

ANIMAL WELFARE AND TRESPASS LEGISLATION AMENDMENT BILL 2020

Second Reading

Resumed from an earlier stage of the sitting.

MR J.R. QUIGLEY (Butler — Attorney General) [2.52 pm] — in reply: As I explained before the adjournment for lunch and question time, both matters contained in this amendment bill come from the same rubric; that is, they both deal with the discovery and gathering of evidence in relation to animal cruelty. The opposition has failed to see this and has failed to have a balanced approach. On the one hand, it wants unlawful acts of trespass on farming properties to be more aggressively dealt with by penalties; but, on the other hand, it does not want to disturb the entirely inadequate regime of inspection of intensive farming or intensive food production. That, of course, begs the question: why not? We know that inspections at will do not in any way disrupt the food chain or the production of food, or in any other way interfere with farming practices. It cannot. An authorised inspector's entry onto a property will only facilitate inspection, not interference. However, the opposition, led by the Nationals WA in this debate, are absolutely fearful of inspections and want to neuter this bill by a bizarre attempt to amend it by deleting every clause that relates to inspection. That would be like deleting every clause in the Health Act that goes to the health of kitchens or health practices in the preparation of food.

No National member sought to draw a distinction between the two in this chamber. The member for Hillarys, who, no doubt, frequents eating establishments in Hillarys, would be comforted by the fact that the kitchens are clean and hygienic. Of course, they are clean and hygienic, because the owners of those establishments know that they are subject to inspection. We all know that when premises that are subject to inspection on health grounds are found to be inadequate or wanting, they are prosecuted from time to time. If those prosecutions are publicised, that causes severe deterrence because people can lose their businesses if the public gets to know what has been happening.

The member for Hillarys said that if the government wants to say to a top butcher or restaurateur that it is okay that their business be interrupted on a regular basis, then the government should say that so they know where the government stands. He said, “This Labor government doesn’t want to protect you”—what errant nonsense. This Labor government is increasing the penalties for trespass on intensive food production sites. A butcher or a restaurateur is already protected by laws of trespass and already has protection within the Police Act. The police can serve move-on notices. They are all protected. This is just emotional fluff to try to distract attention from the main thrust of the bill.

I was surprised by the statements of the member for Churchlands. He spoke at length about the contribution that the agricultural sector plays in our economy and that there are more than 4 000 producers in the beef industry. We all know this. What does that have to do with rights to inspect intensive farming operations? He then attacked the government on a false basis over budget allocations in the appropriation bills. He quoted Hon Dr Steve Thomas who said that this bill is disgraceful and is “engaging in victim blaming at its worst”. The member for Churchlands went on to say that Hon Dr Steve Thomas has repeatedly called for the matter to be addressed in two separate bills. We are dealing with the one matter of the inspection of intensive farming operations and we are saying that they cannot be inspected unlawfully by trespassers, but they can be lawfully inspected by Agricultural Protection Board inspectors. It is the same matter. The opposition wants to create this false dichotomy that we are dealing with two separate matters: animal welfare and trespass. It is the same matter. The trespassers are going there to inspect the conditions. They are not going there to steal the produce and eat it—far from it. They are going there to inspect the conditions. While there, some of them have committed other offences such as stealing a calf. We know that robbery and theft are very serious offences under the Criminal Code, and those serious offences have obviously deterred some of these trespassers because I notice that one of them—a notorious one; a stupid one—has now disavowed veganism, after conviction and after suffering a suspended sentence. He has disavowed veganism and has bizarrely gone so far as to say that he would eat a human corpse if it was found by the side of the road so long as he did not kill the human that formed the corpse!

Mr R.S. Love: You can see why the farmers are a bit worried about them coming on their properties, can’t you?

Mr J.R. QUIGLEY: Absolutely! That is why we are increasing these penalties. Members can also see why, having looked at the video footage, the communities are a bit worried about the intensive animal production farmers not wanting their properties to be inspected but wanting to keep what they do secret, lest someone judge that what they are doing to be cruel. No-one is trying to stop them.

Members have referred to the investigation in the other place by the committee that was looking at inspection powers, which is taking forever and will not be dealt with in this Parliament. The committee knows that that investigation will not be brought to a conclusion within this Parliament. Yet, at the same time, the opposition presses and presses this government over trespass laws. They are the same issues. It is all within the same rubric. I know the member for Roe wants to come up with this false dichotomy and say that they are completely different issues. No. They are issues about inspecting what is happening on the properties of intensive animal production. We are saying that

there will be no more trespass and there will be lawful inspection. Let us make it lawful. As the member for Moore said, we can understand why the farmers do not want trespassers on their property. I agree with the member for Moore, but I ask him: Why do those same farmers not want lawfully conducted inspectors by the Agricultural Protection Board on their properties? Why are the farmers so fearful of that? Why are they so fearful of proper, lawful inspection? We understand why they are fearful of having irrational people entering onto their properties, which is why we are increasing the penalties. We understand that some of these properties are a little bit remote from police help. We understand that; we are increasing the penalties. Why are the farmers so fearful about lawful inspection?

Mr R.S. Love: You're asking a question. Would you like a response?

Mr J.R. QUIGLEY: Absolutely.

Mr R.S. Love: I will give you the response that I gave in my speech. One reason is a genuine fear of biosecurity breaches. They want to be assured that the people coming onto their property are well and truly vetted and are not going to be bringing on board any disease risk to their property. Another reason is the lack of definition around the qualifications and abilities and experience of the persons who may be designated general inspectors. That is a genuine fear.

Mr J.R. QUIGLEY: The inspectors will go onto the property only to take video footage or to inspect or report on what they see. They are going there only to report on what they see, member.

Mr R.S. Love: It's their mere presence!

Mr J.R. QUIGLEY: That is a fig leaf of an argument! As the member knows, all sorts of people are authorised to go onto their properties, from the former State Electricity Commission to pest and weed controllers. All sorts of government employees are authorised to go onto their properties. The member comes up with these extreme, weird and irrational arguments. What the farmers do not want, and what a minority are fearful of, is the truth being exposed. That is what some of them are fearful of and that is why they do not want normal inspectors to come onto their properties and report on what they saw. One does not have to be a veterinarian to take notes of what one sees. They then report back to the department. In the appropriate cases—the very few cases—prosecutions would and should be launched.

The member for Warren–Blackwood is very cynical. He comes to this chamber and says that the inspection regime was put in this bill just to wedge the opposition. What a cynical approach to legislation it would be for a government to come here with the intent to wedge the opposition on a matter as important as this. The government comes to this chamber at the urging of the opposition to stop people unlawfully trespassing in looking for evidence of animal cruelty. We said that we will stop that with vastly increased penalties and, at the same time, facilitate proper lawful inspection. We will stop the evidence gathering that the High Court acknowledges is against the public interest and is unlawful—that is, by way of trespass—and we will supplant us with a regime of inspection at will, and that is what the farmers do not want. They do not want people to be inspected at will.

The member for Warren–Blackwood is quite wrong when he says that right now the police need a warrant to enter a premises. There are provisions under the Misuse of Drugs Act whereby the police can enter premises and provisions in the Health Act whereby inspectors can enter premises. Therefore, we will not accept any of the amendments put forward by the opposition. This chamber is presented with a fair and balanced package.

Mr P.J. Rundle: What about the improvements to the animal supply for food production?

Mr J.R. QUIGLEY: We will not accept any amendments to this legislation. What is put before the chamber is a fair and balanced package. If the opposition members want to resist this bill, they are answerable to their electorates for why they voted down a bill that would protect the sanctity of their enterprise. May it please the chamber.

Division

Question put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the ayes, with the following result —

Ayes (32)

Ms L.L. Baker	Mr W.J. Johnston	Mr P. Papalia	Ms J.J. Shaw
Mr J.N. Carey	Mr D.J. Kelly	Mr S.J. Price	Mrs J.M.C. Stojkovski
Mrs R.M.J. Clarke	Mr M. McGowan	Mr D.T. Punch	Mr C.J. Tallentire
Mr R.H. Cook	Ms S.F. McGurk	Mr J.R. Quigley	Mr D.A. Templeman
Mr M.J. Folkard	Mr S.A. Millman	Ms M.M. Quirk	Mr P.C. Tinley
Ms J.M. Freeman	Mr Y. Mubarakai	Ms C.M. Rowe	Mr R.R. Whitby
Mr T.J. Healy	Mr M.P. Murray	Ms R. Saffioti	Mr B.S. Wyatt
Mr M. Hughes	Mrs L.M. O'Malley	Ms A. Sanderson	Mr D.R. Michael (<i>Teller</i>)

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Noes (14)

Mr V.A. Catania	Mr P.A. Katsambanis	Ms L. Mettam	Mr P.J. Rundle
Mrs L.M. Harvey	Mr Z.R.F. Kirkup	Dr M.D. Nahan	Mr A. Krsticevic (<i>Teller</i>)
Mrs A.K. Hayden	Mr S.K. L'Estrange	Mr D.C. Nalder	
Dr D.J. Honey	Mr R.S. Love	Mr K.M. O'Donnell	

Pairs

Dr A.D. Buti	Mr J.E. McGrath
Ms J. Farrer	Mr W.R. Marmion
Mr K.J.J. Michel	Mr I.C. Blayney
Mr F.M. Logan	Ms M.J. Davies
Mrs M.H. Roberts	Mr D.T. Redman

Question thus passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Mr P.J. RUNDLE: As we have pointed out, we would certainly like to delete “Animal Welfare” from the short title of this bill. The main focus, as we have pointed out previously, is that these are two separate issues. One is a crime issue and one is an animal welfare issue. We have a perfect solution for the government to improve this bill and really focus it as animal activism trespass legislation, which is what the Attorney General focused on in April 2019 when he spoke about how important the issue was and said he would bring in this legislation in three to four weeks. Here we are. Linda Black and her committee are yet to report on the review of the Animal Welfare Act. The other thing that quite disturbs me is that the Attorney General has said that the animal activism part of the bill will only go through contingent on the animal welfare part, so he has not recognised that these are two totally separate issues. As far as we are concerned, there is no genuine government intent to put this bill through when it links two separate issues. The telling point here is the significance of this bill to the government. The government has listed this bill at number 16 on its list of priorities in the Legislative Council, so that shows us how important it is to the government. It is quite disappointing that it has been listed right down there at the bottom of the list of priorities.

The federal government and other state governments managed to bring in animal activism trespass legislation by around September 2019, after a strong scenario of farm maps, animal activism, people invading farms and the like. Those governments have demonstrated the ability to come up with animal activism legislation in its own right. I have said previously that we have given the government an opportunity, firstly, with the creation of the amendments we propose to move, and, secondly, with the private member’s bill, which I have already had drafted, that gives the government the opportunity to treat animal activism trespass on its own merits. We have given the government a way out there.

We are concerned about the designated general inspectors. There is no clarity about qualifications. As the member for Moore just pointed out, we are really concerned about biosecurity. We have two scenarios here. Designated inspectors will be coming onto farms and we have no capacity to understand the biosecurity implications of those people coming onto farms. The other thing that gets me is that the only qualification they need is to be an employee of the Department of Primary Industries and Regional Development. We have no vision over their qualifications or experience or the like. On our side of the house, that is a real concern. It is also a real concern to me that the idea of designated general inspectors was floated in 2017.

Mr R.S. LOVE: Madam Deputy Speaker, I would like to hear more from the member for Roe.

The DEPUTY SPEAKER: Certainly, member for Moore. Go ahead, member for Roe.

Mr P.J. RUNDLE: Thank you, member for Moore. That is much appreciated.

This idea was floated in 2017 and was rejected by industry and the majority of the parliamentary committee as not being needed because the RSPCA and DPIRD already had sufficient powers. This animal welfare part of the bill has been rejected already. No doubt, as the member for Warren–Blackwood pointed out this morning, this was discussed in cabinet as a method of running this through. Cabinet decided to join the animal welfare provisions and the animal activism provisions to see what it could come up with, and here we have it.

Linda Black is now looking at the Animal Welfare Act and designated general inspectors with her panel. As I said, on 30 January, I went to one of those public consultations in Katanning, so I am aware of what they were talking about and the pushback from our stakeholders, such as the farmers in the room, the Pastoralists and Graziers Association,

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the Western Australian Farmers Federation, pork producers, egg producers, the Green Shirts Movement, and the Australian Livestock and Rural Transporters Association. They all agree that these two provisions do not belong together. The Attorney General has smashed them together and this is what we have ended up with. The Attorney General spoke about how he had beef and pork last night and it was great.

Mr J.R. Quigley: It was! Yum!

Mr P.J. RUNDLE: As the member for Moore pointed out this morning, we already have meat inspectors in our abattoirs and knackeries. They are already being inspected. This is the plan. As I said, we have a good opportunity with these amendments to take out the animal welfare section of the bill, which does not belong there. Our further amendments that will come down the track will improve the animal activist trespass side of the bill because they will include agricultural food supply places such as restaurants, agricultural colleges and loading facilities. The Attorney General has come up with a very narrow scope for animal activist trespass of two or three places—abattoirs, knackeries and the like. He has left out what happens if an animal activist jumps on the back of a truck and tries to disturb someone who is loading stock or someone turns up to our agricultural colleges. Animal activists turned up at the Lapa Brazilian Barbecue restaurant in Subiaco the other week and messed up that restaurant's operations for the night. That is why we have amendments that we will move further down the track to improve the animal activist trespass side of the bill. That is why we are looking to delete the first section of the bill. I move —

Page 2, line 3 — To delete —

Animal Welfare and

Division

Amendment put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the noes, with the following result —

Ayes (13)

Mr V.A. Catania	Mr Z.R.F. Kirkup	Dr M.D. Nahan	Mr A. Krsticevic (<i>Teller</i>)
Mrs L.M. Harvey	Mr S.K. L'Estrange	Mr D.C. Nalder	
Dr D.J. Honey	Mr R.S. Love	Mr K.M. O'Donnell	
Mr P.A. Katsambanis	Ms L. Mettam	Mr P.J. Rundle	

Noes (33)

Ms L.L. Baker	Mr W.J. Johnston	Mr S.J. Price	Mr C.J. Tallentire
Mr J.N. Carey	Mr D.J. Kelly	Mr D.T. Punch	Mr D.A. Templeman
Mrs R.M.J. Clarke	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Mr R.H. Cook	Ms S.F. McGurk	Ms M.M. Quirk	Mr R.R. Whitby
Mr M.J. Folkard	Mr S.A. Millman	Ms C.M. Rowe	Mr B.S. Wyatt
Ms J.M. Freeman	Mr Y. Mubarakai	Ms R. Saffioti	Mr D.R. Michael (<i>Teller</i>)
Ms E.L. Hamilton	Mr M.P. Murray	Ms A. Sanderson	
Mr T.J. Healy	Mrs L.M. O'Malley	Ms J.J. Shaw	
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Ms M.J. Davies	Mr F.M. Logan
Mr D.T. Redman	Mrs M.H. Roberts
Mr I.C. Blayney	Mr K.J.J. Michel
Mr W.R. Marmion	Ms J. Farrer
Mr J.E. McGrath	Dr A.D. Buti
Mrs A.K. Hayden	Ms S.E. Winton

Amendment thus negated.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Act amended —

Mr P.J. RUNDLE: I oppose this clause. As I said previously, we could potentially treat some of these clauses en bloc. Pursuant to my previous point, I am seeking to remove the amendments to the Animal Welfare Act 2002 from this bill. Clause 3, along with several other clauses through to clause 8, could potentially be treated in this way. We could potentially move to oppose clauses 3 to 5 en bloc, as the Attorney General has an amendment on the notice paper to clause 6, and then I will oppose clauses 6 to 8.

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Mr John Quigley; Mr Peter Rundle; Mr Peter Katsambanis; Mr Shane Love

The DEPUTY SPEAKER: Member for Roe, I have an addendum to offer you. I am told that you can in fact seek leave to oppose clauses 3 to 5 cognately and we can put them to the house and see how we go, if you want to.

Mr P.J. RUNDLE: If we can for the moment, we will treat clause 3 on its own.

The DEPUTY SPEAKER: The question is that clause 3 do stand as printed.

Division

Clause put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the ayes, with the following result —

Ayes (33)

Ms L.L. Baker	Mr W.J. Johnston	Mr S.J. Price	Mr C.J. Tallentire
Mr J.N. Carey	Mr D.J. Kelly	Mr D.T. Punch	Mr D.A. Templeman
Mrs R.M.J. Clarke	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Mr R.H. Cook	Ms S.F. McGurk	Ms M.M. Quirk	Mr R.R. Whitby
Mr M.J. Folkard	Mr S.A. Millman	Ms C.M. Rowe	Mr B.S. Wyatt
Ms J.M. Freeman	Mr Y. Mubarakai	Ms R. Saffioti	Mr D.R. Michael (<i>Teller</i>)
Ms E.L. Hamilton	Mr M.P. Murray	Ms A. Sanderson	
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Noes (13)

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Mr K.J.J. Michel	Mr I.C. Blayney
Ms J. Farrer	Mr W.R. Marmion
Dr A.D. Buti	Mr J.E. McGrath
Ms S.E. Winton	Mrs A.K. Hayden

Clause thus passed.

Clause 4 put and passed.

Clause 5: Section 35A inserted —

Mr P.J. RUNDLE: As I pointed out previously, there are some serious issues with designated inspectors. Will the Attorney General provide an example of a scenario in which the designated inspector will be appointed by the director general of the Department of Primary Industries and Regional Development, and the qualifications and abilities of those inspectors? We could potentially be looking at a scenario in which a 21 or 22-year-old graduate from the University of Western Australia, with absolutely no experience in the livestock industry, could wander onto someone's farm. I am curious about the Attorney General's level of comfort that that could occur.

Mr J.R. QUIGLEY: As is the case for all positions in the department, the processes ensure that inspectors are appropriately skilled for the position to which they are employed through targeted recruitment and training. This is achieved by recruiting individuals who have experience or knowledge of animal husbandry and then training inspectors in the operation of the relevant legislation and supporting inspectors in obtaining a certificate for qualification in investigations.

Mr P.A. KATSAMBAKIS: Very quickly, I want to put this on the record so there is absolutely no doubt about the Liberal Party's position. Like the member for Roe, we do not accept the Attorney General's attempt to justify merging two completely unrelated concepts. During the second reading debate, I spent a fair bit of time explaining that the animal activists we are dealing with in the second part of the bill are not concerned about good quality animal husbandry and the health and welfare of animals during the animal production process. The activists are opposed to the eating of animals by humans; they are fully opposed to any form of production of animals for human consumption. They are totally unrelated concepts.

As I pointed out in my second reading contribution, a review is presently being undertaken into the Animal Welfare Act. The government's amendments—this the second time it has attempted to make very similar amendments during this

term of Parliament—have been brought forward before the ministerial review panel has had a chance to report to the minister, let alone before the minister has had a chance to consider the details. The government is putting the cart before the horse—pardon the pun. It is not good legislative practice and it is not a good way of making public party policy. At the very least, the Liberal Party would have expected the government to wait until it received the report that it commissioned. The Minister for Agriculture and Food, not the minister at the table, ought to have waited to receive the report that she commissioned. Then we could have had an argument and debate on the recommendations of the report and any recommendations or other changes that the government wanted to advance. That would be best practice. We ask the government to reconsider, even at this late stage, its support for these clauses because they are unrelated to the other part of the bill, which relates to criminal conduct by people who are not so much concerned about how carefully and how well animals are being produced; they do not want them there at all. They are two completely different concepts. The very fact that they have been merged into one bill rings alarm bells. That is why we are scrutinising them carefully.

As members of the Liberal Party and the Nationals WA have pointed out, we think it is the wrong way to go. The government obviously does not accept that, so we will let it lie. Just so there is absolutely no doubt where we stand, we do not believe that these amendments to the Animal Welfare Act ought to appropriately be included with amendments to the Criminal Code and the Restraining Orders Act to start with. Even if it was worthwhile bundling them together in an omnibus bill, that bill should only have been introduced after the ministerial review panel had an opportunity to finalise its report and deliver it to the minister. Of course, we did not want to wait that long, which is why we said all along, “Bring the Criminal Code and the Restraining Orders Act provisions in separately.” The government knows that it should have introduced them last year. It could not get them through cabinet in any meaningful form without this stuff tacked on. It was a quid pro quo to satisfy a political fix within its own party. We understand that. All political parties are a bit the same. This is the government’s baby. The government owns this legislation and it owns the methodology it has used. It is the wrong methodology. The people who will be most affected by this will remember it because the government has not done the right thing by anybody. It has delayed the introduction of the important amendments to the Criminal Code and Restraining Orders Act, to start with, and then it has brought in these other unrelated concepts by stealth and wants us to pass them. It is, effectively, holding a gun to our heads and saying we cannot get one without the other. We do not accept that.

Mr R.S. LOVE: I am not sure whether the Attorney General is going to respond to any of the inquiries being put. I ask him directly to respond to a question that I am about to put. Can the Attorney General, through the advisers, please advise me, my constituents and the wider public of the exact requirements for these staff members of the Department of Primary Industries and Regional Development? Our concern is that the Department of Primary Industries and Regional Development is no longer the department of agriculture, as it once was. It is a very broad department. It may have all sorts of staff. I know that staff members who used to be deeply involved in the department of agriculture are now heavily involved locally in some of the regions that I am aware of, and they have become more involved in regional development. I am wondering whether there are crossovers to and fro by people who used to be involved in regional development and have now taken a bit of a position in agriculture.

I want some reassurance from the minister, please, through his advisers and departmental staff, that there will be minimum training requirements for these general inspectors relating to etiquette and understanding the importance of biodiversity, which, as I pointed out in my second reading contribution, we should be all well aware of given the current circumstances of the pandemic. That alone is a concern for people when people come onto their properties uninvited. People want some assurance that these people do not have a hidden political agenda, but that they are skilled, understand the livestock industry and perhaps have some background in the veterinary or production process of agriculture. We do not want people who happen to be geographers or economists venturing out and putting themselves forward as inspectors, charged with the zeal of ensuring animal welfare, without the requisite knowledge of animal livestock production and the fit and proper way to treat animals. Not all animals are friendly pets. I know some people get upset, even members in this chamber, about what happens to animals during production processes at a base level. The point is that we are talking about the production of food in most circumstances. We are not talking about the way we would treat our pets. Nobody likes to see the inhumane treatment of animals but we want to be assured that the people who will come to these places will have the necessary skills and background to know what it takes to run an efficient and humane commercial production system.

Mr J.R. QUIGLEY: As is the case with all positions in the department, processes exist to ensure that inspectors will be appropriately skilled for the position in which they will be employed through targeted recruitment and training. This is achieved by recruiting individuals who have experience or knowledge of animal husbandry, training inspectors in the operation of the relevant legislation and then supporting them to obtain certificate IV qualifications in investigations.

Mr R.S. LOVE: I return to the point I made in that request. Given the sharp focus on disease and infection control, we have seen how the social distancing techniques, for instance, that have been used by the wider community have cut down the spread of flu. We know that the way people interact with the environment and then with another

organism, be it a human being or an animal that has been used in the production system, is a point of risk because the human may be carrying a disease or they may contract a disease from an animal or a place and then take that to another place.

For instance, an inspector might decide to hop in their car and go to Gingin and inspect all the egg farms in Gingin. There are loads of them so it would probably take them a week. They might move from one farm to another in an inappropriate manner, not checking their vehicles or themselves properly and not following all the strict hygiene procedures. Members should bear in mind that they are also visiting unannounced, so they are not going through the normal process of coming in through the front office and being asked whether they have washed their feet and donned the necessary protective equipment before entering the hatchery or the egg-laying roosts where there might be 100 000 birds.

The commercial risks and the risks to health are enormous. We know that pathogens can pass from animals to humans; we know that from COVID-19. It is not unheard of. I believe that there is an outbreak of Avian bird flu in Victoria at the moment. These issues are real, important and worrying for people who have sometimes invested millions of dollars in infrastructure and livestock and whose farms are critical to our food supplies. Imagine if we lost all the egg hatcheries in Gingin; there would be no eggs on supermarket shelves. Even now at times there have been very few eggs on the shelves in Coles and Woolies. I can assure members that if those egg production areas went out, there would be not only a statewide shortage of eggs, but also a national shortage. This is critical to our food security; it is not just about farmers. This is where the Attorney General and the government have got it completely wrong. This is about the protection of food security for our nation. I want an assurance that these inspectors who are coming onto these places will be properly skilled and have an understanding of all these matters that I have just spoken about—biosecurity and the appropriate mechanisms. If they are moving from one intensive farming system to another, they are the biggest risk for the spread of disease in that area. I want to be sure that they are not going to bring disease into the area.

Mr J.R. QUIGLEY: For the operation of the relevant legislation, inspectors will be supported to obtain certificate IV qualifications in investigation, including training in biosecurity risks associated with unannounced inspections. This will be managed through adherence to strict biosecurity protocols and procedures in which all inspectors employed by the Department of Primary Industries and Regional Development are trained and competent.

Mr R.S. LOVE: Are the advisers willing to furnish those protocols? Are they written out or are they to be devised following the potential passage of this legislation?

Mr J.R. QUIGLEY: Training in the protocols is part of their certificate IV training and intradepartmental training and will be adhered to.

Mr R.S. LOVE: I am not satisfied with that answer. The Attorney General mentioned that there are protocols. Are those protocols in place now or will they be developed if this legislation passes?

Mr J.R. QUIGLEY: Protocols are in place now for announced inspections. Once this legislation passes, further protocols will be developed, which the member will be able to access.

Mr R.S. LOVE: I take it then that we have no protocols at the moment for unannounced inspections. As I explained during my earlier contribution, there are differences between making an announced visit in which an inspector goes through the normal protocols of that company or establishment, and coming onto a place unannounced without knowing the circumstances of that facility. It concerns me greatly that people will be coming onto facilities and not be familiar with their layout. They might not be familiar with the industrial risks to not only themselves, but also others and the animals involved.

It is pretty clear that this has not been thought through. It is incumbent on the government to furnish the Parliament with further information. If this bill progresses to the other place, I suggest that the Attorney General have those protocols ready so that members can examine exactly what will be required of inspectors when they enter unannounced to a wide variety of places. We are talking about intensive farm production centres as well as industrial processing places—knackeries, abattoirs and the like—in which dangerous processes are undertaken. There are onsite dangers to the workers, the inspectors and the animals, but also health dangers to the inspectors and the wider human population and animals involved. This is not kids play. This is very important stuff and a lot more work needs to be done before members of my party will feel assured that this has been done in anything other than a rushed manner.

Division

Clause put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the ayes, with the following result —

Extract from Hansard
[ASSEMBLY — Thursday, 17 September 2020]
p6166c-6183a
Mr John Quigley; Mr Peter Rundle; Mr Peter Katsambanis; Mr Shane Love

Ayes (33)

Ms L.L. Baker	Mr W.J. Johnston	Mr S.J. Price	Mr C.J. Tallentire
Mr J.N. Carey	Mr D.J. Kelly	Mr D.T. Punch	Mr D.A. Templeman
Mrs R.M.J. Clarke	Mr M. McGowan	Mr J.R. Quigley	Mr P.C. Tinley
Mr R.H. Cook	Ms S.F. McGurk	Ms M.M. Quirk	Mr R.R. Whitby
Mr M.J. Folkard	Mr S.A. Millman	Ms C.M. Rowe	Mr B.S. Wyatt
Ms J.M. Freeman	Mr Y. Mubarakai	Ms R. Saffioti	Mr D.R. Michael (<i>Teller</i>)
Ms E.L. Hamilton	Mr M.P. Murray	Ms A. Sanderson	
Mr T.J. Healy	Mrs L.M. O'Malley	Ms J.J. Shaw	
Mr M. Hughes	Mr P. Papalia	Mrs J.M.C. Stojkovski	

Noes (12)

Mr V.A. Catania	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr K.M. O'Donnell
Dr D.J. Honey	Mr S.K. L'Estrange	Dr M.D. Nahan	Mr P.J. Rundle
Mr P.A. Katsambanis	Mr R.S. Love	Mr D.C. Nalder	Mr A. Krsticevic (<i>Teller</i>)

Pairs

Mr F.M. Logan	Ms M.J. Davies
Mrs M.H. Roberts	Mr D.T. Redman
Mr K.J.J. Michel	Mr I.C. Blayney
Ms J. Farrer	Mr W.R. Marmion
Dr A.D. Buti	Mr J.E. McGrath
Ms S.E. Winton	Mrs L.M. Harvey

Clause thus passed.

Clause 6: Section 36A inserted —

Mr J.R. QUIGLEY: I move —

Page 5, lines 2 to 6 — To delete the lines and substitute —

production, any animals involved in the production do not have an opportunity to graze or forage outside.

The government has determined that it is appropriate to amend the bill to delete the regulation-making power in the definition of “intensive production” at clause 6, which seeks to insert clause 36A into part 4 of the Western Australian Animal Welfare Act 2002. The definition currently states —

intensive production means an activity that is carried out at an animal source food production facility during which, in the ordinary course of animal source food production, any animals involved in the production —

- (a) do not have an opportunity to graze or forage outside; or
- (b) are stocked at a density exceeding that prescribed in the regulations;

During the winter recess, departmental officers with responsibility for the bill briefed the National and Liberal Parties. The National Party raised a number of valid concerns that the regulation-making power could potentially be used to prescribe a stocking density that may be too low and is inconsistent with industry-recognised standards or codes and would not ordinarily fall within the scope of “intensive production”. As I have outlined previously, the proposed new inspection powers set out in part 2 of the bill have been narrowly targeted at intensive production places to complement the new aggravated trespass offence in part 3 and ensure a balanced approach to these complex intersecting issues of trespass and animal welfare. The government recognises and accepts the concerns raised by the National Party and has elected to remove that regulation power from the bill to ensure that the definition of intensive production is appropriately narrow and can be easily understood by industry.

Mr P.J. RUNDLE: We are pleased that the Attorney General has brought that in after our briefing. We were really concerned about the regulation-making ability in the bill. In the sheep industry, we talk about 10 sheep to the acre. That is 10 DSE—dry sheep equivalents. We were concerned about the ability for the minister to slap in a regulation that said, “Five DSE is considered intensive production”, and capture all potential sheep producers with this legislation. I am glad the Attorney General and his advisers have taken that on board. That gives us some assurance.

I would like to give the Attorney General an example of something I am still concerned about, and I would like his response. When there is a break in the sheep farming season, we have what is called deferred grazing. Three-thousand sheep might need to be moved while farmers wait for the grass to grow after the first rains or for the clover to grow out in the paddocks. Those sheep are moved into what is called deferred grazing pens. There

might be four pens comprising four acres of land in each, with 750 sheep in each. Can the Attorney General provide assurance that those sheep in that deferred grazing scenario would not be captured under this legislation?

Mr J.R. QUIGLEY: Any animals confined, not in the ordinary course of food production but in sheds for crutching or whatever, are not captured within the bill. The bill states that within the ordinary course of animal source food production, any animals involved in the production do not have an opportunity to graze or forage outside—they clearly do; they are in the shed temporarily.

Mr P.J. RUNDLE: We have consulted quite a bit with commercial egg producers. They say, like most of our other stakeholders—in fact nearly all of our other stakeholders—that this legislation does not tie in. There is a crime issue on one hand and an animal welfare issue on the other. Be that as it may, can the Attorney General advise, especially our free-range egg producers, how the place where they keep their poultry and the like will be treated and will they be captured amongst this scenario that will be put in place?

Mr J.R. QUIGLEY: The first test is that it has to be a commercial food production site—not just the farmers' chooks outside, but a commercial food production site—and that those chickens, piglets or whatever do not have an opportunity to graze or forage for food outside. It is simple.

Mr P.J. RUNDLE: Is the Attorney General confirming that every free-range egg producer's chickens will have the ability to go outside and peck a little bit of grass —

The ACTING SPEAKER (Ms M.M. Quirk): Or cross the road, member!

Mr P.J. RUNDLE: — and they will not be captured under this definition?

Mr J.R. QUIGLEY: That is plain; they have an opportunity to graze or forage outside.

Mr R.S. LOVE: In earlier answers to the member for Roe, the Attorney General said, "It's not just a farmer who has a few chooks outside; it has to be a commercial operation." If it is a commercial operation and the chooks outside are numerous in number—for instance, a property that might have 300 000 or 400 000 birds housed in sheds, which have outside access to graze—are they captured or not captured by this legislation? In other words, are they considered intensive or not? The chooks are outside, but there are more than a few chooks.

Mr J.R. QUIGLEY: If they are outside, they are outside—they are foraging; not captured.

Mr R.S. LOVE: That would exempt all free-range egg production facilities in Western Australia from this legislation, and also all free-range pork production facilities in Western Australia would be exempt from the provisions of this part of the legislation.

Mr J.R. QUIGLEY: They are not in sheds; they are outside. There must be an opportunity for those animals "to graze or forage outside". If there is nothing outside for those animals to graze or forage on, they do not come within the exemption. If there is just a sand patch outside and there is no food, they are not within the exemption. But if they are able to go outside and squirrel or bog around for food, they are not caught. This is very liberal legislation—I do not mean "liberal" in a political sense. It is very liberal in the sense that we are only seeking —

Mr Z.R.F. Kirkup interjected.

Mr J.R. QUIGLEY: Lower case as opposed to low rent! We are only seeking to capture those intensive food production places where the animals are wholly reliant upon humans attending to supply their food source—they do not have the opportunity, if they are hungry, to forage and get something to eat.

Mr P.J. RUNDLE: I have an example to put to the Attorney General and I think it could be a very interesting answer. I notice Dr Bruce Mullen is in the Speaker's gallery. The Western Australian Meat Marketing Co-operative Limited has an abattoir in Katanning. If WAMMCO buyers go down to the Katanning saleyard and purchase, let us say, 2 000 sheep at the Wednesday sale, and bring those sheep back to the holding yards at the WAMMCO abattoir, where there is 30 or 50 hectares of irrigated land with grass, and those sheep graze on the grass outside, does that mean that WAMMCO would not come under this legislation?

Mr J.R. QUIGLEY: That is an abattoir; it is not an intensive food production place. The definition of "abattoir" states —

- (a) means any place used for or in connection with the slaughtering of animals for sale for human consumption; and
- (b) includes a holding yard or other place used for or in connection with the slaughtering of those animals;

Therefore, the holding yard outside the slaughterhouse is included in the definition of "abattoir".

Mr P.J. RUNDLE: I understand what the Attorney General is saying about the holding yard, because there will be the lairage—the animals kept on boards. But in this case, sheep could be held in the grazing paddock outside the abattoir and in the lairage for up to four weeks. We need some clarity on that. Does the Attorney General's

amendment mean that WAMMCO will not be covered by this legislation because those sheep are grazing and foraging on grass?

Mr J.R. QUIGLEY: I can clarify that. They will be able to be inspected; they are in the holding yard of the abattoirs.

Mr P.J. RUNDLE: Can the Attorney General assure me whether WAMMCO will be included or will not be included in the definition here?

Mr J.R. QUIGLEY: From what the member has described, a holding yard adjacent to a slaughterhouse abattoir is included. I am not here at the ministerial table to give advice to a particular company whose site I have not visited. It is simple. If the sheep are contained in a yard, which is the holding pen or the holding yard for the abattoir where sheep are delivered to and held prior to slaughter, it does not matter for how long—that is where they are held—they fit within the definition.

Mr P.J. RUNDLE: I do not consider 40 or 50 hectares of grass on which those sheep can graze for three to four weeks to be a holding yard. It is a place where they are also fed hay and other substitutes to keep them in condition for slaughter. I think in this case, Attorney General, my interpretation is that the likes of a WAMMCO are not included in this.

The ACTING SPEAKER: Member, I think the Attorney General has responded—or he has more to say.

Mr J.R. QUIGLEY: As I said, I am not here at the ministerial table to give legal advice for any particular company. However, I will repeat: an “abattoir” includes “a holding yard or other place used for or in connection with the slaughtering of those animals”.

Mr R.S. LOVE: The member for Roe has done a very good job of articulating a couple of different scenarios. What we are about here is not seeking legal advice, minister, but certainly an explanation for the community and the industry as to what and who can be expected to be subject to these inspections. I go back to the situation of broadacre agriculture for a moment. Many farmers have a small area on their properties where they may keep a small number of livestock in a feedlot for a few weeks while they are being prepared for final sale. They might finish them off for 40 days or so in a yard. If that is the case, does that render that particular part of a property an intensive food production area? If there is an intensive food production area on that part of the property, does it expose the whole of that property to random inspections?

Mr J.R. QUIGLEY: They will be caught in the ordinary course of production. If it is intensive farming in the ordinary course of production of food for human consumption, then they will be subject to inspection.

Mr R.S. LOVE: The second part of the question was: if that part of the property, which has the small yard or feedlot or shed or whatever it is that the animals are housed in, is caught by this legislation, would the legislation capture the rest of the farming operation as well?

Mr J.R. QUIGLEY: The place where the intensive production is being carried out can be inspected. That is plain from the bill. That does not mean to say that an inspector can inspect everywhere. They can inspect the place where the intensive production is being carried out. They cannot inspect the farmer’s backyard or his paddock if there is no intensive production there. Stop playing semantics and taking up the chamber’s time all afternoon. The object of the bill is to allow for the inspection of intensive food production areas. Members can come up with all sorts of scenarios; I will keep rising to give the same answer.

Mr R.S. LOVE: The Attorney General answered the member for Roe’s earlier question about deferred grazing. Deferred grazing is the practice of taking sheep on a broadacre property and locking them into a confined space to allow the pasture to grow across the rest of the property or to avoid soil degradation. In the eastern states during this drought period, some properties have had animals in confinement for months, seasons or even years while they wait for the rain to come, so that the animals do not destroy the land by walking all over it when there is absolutely no food on it. The animals are in a confined space. They are entirely reliant upon food and water being delivered by the farmer. Ordinarily, the animals would be kept in a paddock, but during the drought, they are confined in a tight place. Are those farms, then, rendered subject to this legislation?

Mr J.R. QUIGLEY: If the area is part of a property where there is intensive raising of animals in the ordinary course of commercial food production, it could be subject to inspection.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: Section 37 amended —

Mr P.J. RUNDLE: My question is about our concerns and our constituents’ concerns about the ability of these general inspectors to monitor compliance. In the debate on the previous clause, we talked about places of intensive production, including abattoirs and knackeries, but we did not talk about the definition of somewhere

like WAMMCO, which I will go back to again and again. WAMMCO has a combination of grazing activity and an abattoir next door. Is the Attorney General comfortable with the function of our general inspectors going into this sort of place? What does the Attorney General think will happen if one of the Department of Primary Industries and Regional Development's inspectors—a young person who has done a certificate IV course, which to me does not really give them a qualification to be a designated general inspector—into that abattoir at Katanning, which has a large area of grazing next door, and that abattoir says that it does not come under the act? What will happen?

Mr J.R. QUIGLEY: If they seek to exclude an inspector from inspecting an area or an abattoir where there is intensive commercial food production, they will be breaking the law.

Mr P.J. RUNDLE: I think that under the current scenario, the general manager of WAMMCO could put a very strong case that he was not breaking the law because he has 2 000 sheep outside grazing on 40 hectares, and later on the sheep will move through the holding yards and the like. There is a combination of both; therefore, under the law, I think the general manager would have a strong argument that his business is excluded.

Mr J.R. QUIGLEY: This is about the right to inspect. If the inspector forms the view that the area is a holding yard attached to an abattoir, or another place attached to an abattoir, he or she will exercise their right to enter the property and inspect it. I hope I have made that clear. If it is a yard attached to an abattoir, the inspector has to have the right to inspect. In the bill, the definition of an “abattoir” reads —

- (b) includes a holding yard or other place used for or in connection with the slaughtering of those animals;

If the inspector forms that reasonable view, he will have the right to inspect. He will not be a trespasser.

Clause put and passed.

Clause 8: Section 38 amended —

Mr R.S. LOVE: A moment ago, the Attorney General referred to this clause when he said that clause 8 gives a person the power to inspect. Clause 8 inserts proposed section 38(1A), which states —

In addition, a designated inspector may, for the purpose of carrying out the function referred to in section 37(1)(aa), enter at any time any of the following places —

- (a) if the inspector believes, on reasonable grounds, that a place is an intensive production place — the place;
- (b) an abattoir;
- (c) a knackery.

The inspector does not have to be absolutely certain. The property does not have to be advertised as a feedlot or that it is carrying out the business of a knackery or an abattoir. I know the Attorney General is reluctant to give legal advice, but could he explain what is necessary for the inspector to form a view “on reasonable grounds”? What grounds are reasonable in various circumstances? Can the Attorney General give some idea of what he means when he talks about the inspector trying to form an opinion? As I understand it, this proposed subsection will give the inspector the power to inspect a property and to confirm that the property is being used for that purpose. Perhaps I will just ask that question for a start: does this proposed subsection confer power upon the inspector to inspect a property that is not known to be an abattoir, a knackery or an intensive production place, but which they reasonably suspect might be, for the purpose of confirming that that activity is being carried out?

Mr J.R. QUIGLEY: Correct! The court always interprets “reasonable belief” objectively—that is, would a reasonable person, observing what they saw, come to a reasonable suspicion or belief that the place is an abattoir? Proposed section 38(1A) states, in part —

- (a) if the inspector believes, on reasonable grounds, that a place is an intensive production place — the place;
- (b) an abattoir;
- (c) a knackery

If the inspector comes to the belief that the place is an intensive production place, they can enter. If it is an abattoir, they can enter. If it is a knackery, they can enter. If they come to a reasonable belief that the place is used for intensive food production, they can enter.

Mr R.S. LOVE: I thank the Attorney General for that answer. Just getting back to the case of broadacre agriculture, or even a pastoral enterprise for that matter, when there might be a suspicion that there is perhaps an area on that property where sheep or cattle are penned and being fed as part of the ordinary production of food, as

the Attorney General outlined before, will that give the designated inspector the right to enter and inspect all the property to try to find an area where these animals in his or her view may be confined? In the case of a pastoral enterprise, for instance, which might be spread over hundreds of thousands of hectares, will there be any limits to what is reasonable in that inspection process? Even on a farm that might be 20 000 to 30 000 acres, how limited will this power be to inspect on what may be reasonable grounds that there is a small area on that large property being used for intensive production?

Mr J.R. QUIGLEY: Reasonable suspicion will not suffice. There has to be a reasonable belief. The person has to be seized of a belief, not a suspicion, and that reasonable belief has to be based on objective fact. That objective fact will have to require the inspector to be of the reasonable belief that at that place, at that locale, intensive production is occurring.

Clause put and passed.

Clause 9 put and passed.

Clause 10: Section 70A amended —

Mr P.J. RUNDLE: Just for clarity, because this is quite a lengthy section, after other members have had the opportunity, my intention will be to move my amendments en bloc. I would like to run through a few things about clause 10. We have identified some opportunities to improve the bill. I believe the animal trespass activism side of this bill is too narrow. I will put these amendments together to improve the Attorney General's bill. The first part of it is about inserting hobby farms.

The ACTING SPEAKER: Member, before you go on, you need to seek leave to move the amendments en bloc.

Mr P.J. RUNDLE: I am not moving the amendments yet; I am just speaking prior to that.

The first part of my amendment will be the hobby farm section, which would improve the bill, because I believe there are scenarios in which people who have hobby farms that run a few sheep, cattle and goats et cetera do not always adhere to all the practices that should be seen in the world of animal welfare and the like. The real key to the amendments that I will move down the track are the two areas that we call "animal source food supply", which covers the processing, transport, distribution, marketing, promotion, storage, sale or supply of animal source food or of by-products of animal source food production, or the provision of education or training in animal source food production, the likes of agricultural colleges and so forth.

The other part, which I am surprised the Attorney General has left out—quite frankly, I cannot understand it—is an "animal food source supply place" such as a livestock market or saleyard, a port at which animals or animal source food are handled, or a road train assembly area at which animal or animal source food are handled. We have had activists climbing over the back of trucks when they are trying to load those sheep, cattle, pigs and the like. That provision also means a warehouse store, shop, restaurant, cafe or other place at which source food or by-products of animal source food production are stored, distributed or sold; a school or college providing education in animal source food production; and a place at which an animal agricultural show is conducted.

In keeping with the private member's bill that I have had prepared and drafted, we will try to improve the Attorney General's bill because it is too narrow, and if he has an intent to improve animal activism trespass legislation, this is his opportunity to agree with our amendments. This is a real opportunity. With my amendments I have tried to cover all those other places that the Attorney General has left out. The classic example is the restaurant in Subiaco that was hung out to dry the other week with those people who booked those tables. I would love the Attorney General's comments on why he has left animal source food supply and animal food source supply places out of this legislation.

Mr J.R. QUIGLEY: Normal trespass laws are in place in the Criminal Code. They are adequate. If someone trespasses at a house, there are laws that are adequate. The bill aims, in a laser-like way, at intensive food production places such as abattoirs and knackeries, where inspectors ought to be allowed to visit. The member said that that restaurant was hung out to dry. No offence was committed. People are allowed to go into restaurants and complain about the food or have other people go in there with disabilities yelling or something like that; it is not an offence. If someone breaks into a restaurant, they have committed a burglary. If someone refuses to leave a restaurant on reasonable grounds, they are a trespasser. There are laws. We do not need to try to have aggravated offences in relation to these matters. They are aggravated offences for those protesters, those activists, who seek to trespass on the areas described in the clause. The very thing that drew the member's attention to all this was when James Warden and others started their activities of trespassing for the purposes of interfering with intensive food production.

We are not going to widen it any further than that. We have no intention of doing so. Next, the member will be putting his own home at risk. If he held a Nationals WA fundraiser at home where he supplied food and someone

did not like it, his own home would be at risk. We are not interested in that. The bill is amply wide enough and is aimed at the problem that was identified.

Mr P.J. RUNDLE: The Attorney General talked about his laser-like legislation. I think he has dropped the ball here. Many elements of the food supply chain will be unprotected, including livestock markets and saleyards, such as Muchea Livestock Centre or Katanning Saleyards. These are the sorts of places that need protection from animal activists. The Attorney General's "laser-like" legislation will leave just about the whole food supply chain with no protection. In this legislation, there is no protection for places such as butchers and the like, where people are coming in to protest and roll around on the floor and all the rest of it. I believe that the Attorney General has left areas out, including the likes of livestock loading areas. A truckie might be there loading sheep and someone might try to hassle them or stop them from loading the truck. It is appropriate that this legislation should protect that type of place. I would like the Attorney General to comment on why places like saleyards, loading areas and butchers have been left out.

Mr J.R. QUIGLEY: I do not understand. I have already said that. It is already against the law. Laws are already in place. If those trucks are on a farm of intensive food production, those people will be captured by aggravated trespass. There has been no cry or demand in this chamber for increased penalties for trespass. There are already adequate penalties. For heaven's sake! We are not dealing with aggravated burglary or breaking and entering. We are dealing with someone who unlawfully enters upon someone else's property without the accompanying circumstances of breaking and entering or burglary. There is enough there already.

Mr P.J. RUNDLE: Why are we even including abattoirs and knackeries et cetera if there is enough legislation in place already to cover those?

Mr J.R. QUIGLEY: Those places have been attracting activists who disrupt the food supply chain. This government will not stand for it so we are increasing the penalties to protect those who are conducting necessary parts of our food supply chain by creating an aggravated penalty. As I said in my reply to the second reading debate, in deterring those people from going to those places, on the flip side, we will enhance powers of inspection.

Mr P.A. KATSAMBAKIS: Just to make this clear, the Liberal Party supports clause 10 and all of parts 3 and 4. Part 3 increases penalties in a narrow range of circumstances. However, as the member for Roe has stated, we are concerned at its narrow construction. There has been an outcry for these aggravated trespass penalties to extend beyond farms and animal source food production places that are listed in this bill and the government has simply chosen not to include those other premises in the legislation. The amendments that have been foreshadowed on the notice paper by the member for Roe clearly extend that to a wider range of premises where trespassers will be subject to these new aggravated trespass penalties. I think that they are appropriate, given that even the Attorney General himself discussed concerns around butcher shops, restaurants, supermarkets and many other places that have been targeted. The range of places that are included in the foreshadowed amendments cover a wider area to include livestock markets, saleyards, ports, road train assembly areas, warehouses or a place at which an agricultural show is conducted.

The Attorney General rightly says that there are other laws. Those laws include the law of trespass. If someone is told to get off a person's property now and does not get off, they are a trespasser. That is exactly the same law the government is using in relation to farms and dairy farms. The government is saying that if someone is told to get off a person's farm or dairy farm and does not get off, they are an aggravated trespasser. That is what the government is saying. We are saying that should be extended to this other group and beyond this narrow construction. Otherwise, the government will just shift the problem around in the food supply chain. I think the amendments that have been foreshadowed—I assume that they will be moved at some point—are well calibrated to deal with that issue.

I again make it clear that we support parts 3 and 4. That is the government's response to making things a little bit tougher. If we were in government, perhaps we would have constructed it differently and made it a little tougher. We simply think that the government's construction is narrow and can be broadened and the amendments on the notice paper are one way of broadening them.

Mr J.R. QUIGLEY: The opposition had eight and a half years to broaden them and did not broaden them by one millimetre. We will not broaden them. There are three reasons the measures proposed in this bill do not apply to restaurants and similar enterprises. Firstly, farming properties are typically located in regional or rural areas and are therefore more isolated than restaurants and similar enterprises. We are not covering, as the member suggested, farms; we are covering only intensive food production. Secondly, trespass onto those places does not involve the same biosecurity —

Mr P.A. Katsambanis interjected.

The ACTING SPEAKER: Member for Hillarys, that is disorderly!

Mr J.R. QUIGLEY: We are covering trespass onto farms in rural and regional areas, which are therefore more isolated than restaurants or similar enterprises. Secondly, trespass onto these places does not involve the same biosecurity risks as trespass onto farming properties. This is because trespass onto farming properties and other places that house live animals poses the risk of spreading pests and disease between animals and properties that can have a serious impact on animal welfare, production and market access. Animal products held at restaurants do not pose the same biosecurity risk. Thirdly and finally, including these types of places in the proposal would heighten the risk of unintended impacts on vulnerable people, such as people experiencing homelessness, who may trespass on such properties for a range of reasons unrelated to the purpose of this proposal and, therefore, are not intended to be captured by this bill. It is for those reasons that the government does not and will not accept the member's amendments to the trespass aspects of this bill.

Mr P.J. RUNDLE — by leave: I move —

Page 7, lines 7 and 8 — To delete the lines and substitute —

abattoir —

- (a) means any place used for or in connection with the slaughtering of animals for sale for human consumption; and
- (b) includes a holding yard or other place used for or in connection with the slaughtering of those animals;

Page 7, after line 26 — To insert —

- (d) a hobby farm;

Page 7, after line 26 — To insert —

animal source food supply means any of the following activities carried out at an animal source food supply place —

- (a) the processing, transport, distribution, marketing, promotion, storage, sale or supply of animal source food or of by-products of animal source food production; or
- (b) the provision of education or training in animal source food production;

animal food source supply place means —

- (a) a livestock market or saleyard;
- (b) a port at which animals or animal source food are handled;
- (c) a road train assembly area at which animals or animal source food are handled;
- (d) a warehouse, store, shop, restaurant, cafe or other place at which animal source food or by-products of animal source food production are stored, distributed or sold;
- (e) a school or college providing education in animal source food production;
- (f) a place at which an agricultural show is conducted;

Page 8, line 29 to page 9, line 19 — To delete the lines and insert —

interfere with, in relation to animal source food production or animal source food supply, includes any of the following —

- (a) negatively impact biosecurity, as defined in the Biosecurity and Agriculture Management Act 2007 section 6, in relation to the animal source food production or animal source food supply;
- (b) create a risk to the welfare, safety or health of an animal involved in the animal source food production or animal source food supply;
- (c) in the course of the animal source food production or animal source food supply — create a risk to the integrity or safety of meat, eggs or dairy products;
- (d) release an animal involved in the animal source food production or animal source food supply, or cause it to escape, from an animal source food production place or an animal source food supply place, or from an enclosure at such a place;
- (e) destroy, damage, steal or otherwise interfere with property used in the animal source food production or animal source food supply;

Page 9, lines 20 and 21 — To delete the lines and substitute —

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Mr John Quigley; Mr Peter Rundle; Mr Peter Katsambanis; Mr Shane Love

knackery —

- (a) means any place used for or in connection with the slaughtering and processing of animals for sale for animal consumption; and
- (b) includes a holding yard or other place used for or in connection with the slaughtering and processing of those animals;

Division

Amendments put and a division taken, the Acting Speaker (Ms M.M. Quirk) casting her vote with the noes, with the following result —

Ayes (12)

Mr V.A. Catania	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr K.M. O'Donnell
Dr D.J. Honey	Mr S.K. L'Estrange	Dr M.D. Nahan	Mr P.J. Rundle
Mr P.A. Katsambanis	Mr R.S. Love	Mr D.C. Nalder	Mr A. Krsticevic (<i>Teller</i>)

Noes (30)

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Pairs

Ms M.J. Davies	Mr F.M. Logan
Mr D.T. Redman	Mrs M.H. Roberts
Mr I.C. Blayney	Mr K.J.J. Michel
Mr W.R. Marmion	Ms J. Farrer
Mr J.E. McGrath	Dr A.D. Buti
Mrs A.K. Hayden	Ms S.E. Winton
Mrs L.M. Harvey	Mr R.H. Cook

Amendments thus negated.

Mr P.J. RUNDLE: I intend to seek leave to move en bloc the balance of my amendments to clause 10. As far as the opposition is concerned, this is the key to the bill and the key to widening the terms of the bill. We are reasonably comfortable with the penalties that will apply under this clause; namely, 12 months and \$12 000, and two years and a fine of \$24 000. We still have our concerns over whether some of those fines can be crowdfunded, if you like, by some of our friends who commit these offences. We are very much concerned that this does not cover a wide enough element for animal source food production. My amendment will cover those penalties and those places. Obviously the Attorney General has covered other family members as well, which is important, if they are harassed by animal activists and the like. As far as I am concerned, the ability to widen this bill to cover animal source food production and places of animal food supply is the key. Linking those penalties to those places is what this amendment is all about. Can the Attorney General explain why he is not comfortable with including those wider places of animal source food supply and animal source food production?

Mr J.R. QUIGLEY: This amendment seeks to expand the bill beyond its intended objective. On a stricter reading of the member's amendments it could be that someone who was dissatisfied with a meal at a restaurant, for example, and expressed their dissatisfaction to waitstaff in a manner that was intimidatory, was asked to leave, refused to do so and continued with the intimidation or harassment, could find themselves charged with aggravated trespass. This is a very significant expansion of the bill. We do not intend to support it and will not support it.

Mr R.S. LOVE: I am trying to get to the bottom of why there seems to be a reluctance by the Attorney General to support what has been suggested by the member for Roe, who I believe will move some amendments to the legislation as printed. He has not moved them yet. The Attorney General said that he would not want to extend it to the point at which someone who was complaining about the food that had been provided would perhaps be offending against this bill. I understand the Attorney General's thoughts around that process. When this bill was first promised by the Attorney General two years ago, a wide range of behaviours were engaged in other than just trespassing on property. For instance, a calf was captured and a range of other offences were committed, including stealing pigs and taking animals out of a secure environment. I have already spoken about the biosecurity aspects of some of these behaviours.

Those types of behaviours occurred. Members will recall that a cafeteria in the eastern states was targeted for having a number of goats —

The ACTING SPEAKER (Ms M.M. Quirk): Member, I remind you that previous amendments were not agreed to. This amendment effectively relates to those amendments that were unsuccessful.

Mr R.S. LOVE: With respect, Madam Acting Speaker, this amendment is about more than that. It is more about the behaviours that have occurred rather than the places where those behaviours took place. The behaviours that are encompassed in the bill simply relate to trespassing on a property, not what the person is doing, whether that be harassing, intimidating or other things. I am going back to when this amendment was called for and the time it was promised. A wide range of behaviours were occurring in the community that I understood would be addressed by this legislation. I am asking the Attorney General why he has brought forward such a narrow definition in the sense that we are talking about trespasses on a place and circumstances of aggravation to commit an offence. I am asking him to explain why a wider range of behaviours have not been considered. I take it from the wording that if someone trespasses on a property and then carries out a subsequent action—say, smashes a piece of equipment, takes an animal or interferes with the operations of a premise—would that be considered committing another offence or is it simply trespassing? Can the Attorney General explain what happens if someone trespasses and subsequently carries out other actions? Does the provision capturing this offence make it more likely that a person will face a serious penalty?

Mr J.R. QUIGLEY: It is not only more likely but that person did, in fact, commit an offence. We saw a photograph of a gentleman walking from a property with a calf draped around his neck. He committed aggravated trespass but he was also charged with stealing, which carried a much more severe penalty. If a person damages things on a property, doubtless, he or she will be charged with causing damage. That person was charged with a much more serious offence than trespass. That is what the DPP pointed out at the time.

Mr R.S. LOVE: The minister believes that if someone engages in the activity of trespassing on a property, that is a more serious offence than engaging in activity whilst on the property. Reading what the member for Roe has put forward in his amendment, is that just outlining in greater detail and giving greater clarity to those circumstances of aggravation? Given that, I am wondering why the Attorney General refuses to support that. Surely that explains the types of activities that might be contemplated and would be captured under these enhanced penalties.

Mr J.R. QUIGLEY: The offence we are dealing with is aggravated trespass. Other offences may occur whilst a trespass offence is happening. They will be dealt with for such other offence. I cannot put it more clearly than that. If they set fire to a table napkin whilst there, they can be charged with arson, which carries a penalty of imprisonment for 20 years. If they steal something, they can be charged with theft and receive seven years, depending on the value of the item taken. This is just dealing with trespassing in circumstances of aggravation. The other offences have different elements to them that are required to be proven by the prosecution beyond a reasonable doubt. If those offences are committed, they are, have been and will be prosecuted.

Mr P.J. RUNDLE: I move —

Page 9, lines 23 to page 10, line 22 — To delete the lines and substitute —

- (2) Delete section 70A(2) and insert:
 - (2) A person who, without lawful excuse, trespasses on a place commits an offence.
Penalty for this subsection: imprisonment for 12 months and a fine of \$12 000.
 - (2A) A person who, without lawful excuse, trespasses on an animal source food production place or an animal source food supply place in circumstances of aggravation commits an offence.
Penalty for this subsection: imprisonment for 2 years and a fine of \$24 000.
 - (2B) A person trespasses on an animal source food production place in circumstances of aggravation if, in committing the trespass, the person —
 - (a) interferes with, or intends to interfere with, animal source food production;
or
 - (b) in the context of another person's engagement in animal source food production — assaults, intimidates or harasses, or intends to assault, intimidate or harass —
 - (i) the other person; or
 - (ii) a family member of the other person.

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Mr John Quigley; Mr Peter Rundle; Mr Peter Katsambanis; Mr Shane Love

- (2C) A person trespasses on an animal source food supply place in circumstances of aggravation if, in committing the trespass, the person —
- intends to interfere with animal source food supply; or
 - in the context of another person's engagement in animal source food supply — assaults, intimidates or harasses, or intends to assault, intimidate or harass —
 - the other person; or
 - a family member of the other person.
- (2D) If a court sentencing an adult offender for an offence under subsection (2A) does not impose a term of imprisonment then, except as provided in subsection (2E) and despite the Sentencing Act 1995, the court must impose —
- a community order under the Sentencing Act 1995 that includes —
 - a supervision requirement with a direction that the offender must not enter or remain on an animal source food production place or animal source food supply place specified, or of a kind specified, in the order;
and
 - a community service requirement; and
 - a fine of at least \$2 400.
- (2E) Subsection 1 (2D) does not apply in a particular case if the court is satisfied that exceptional circumstances exist in that case.
- (3) In section 70A(3) delete “subsection (2),” and insert:
- subsection (2) or (2A),

Division

Amendment put and a division taken, the Deputy Speaker (Ms L.L. Baker) casting her vote with the noes, with the following result —

Ayes (12)

Mr V.A. Catania	Mr Z.R.F. Kirkup	Ms L. Mettam	Mr K.M. O'Donnell
Dr D.J. Honey	Mr S.K. L'Estrange	Dr M.D. Nahan	Mr P.J. Rundle
Mr P.A. Katsambanis	Mr R.S. Love	Mr D.C. Nalder	Mr A. Krsticevic (<i>Teller</i>)

Noes (29)

Ms L.L. Baker	Mr W.J. Johnston	Mr J.R. Quigley	Mr D.A. Templeman
Mr J.N. Carey	Mr D.J. Kelly	Ms M.M. Quirk	Mr P.C. Tinley
Mrs R.M.J. Clarke	Mr M. McGowan	Ms C.M. Rowe	Mr R.R. Whitby
Mr M.J. Folkard	Ms S.F. McGurk	Ms R. Saffioti	Mr B.S. Wyatt
Ms J.M. Freeman	Mr S.A. Millman	Ms A. Sanderson	Mr D.R. Michael (<i>Teller</i>)
Ms E.L. Hamilton	Mr Y. Mubarakai	Ms J.J. Shaw	
Mr T.J. Healy	Mrs L.M. O'Malley	Mrs J.M.C. Stojkovski	
Mr M. Hughes	Mr P. Papalia	Mr C.J. Tallentire	

Pairs

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Mr W.R. Marmion	Ms J. Farrer
Mr J.E. McGrath	Dr A.D. Buti

Amendment thus negated.

Clause put and passed.

Clauses 11 to 13 put and passed.

Clause 14: Section 35 amended —

The DEPUTY SPEAKER: The member for Roe has a substantial amendment on the notice paper.

Mr P.J. RUNDLE: I will just speak about this amendment first. Once again, this amendment was designed to improve the bill and include “animal source food supply”. We have spoken about this several times, but as far as I and other Nationals WA members are concerned, this provision is too narrow and does not define this area well enough. We have tried to improve things and quantify some of those other areas that have been under attack. For some reason, the Attorney General has narrowed it down to a small list including abattoirs, knackeries and the like. I have certainly made my best attempt to broaden this scenario to include “animal source food supply” with “animal source food production”.

I would like to express my disappointment in the way the Attorney General has treated this provision and its narrowness when so many other places have been under threat by animal activists. It is a real disappointment to members of the Nationals and the Liberal Party.

The DEPUTY SPEAKER: I take it that the member is not moving the amendment in his name on the notice paper.

Mr P.J. Rundle: No.

Clause put and passed.

Clause 15 put and passed.

Title put and passed.

House adjourned at 5.12 pm
