average reasonable citizen. We are having moral choices made for us on a number of levels that, whether or not we like them, inflict other people's values on our families and the way that we would choose to live our lives, and now even with our pets. Are we telling families that only affluent households ought to be afforded the right to own a pet, for fear of that pet becoming sick, or their incurring a criminal conviction if they choose not to put the animal down, although they care for and bring that dog comfort?

The RSPCA is becoming better known for killing animals than for protecting them. Stories from several constituents who have contacted my office suggest that the RSPCA is high handed in the extreme, assuming the right to act in a dictatorial fashion and determine arbitrarily what should or should not be done to animals such as Banjo. Meanwhile, when we show sheep on *Today Tonight* that are injured and dying and being treated in an absolutely abhorrent manner, the RSPCA turns a blind eye. Why do we have this inconsistency? What is the benchmark for determining prosecutions against pet owners as opposed to other owners such as farmers, corporate producers of livestock, etc?

Constituents tell me that they are seen as a soft target against whom it is easy to bring a conviction and force payment for legal and other services. For example, at Ms Sutcliffe's trial, the general air of unreality was exacerbated by the discussion of the need to prove, by reference to witness, that a dog was an animal within the meaning of the relevant legislation (i.e. it had vertebrae and was neither a fish nor a human). What a waste of time, energy and taxpayers' money, and what a way for bureaucracies and organisations to flex their muscle and put a person who is grieving through the mill, and what a ridiculous definition of whether or not it is an animal. The comedy in the courtroom did not end there. Two key RSPCA witnesses—Dr Sarah Drysdale, veterinary surgeon, and Dr Julie Lucas, veterinary pathologist—said that they had estimated Banjo's age as 'mature', meaning 'over five'. The other was estimated 'between five and nine or 10 years of age'. Banjo was, in fact, 16 years old. This is just a small example of countless other inaccuracies between the RSPCA's conduct of the prosecution case and the facts of Banjo's medical condition.

However, such unreliable testimony by its own experts and the fact that they could be so much in error suggests that there are wider reaching problems with the manner in which the RSPCA goes about its business generally. Logically, if a steeplechaser breaks an ankle, it is reasonable to conclude that it will never race again. On the other hand, we now know how to mend bones. A horse could be put in a body sling while its leg mends; instead, it is killed because its owner deems it of no commercial value any more. As Ms Sutcliffe's case proves, a natural death is no longer permitted for domestic or companion animals, and it is a situation which I, for one, believe ought to be revisited in view of our inconsistent messages to the community about what constitutes cruelty.

On a final note, the minister tells us that this bill empowers inspectors under the act to undertake routine inspections of animal related industries such as piggeries, dog-breeding kennels and battery hen houses. But this is not entirely true either. The current bill gives the RSPCA the authority to delegate its powers to the Department of Primary Industries and Resources to regulate practices within the livestock and intensive farming industries. In doing so, it releases the RSPCA from any obligation

to monitor the cruel treatment of animals within these sectors or to prosecute these industries where animals are maltreated by focusing its energies and resources on companion animals in private homes. For example, while domestic pets may be subjected to multiple and unrestricted inspections, inspections of livestock will only be permitted once a year.

The *Four Corners* program entitled 'A Blind Eye' of 21 June 2004 revealed the South Australian branch of the RSPCA gives notice to intervene for farmers prior to inspections of their properties. Ms Sutcliffe was afforded no such privilege. There was no notice. They arrived while she was out and confiscated the dog and cremated it without ever having to consult her at all. Do we really expect the Department of Primary Industries and Resources to prosecute larger businesses or private corporations when hundreds of thousands (maybe even millions) of dollars worth of state exports may be affected?

As I have stated, I am a lover of animals and I am supportive in principle of legislation that will improve their welfare. However, in its present form, I am unconvinced by this bill. It is important that the government and the minister really care about animal welfare and there are no outside motivations nor are they bowing to the pressure of a radical minority to ban events such as rodeos. As time goes by in this place with legislation that I see passed that affects the average reasonable citizens of this state, it seems to be this government's favourite past-time to put in fines, penalties and whatever else it can in order to money-grab. Really this bill has nothing to do with the welfare of animals at all. It is another way for another body to money grab and, by a third party, collect lots of money from average people through a legal process, as we see with family law and child protection in this state. I link this RSPCA bill to all that because at the end of the day we all end up back in the legal system, back in the cycle and trapped, going round and round, spending thousands of our dollars protecting ourselves and trying to defend ourselves against unrealistic legislation and laws. I am unconvinced by not only this bill but the intention behind it.

Debate adjourned on motion of the Hon. R. Wortley.