

ANIMAL WELFARE AND TRESPASS LEGISLATION AMENDMENT BILL 2021

Second Reading

Resumed from 23 June 2021.

MR P.J. RUNDLE (Roe) [4.12 pm]: I would again like to make a contribution to the second reading debate on the Animal Welfare and Trespass Legislation Amendment Bill, this time the 2021 bill, rather than the previous 2020 bill. Perhaps I should speak after the member for Maylands, because I am sure that I will get some criticism from the nine government speakers who I gather are coming up. I am sure also that the Attorney General is not far away, given that he has carriage of the bill.

I want to take this opportunity to reiterate the position of the opposition. We ultimately will not be opposing the bill. However, we still beg to differ about the fact that two totally separate issues have been blended into one bill. I do not know whether this bill has been brought to the fore again as a tribute to the departing Minister for Agriculture and Food, or as some sort of gap-filling exercise to get us through the last week of Parliament. Certainly from my perspective, it is not appropriate that we are again talking about a bill that basically deals with two totally different subjects—on the one hand, trespass, which we all agree should have been dealt with long before today, and, on the other hand, the animal welfare scenario, which is covered by the Animal Welfare Act 2002.

I point out, for the benefit of the Attorney General, that we will not be opposing the bill. However, I will be asking a lot of questions, as I did on the last occasion we debated this bill. I have said that I do not believe it is appropriate to blend together two different pieces of legislation in this bill. As far as we are concerned, this bill should be split. This bill should also be referred to the Standing Committee on Legislation in the other place when it finds its way to that house. I wonder about the seriousness of the government on this bill. The last time this piece of legislation went through this place—the Animal Welfare and Trespass Legislation Amendment Bill 2020—it never saw the light of day in the Legislative Council. We are now discussing the same bill, but with a few minor changes that the Attorney General has made since that time.

I want to quickly run through some of the elements of the bill before I go into a more comprehensive discussion. The amendments to the Criminal Code are aimed at increasing the criminal penalties and improving accessibility to restraining orders. That is appropriate for trespass. Under this bill, the maximum penalty for repeat offenders will be doubled to imprisonment for up to 24 months, and a fine of \$24 000. Community orders and/or a lesser fine will also be available. The bill will provide for a new offence for a person who trespasses on an animal-source food production facility in circumstances of aggravation. Aggravation includes negative impacts on biosecurity, damage to or theft of property, or releasing animals to escape.

The big change since we discussed this matter last time is the biosecurity threat of foot-and-mouth disease and lumpy skin disease. We have heard today that another case of footrot has potentially been brought into Western Australia from the east, and that is causing concern to the Department of Primary Industries and Regional Development. The biosecurity element has certainly become more important. Therefore, I am glad that the Attorney General has seen fit to increase the penalties for trespass.

The bill will ensure that people who have a legal right to enter a property are protected. Part 4 of the bill will amend the Restraining Orders Act to make it easier for a person who has been, or may be, affected by aggravated trespass to obtain the protection of a misconduct restraining order. The bill also contains some controversial amendments to the Animal Welfare Act. The Attorney General has argued that the power of entry provisions in the current act are inadequate to meet community expectations. The power of entry provisions in this bill are limited to designated DPIRD inspectors and may be exercised only when monitoring activities in abattoirs, knackeries and intensive production places. The definition will mean that residences are excluded. I will be asking questions about that, because some elements need clarity. Added to the definitions will be “animal source food production”, “animal source food production facility” and “intensive production place”. I suspect that the Minister for Agriculture and Food has gone to a bit more trouble to try to define some of those places after the comprehensive questioning that the member for Moore and I gave the Attorney General on the last occasion that we debated this bill. That has certainly been clarified better on this occasion, but we had to ask many questions and put forward many examples when we debated the previous legislation.

Inspectors will be targeted towards higher risk production methods and this will specifically exclude extensive farming operations for which grazing is a key component of the animal food production system. Once again, I will ask questions about this during the consideration in detail stage because we will be excluding extensive farming operations, but sometimes within extensive farming operations, there are intensive internal operations.

The animal welfare proposal was originally floated in 2017. It was rejected by industry and by the majority parliamentary committee as not being needed since the RSPCA and the Department of Primary Industries and Regional Development already had sufficient powers.

Extract from *Hansard*

[ASSEMBLY — Tuesday, 29 November 2022]
p6063b-6079a

Mr Peter Rundle; Ms Lisa Baker; Mr David Scaife; Mr Mark Folkard; Mr Chris Tallentire

As I mentioned before the Attorney General arrived, I question whether this legislation is just to fill the gap until the end of the year. It is a very important bill in relation to trespassing, but is it some sort of swan song for the Minister for Agriculture and Food in her last days in the other place?

I will be asking further questions around the definition of “animal source food production”. Is it a reference to broadacre farming? As I said, sometimes there is intensive farming within broadacre operations. The bill seems concerned with only abattoirs, intensive production and knackeries.

This 2021 bill will increase the powers for inspectors to investigate cruelty offences. Once again, I will ask questions about the ability of inspectors to go onto properties.

The Animal Welfare Act is under review and a bill to amend it could be introduced early next year. Why is this legislation being introduced as a mesh of two totally different subjects—trespass and animal welfare? The biosecurity part of the legislation is important because developments have occurred since we last discussed this bill. I will also speak a little bit more comprehensively on consultation.

Ultimately, we will not oppose the legislation, but we believe the bill should be referred to the Standing Committee on Legislation. When I looked through the second reading speech, I noticed a few paragraphs that I found quite interesting. The Attorney General commented —

This offence has been narrowly framed with the deliberate intent of minimising the risk of unintended impacts. The amendments introduced by this bill are not aimed at stifling protest; instead, they are intended to deter or prevent trespass that has an adverse effect on relevant commercial operations ...

Is this once again our Minister for Agriculture and Food at work, saying that we do not want to stifle animal welfare protests—the ability for people to stand on the Fremantle Traffic Bridge and complain about live exports or stand in the road and protest outside intensive production places? Is this the Minister for Agriculture and Food having her influence over this bill? These are the sorts of things that concern me.

On the biosecurity issue, I was concerned today when I was listening to the chief vet from DPIRD on *Country Hour* talking about the latest incursion of footrot into Western Australia. This makes it even more important when we talk about inspectors having the ability to go from one farm to another. We need people who understand biosecurity issues—not a 21-year-old graduate who, under the last bill, would have needed only a certificate IV. Someone employed by DPIRD with a cert IV would have no problem; they could go from one farm to another to another, or inspect a knacker or an abattoir. As I said, it might be a broadacre farm with a feedlot amongst it. These are the questions I will be asking the Attorney General as we go through the bill.

This legislation was not a priority in the last Parliament. I think we spent nearly three days in this place questioning the Attorney General and then the bill went to the Legislative Council. It somehow fell to around number 16 on the list of priorities in the Legislative Council and, here we are again, back looking at a version of it. It takes me back to 10 April 2019, when the Attorney General was outraged about some rural crime activism. He said, “I’m going to have this sorted out in two to three weeks.” He we are, three and a half years later and it has come on the list. On 10 April 2019, he said, “I’ll have this sorted out within two to three weeks. I will have legislation in here within two to three weeks”, and what do we have? It has been three and a half years and here we are.

On the last occasion we debated the 2020 legislation, I moved several amendments to split the animal welfare provisions from the trespassing provisions. But, no, this government did not approve of my amendments. I was trying to improve the bill and make it so that we could get trespass through as its own element. When we look at the time line, we see that on 10 April 2019, the Attorney General was committed to sorting this out in two to three weeks. On 10 September 2020, the first bill arrived and we worked our way through it. In an article in *The West Australian* of Wednesday, 2 June 2021, the Minister for Agriculture and Food, Hon Alannah MacTiernan, said the bill was going to be introduced very shortly. I quote —

... there would be consultation with key stakeholders ... The draft Bill’s introduction to parliament is slated for early 2022.

She said the State Government supported the introduction of a indictable aggravated cruelty offence, carrying tougher penalties than the current cruelty offence, of a maximum penalty of \$50,000 and up to five years in prison.

It does not look like that has happened. Obviously, once again the Minister for Agriculture and Food and the Attorney General are on different pathways. The minister said —

... a key principle being supported was the recognition, for the first time in WA, that good animal welfare went beyond an animal’s physical wellbeing, and some acceptance of their innate behaviours.

This recognition would be taken into account when determining standards and guidelines for certain industries.

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“I don’t want to get into detail (about how this could affect certain industries), but the question will be are we (by raising animals in that way) making a reasonable expectation of that animal. This will have to be debated on every practice,” , Ms MacTiernan said.

“People who want to (farm) in that way will have to make the argument of whether that is a reasonable expectation of that animal.”

She went on to talk about how the animal welfare review panel had also recommended that pet fish be included within the act.

Ms L.L. Baker: What’s wrong with that?

Mr P.J. RUNDLE: I think the member for Maylands would probably support it.

Ms L.L. Baker: Just asking the question!

Mr P.J. RUNDLE: I must say that that is stretching the boundaries. To the credit of the government, it did not support including pet fish in the act. Minister MacTiernan is reported to have said —

“We thought from a compliance point of view looking after each goldfish was probably a bridge too far ...

Even Ms MacTiernan felt that the credibility might not stretch that far.

Why has this bill come on now? Why do we have a blend of a trespass bill and an animal welfare bill? The animal welfare committee has lodged part of its review and the government seems to be adopting some of its practices, so why is it not making a fresh start with an animal welfare bill in its own right? That is one of my questions.

I have looked at the time line. It is now 29 November 2022. In April 2019, the Attorney General said that he was going to sort out the issue of trespass in two to three weeks. On 10 September 2020, the first bill finally appeared. It was rolled out in the Legislative Council, but was bumped down to the bottom of the government’s priority list and never saw the light of day. Now the Minister for Agriculture and Food is again trying to get it back on the radar. Finally, here we are now on 29 November 2022 looking at the bill again. Is it just a gap filler? What about the inclusion of some of the other places that we have concerns with, such as saleyards, ports, road train assembly areas, supermarkets, restaurants, agricultural colleges and places where agricultural shows occur? When the first bill was introduced, not only did I move an amendment to improve the bill by splitting it into two separate bills, but also I had a private member’s bill drafted at the time. It was all about improving the bill, but of course that did not happen; the government voted my amendments down.

In the meantime since the Attorney General raised his initial concerns and said that he would sort it out in two to three weeks, the federal government has brought in legislation for trespass and property damage or theft on agricultural land; New South Wales has created a new offence for those who trespass on farms and create biosecurity risks; South Australia passed new laws on 23 May 2020; Queensland has introduced a fine of up to \$60 000 or one year in jail; and Victoria has conducted an inquiry into the Crimes Act, which imposes a penalty of up to 10 years’ imprisonment for intentionally destroying property. We also have the Northern Territory and the Australian Capital Territory. In the Attorney General’s initial outrage, he said that he would sort it out in two to three weeks. Of course, this was confirmed in an article in the *Countryman* by Hon Steve Martin, who also asked some questions about the Attorney General. He asked whether the Attorney General had missed his opportunity to deal with the animal activists and the mushy-headed vegans who threaten farmers, and referred to it being three and a half years later and there being no action on strengthening the trespass laws. We have seen examples. Activists from Direct Action Everywhere broke into a piggery and an incident occurred on Jason Parravicini’s property. The one example that stands out more than anything is how the Attorney General managed to get upper house reform through this place straight after the 2021 election, but it was not on the agenda. He was outraged about this issue of trespass and he was going to sort it out in two to three weeks, but now it is three and a half years later. Somehow he managed to get those changes done in the upper house when they were not even on the agenda. That is the sort of thing that creates discontent in the farming sector. Even members of the general public cannot believe how this could happen. They cannot believe how an issue as important as trespass was just left to die in the upper house, but now, a couple of years down the track, it has come back on the agenda.

Hon Steve Martin pointed out some of the changes and in his article, he commented —

Perhaps, Mr Quigley’s passion for change was tempered by the left wing of the Labor Party. Soon to be retiring Minister for Agriculture Alannah MacTiernan was not a fan of harsher penalties for anti-agriculture activists.

Of course, we all remember Hon Alannah MacTiernan standing on Fremantle Traffic Bridge protesting over live exports. Hon Steve Martin also pointed out —

In fact, when the Bill emerged to enact Mr Quigley’s proposed changes it was suddenly titled the Animal Welfare and Trespass Amendment Bill 2020.

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Somehow, farmers needed to do a better job of animal welfare to deserve increased protection from dangerous animal activists hellbent on ending livestock production.

That paragraph sums it up. We have to roll over to the Minister for Agriculture and Food's request that we take it a little easier on animal activists and their ability to protest, and if farmers want to be protected from trespass, they have to improve their animal welfare standards. That is basically what this bill is saying. I think Hon Steve Martin summed it up very well. He also said —

Is time running out for Mr Quigley to finally make good on his promise to WA farmers?

Minister MacTiernan's retirement has made a certainty of the long-speculated midterm ministerial reshuffle and Mr Quigley has been among those rumoured to get the chop.

I would be disappointed in some ways if this was Minister Quigley's last bill in this house. As the Nationals' Attorney General spokesperson in the last term of government, I know that the Attorney General introduced 57 bills. To his credit, he brought a lot of good-quality bills to the house. He brought his agenda on many issues and, to be honest, it was quite difficult to keep up with it. I certainly would not like this bill to be the Attorney General's last bill in this place.

I thought I would quote some of that article by Hon Steve Martin to lay out in this place some of the concerns of those in the agricultural sector. There are a couple of other things that I want to cover and probably the most important is the consultation. As the Attorney General knows, we consulted widely. We consulted with the Western Australian Farmers Federation, the Pastoralists and Graziers Association and other groups representing our farmers. I talk to the board of WAMMCO, people at its Katanning abattoir and its CEO to find out how things are going. The member for Central Wheatbelt has a couple of abattoirs in her electorate and she talks to the people there. The member for Moore talks to many stakeholders. The member for North West Central is well known for the way she interacts with her stakeholders, and some will be affected in her electorate.

I was talking to the CEO of Western Australian Farmers Federation earlier today to check whether the Western Australian Farmers Federation had any changes to its line of thinking about this bill. He said that, no, it still opposes the bill. It does not agree with two completely different issues being put together in one bill and, basically, labelled it as a political ploy. That is the feeling of the Western Australian Farmers Federation CEO. The PGA has also said it opposes the bill, but it is happier with the trespass fines being increased. That is good. We spoke with the West Australian Pork Producers Association. It is opposing the position and, once again, feels that two completely different matters are being put together in one bill.

After talking to the Commercial Egg Producers Association of WA, I have questions. Some egg producers have a blend of caged chooks on one part of the farm and other chooks that have access to grazing. The Attorney General will, no doubt, enlighten us on the definition of animals that have the ability to graze. Some of my questions are about having a blend of two different things on one property. That will be part of consideration in detail, no doubt.

Generally speaking, the people on the ground who are affected by this bill are not in favour of it. The Livestock and Rural Transport Association of WA is in the same boat and has concerns about saleyards and loading facilities. It also has concerns about people potentially climbing on their trucks or attacking them in general. I am not quite sure why this bill has such a narrow focus on trespass; perhaps the Attorney General can shed some light on that. Why have places like the Muchea and Katanning saleyards, Muresk Institute and the agricultural colleges, butchers, supermarkets, live sheep boats and hospitality sector venues not been defined in the trespass part of the bill? Other questions have come up: what about drones and CCTV planted by activists? They are some of the questions that have come forward.

We all know very well the efforts of our controversial Western Australian vegan activist Tash Peterson. The member for Burns Beach would be fairly disappointed if he did not see her at least once a month.

Mr M.J. Folkard: I have a beautiful set of manacles for her, and the laws are out there to deal with her now.

Mr P.J. RUNDLE: I am sure the member would deal with her very appropriately. I have to say that the WA public has just about had enough of Tash Peterson. I have an article here about her once again being disruptive at the Perth Royal Show. That is why I cannot understand why events like ag shows and the Perth Royal Show have not been included. That is what I have question marks over, but maybe the Attorney General can enlighten me about that during the debate.

We have consulted with many of our constituents and people in industries who will be affected by this bill. I want to congratulate Hon Colin de Grussa, who has spoken strongly about bringing back the stock squad. What he did prompted quite a bit of work on rural crime prevention. We now have a good pamphlet from the Office of Crime Prevention about protecting rural properties from crime. It gives a lot of good information about securing farm machinery, livestock theft, property marking, fuel tank security, trespassers and shooters, reporting crimes and Rural Watch. I congratulate Hon Colin de Grussa for his good work on that and on bringing petitions to the other

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place. A lot of people put out petitions, and I imagine that probably brought the Attorney General's outrage to the fore. The Nationals in the other place have done a good job.

I have another couple of questions about the Animal Welfare Advisory Committee of Western Australia. I have its terms of reference dated September 2021. The committee's membership structure comprises the chair and up to five members. In the event of a vacancy, the minister may appoint a new member. People employed by the Department of Primary Industries and Regional Development, the Department of Biodiversity, Conservation and Attractions or the RSPCA are not eligible. Membership duration is 24 months, and members of the AWAC are selected and appointed following the Public Sector Commission guidelines. Of course, committee members must have demonstrated animal welfare-related knowledge and expertise in animal sciences, animal welfare, legislation and public policy, bioethics, livestock management and management of wild animals et cetera. I am interested in the reporting requirements —

AWAC will provide an annual report to the Minister by 31 October, which includes:

- an overview by the Chair;
- matters discussed; and
- other information that may be relevant to the Minister's consideration.

We cannot locate the annual report that was meant to be completed and provided by 31 October. Perhaps someone can enlighten us on that.

Once again, I go back to this point: why are we dealing with an animal welfare and trespass bill, all put together, when we have committees like the Animal Welfare Advisory Committee to do a proper review and improve the Animal Welfare Act 2002? We have reports, and the government is in the process of accepting them. Why are we not dealing with that welfare legislation separately? Why do we not deal with that as a separate scenario early next year and deal with trespass right here and now? As I said, I have questions about the qualifications of inspectors who are employed by the Department of Primary Industries and Regional Development. Once again, I will ask the Attorney General whether we are still looking at only a certificate IV. Will 20 or 21-year-olds who do not have any real experience in intensive production places potentially come straight out of DPIRD with certificate IVs? In light of biosecurity issues that have come to the fore in recent times, where are we situated with that? That worries me. When I heard today the Chief Veterinary Officer for DPIRD talking about the footrot situation coming into WA, I thought those are the sorts of biosecurity issues that really worry our farmers in Western Australia. I want an assurance that these inspectors will be well and truly qualified and will understand the experience of biosecurity and that we cannot just roll from one place to another without taking very careful precautions. To me, that is another element that needs clarity.

As I said, the Attorney General has provided some clarity on places of animal-source food production, but I still have questions on smaller feedlots and intensive production on broadacre properties. I know that the Attorney General has said that he has narrowed it down to knackeries and abattoirs and so forth, but there are still so many grey areas with trespass and questions about why some of these other places of business have not been included. As I said, we have seven, eight or nine obvious places where trespass could potentially take place, and it could have been easily dealt with in the trespass part of this bill. I think that is a missed opportunity.

As I said last time we spoke about this bill, I had amendments that would have enabled the government to split the bill. The trespass part could have gone through. The Legislative Council could have dealt with it urgently and the people in our abattoirs and knackeries and intensive food production places could have all been protected well and truly by now. This is where I think the government has dropped the ball. We had that opportunity. Yes, here it is again. Is this just something we are doing as a swan song for the Minister for Agriculture and Food in her last days? I hope it is not, but certainly we will look to refer it to the Standing Committee on Legislation when it goes to the other place.

MS L.L. BAKER (Maylands) [4.53 pm]: I start by saying that I think the member for Roe dramatically underestimates our respect for the Minister for Agriculture and Food and her extensive career in not only this place, but also federal Parliament and local government. If the member thinks for one minute that we would simply put this bill on the table in the last week of Parliament in some sort of attempt to gratify her incredible career, that is absolutely out of the question. It is very patronising and very offensive to suggest that. Minister MacTiernan is a remarkable human being and has achieved outstanding results over a career that most of us could only ever dream of.

Let us look at the Animal Welfare and Trespass Legislation Amendment Bill 2021. I found myself, quite concerningly, in furious agreement with a couple of the comments that the member for Roe made. I often do. I seldom get the chance to tell the member that, but I agreed with him on a number of things. I, hopefully, will get to them, but if I do not, the member better remind me so I can cheer up his day by supporting him on something or other.

The fundamental, philosophical and ideological root of the problem between the two of us is that I believe in sentience and that if any living creature can feel pain, can be frightened, can feel affection, and all the other range of emotions—not only human emotions, but a range of emotions—we have a responsibility to care for that animal's welfare and wellbeing in the long term. When we look at the issue of animal welfare and this illegal trespass bill, to me it makes complete sense that we acknowledge that animals are also part of the workplace that the member has been describing in detail and part of intensive farming production. It is not only the human beings who walk onto the farm and have to take precautions; the many millions of animals that go through those facilities require our husbandry—not our technical expertise but our husbandry. That term has dropped out of the vocabulary of many academic institutions that train vets and the like. They now talk about animal technicians; they do not talk about animal husbandry. I know that might be a quaint word in modern times, but it shows a difference in our attitude to those animals in care. I think most farmers I know and work with would fall on the side of husbandry, particularly broadacre farmers.

We are in a very privileged position in this country, particularly in Western Australia, of having our beef out on the range. We do not have to force them into those horrendous conditions that we see in Europe where 8 000 cattle could be forced into a shed and are in artificially lit conditions all the time. That is indeed where viruses come from. I think everyone in this place understands that, in the main—as far as I know, all—viruses stem from animals and sometimes cross over into humans. Therefore, biosecurity is a very critical issue for not only those animals' wellbeing, but also human health. If we are talking about welfare in this issue, it should be one welfare. It is welfare for humans and welfare for animals.

I remember four years of the member for Roe coming in here to talk about a matter—not four years; I cannot remember when that farmer shot at the guys who were outside his property. I somewhat amusingly saw *The West Australian* demonise the two people at the end of the property. I do not think they were even on the property. They were outside the property and he was shooting at them and they were the bad guys. I wondered about that, but I understood the sentiment that came with it—and the tension.

We look at why these issues are occurring and we ask the same question that we ask when there is dissidence or a growing political activism against a particular practice. Generally speaking, in the history of this world—in human history specifically—revolution comes when people get sick and tired of being ignored. If we look at any of the great revolutions of modern times and indeed of ancient times, that is what happens. Ask the question: is it the people who feel oppressed, forgotten, vulnerable or ignored who revolt? This is absolutely relevant to the illegal trespass argument. I stress that I understand illegal trespass. Those two words are quite correct. This bill is aimed at illegal trespass. Look at the motivations and ask the question: why is this happening? There has been only one case—I think it was that one case that was reported in *The West Australian*—of a farm facility, in recent times anyway, being under threat of being illegally trespassed on.

I remember that an animal was taken out of an intensive farming facility because they thought it was ill or something, which was also an illegal trespass act. We are not talking here about a massive crime outbreak or a set of criminal actions that are taking place constantly, repetitively and increasingly. Will they increase? They may do. Will increased fines stop that? Absolutely not. Anyone who for one minute thinks that increasing fines will deter criminals has absolutely no understanding of criminal law theory or the way the justice system or criminality operate. Fining someone for a political or ethical position does not deter them from the activity. But, member for Roe, if they are on your side of the fence or if they are the victims of this crime, it does make them feel better.

Let us look at speeding fines and ask ourselves whether that stops people speeding. No; they still speed. It makes us feel better because we increase the fine for doing it, but they still do it. We have to ask ourselves what we can do to actually stop the behaviour that is causing the illegal trespass. That is the question that the member and I differ on so dramatically. I argue that it would be simple to stop illegal trespass from increasing: we have to address the concerns that are raised, whether legitimate or not, and tackle them head on, thereby securing the agribusiness involved in this issue. It is about reputational risk for animal production agriculture, about social licence to operate and about the future. A report by Future Eye was published a few years ago on the future of the agriculture sector in which a whole chapter, if not two, was dedicated to the dangers facing the agriculture sector from losing social licence. The important thing we can do for our farmers is to catch them doing the right thing and make sure that that is known by the community—not to catch the wrong thing all the time. That is what tends to happen with illegal trespass.

Mr P.J. Rundle: I agree with that.

Ms L.L. BAKER: Yes. We should be trying to find a system that will allow farmers to show that they are doing the right thing. I know that other jurisdictions have tackled that through self-regulation or self-response, by having in-house CCTV cameras. It is a simple solution, and quite an elegant solution too. No-one is going to come and say, "Show us your video", but if an inspector did ask to see their video, it would be there. There would be no disputing the evidence. It would be there in black and white—unless they had a really tricky hacker who had edited out all the bad bits! Let us assume that that would not be the case. It is simple. We need to look for farmers doing the

right thing and then publish and show that. That will give the community the confidence that these practices are not going on.

I take the member back to why we are here in the first place. What are these practices of illegal trespass that we are addressing and pursuing? I thought I should put a few issues on the record. A long time ago, a colleague of mine from the upper house gave me a copy of the *Quarterly Essay*, which many of us read. This is issue 45 from 2012. An article in it was written by Anna Krien, an author and researcher, and is called “Us & them: On the importance of animals”. I do not know whether the member saw it at the time—it was a long time ago. The member was probably involved in Great Southern Development Commission business at the time. I, however, was in this place reading stories about animal welfare, which seems an inordinately difficult topic for the Parliament to manage. I will quote a couple of pages of Anna’s work. I do not apologise for this. It is not pretty, but I will read it. She wrote —

Or how about the Australian processing of bobby calves? Male calves less than two weeks old are stacked into trucks and taken to abattoirs. In one piece of footage, a driver stands at the back of his ute, hands on hips, talking to two other men. Every now and then he reaches up to his truck to grab and hurl a tentative calf not following the others into the corral, then turns back to the men to pick up the conversation. None of them seems to notice as the black-and-white calves, still learning to walk, some not quite managing it, crawl past on their knees into the abattoir.

In Australia, half a billion animals —

Remember, this is 2012 —

are raised for food production, the majority in intensive or “factory” farms. Broiler chickens “roam freely” in long corrugated tin sheds. Well, they can shuffle the first step of the waltz for a week at most, but then, as their specially bred bodies grow to 1.6 kilograms in less than half the time of their ancestors in the 1950s, not only do their bodies inflate and fill the space, but their legs can’t hold them up, slowly rotting in the ammonia of their own shit. Add to this the climate-controlled permanent night of their forty-two days on earth, as they’re tricked into a night-time routine of not moving around, not burning calories.

The pig industry is across the issue of sow stalls and farrowing crates. It knows the reputational damage it is suffering at the moment from this. I just wanted to put these practices on the record so we know where the pushback is coming from in the community. I quote —

In Australia, most pigs are housed in intensive indoor systems. In these intensive systems, pigs may be confined and raised in barren environments which leads to a higher risk of pigs experiencing poor welfare outcomes. Of particular concern are issues associated with the confinement of sows in sow stalls and farrowing crates where sows are unable to perform natural motivated behaviour, such as nesting or interacting socially with other pigs or their piglets.

Before I read out the welfare issues associated with sow stalls and farrowing crates, I note that many members in this place have children. I know that for a fact. I ask members to think of their three-year-old children. That is the intelligence level of an adult pig, and the same intelligence measurable in Parliament as I speak today—the level of three-year-old children. To continue —

Sows are intelligent and social animals, with a complex range of behaviours and needs. When confined, sows are unable to perform natural and motivated behaviours, such as foraging, or interacting socially with other pigs. As a result, confined sows can show higher incidences of aggressive behaviours and abnormal behaviours, such as ... repetitive bar biting or head swaying ... These behaviours are considered to occur when pigs are attempting to cope in an inappropriate environment and are indicative of poor animal welfare outcomes ... Confinement can also cause sows’ muscles and bones to deteriorate, leading to sows having difficulty standing up or lying down due to lack of exercise.

Pregnant sows, just prior to farrowing, are highly motivated to engage in natural nesting behaviours (nest seeking and nest building), which they are unable to do in farrowing crates where they can’t move freely and are not provided with bedding or nesting material.

Some facilities do provide nesting material, but the science is out as to whether that has any effective results. They are my words, and not from this source. To continue —

Farrowing crates have been shown to increase stress and impair the sows’ ability to thermoregulate ... during farrowing, increasing the risk of heat stress, as well as being associated with an increased number of stillbirths and negative maternal behaviours, such as aggression ... In addition, stress in sows during certain stages of gestation has been associated with poor reproductive outcomes ... and can have long lasting negative effects on surviving piglets’ development ...

These are things like increased pre-weaning mortality, increased fear response, and aggressive behaviours towards other pigs.

That is another one of the issues. We know from the international experience that pigs are often subject to rescue attempts from intensive production places. I know that practices like sow stalls and farrowing crates are deeply offensive to most people. I think that is pretty clear.

I will cite Professor Andrew Fisher of the University of Melbourne's veterinary school, who warned livestock producers that by attacking animal welfare and animal rights groups instead of tackling the issue at hand, they are using up their remaining political capital and residual public goodwill. He states —

Australia, with its foundation stories of the outback, clearing and settlement of farms, and sheep and cattle grazing, still produces a strong resonance of life on the land in many people's minds, even if they are uncertain of modern farming realities. It would be to our farming industries' ultimate detriment if this residual goodwill were reduced through mismatched expectations on issues such as environmental management or animal welfare.

Michael Pollan, the American writer, goes on to say —

The problem with factory-farmed meat isn't the meat ... it's the factory. This is a view that has more supporters by the day.

I think at the time this was written, Mark Zuckerberg, the creator of Facebook, had just announced that he would only eat meat if he killed it himself.

[Member's time extended.]

Ms L.L. BAKER: There are many, many instances that I could go on with to exemplify why these two issues are incredibly important, both to our farmers and to those of us who care about the welfare of animals, and they are not mutually exclusive; I am sorry, I did not mean to infer that they were. Farmers care. I understand that. Technicians who look after these animals might not be the same as the farmer who cares for them. The member for Roe said earlier that he is concerned about the education of inspectors. I share his concern. If these new inspectors who are the subject of this bill are to come into play, in my view it is not just education that is required, because education is not necessarily working with an animal. Even the best education program does not give someone what a lifetime working with animals does; it is just not possible. I would be saying it is not either/or; it is both. People need education and experience. Since animal welfare was moved out of local government and put into agriculture by the previous Premier Colin Barnett, in many instances people have complained to me about the lack of experience with people being asked to enforce the animal welfare laws, not to mention the dated situation with our animal welfare laws. The member for Roe also referred to a new bill, which I am confident will be drafted and put into this place as soon as we get back.

It is absolutely essential that we see these kinds of improvements and that farmers have the confidence that when someone comes onto their property, the issue of biosecurity is not a threat, because the people they are bringing onto the property know that they are coming onto the property. I am fully supportive that they should not be given two weeks' notice, a week's notice or whatever it is, because we need to catch people doing the right thing, not the wrong thing. That is what happens with good quality management. That is what farmers want to deliver. They do not want to do the wrong thing. We want to catch the right practices and promote them. It is incredibly important, as far as I can see, for many reasons that we have both these bills. On the one hand, my personal view is that the amendments to the illegal trespass act will have minimal impact as a deterrent, because from justice, legal and human nature perspectives, adding fines for an issue that is about social justice, ethics or morality very seldom changes behaviour. Behavioural change can be forced, but it does not change attitudes underneath. It is the attitudes underneath that need to change. In order to change attitudes, we have to convince people that we are doing the right thing.

We need to have cameras in our farms and in our intensive facilities so that we are watching what is happening and catching people doing the right thing. I know, because I have a list two arms long of instances that I have been contacted about of farm help who have been put in charge of animals and have been shown to have done the wrong thing, and with no intervention to change that. That could be by lack of training, and certainly everyone has had to cope with workforce pressures over the last three years. By the way, I think the opposition needs to cut us a bit of slack about getting this bill through, because a few other things have been on the agenda in the last three years and this bill has not been a priority. I know it has been for the member for Roe, and I would argue that the animal welfare amendments are for me as well, but here we are—it is in the house. Like the member for Roe, I would have loved to have been here debating the animal welfare amendments in total, because that would have obfuscated the need for the two sections of this bill, but we cannot do that. I am fully supportive of the need and recognise that this holds great opportunity to catch farmers doing the right thing, increase security and their social licence to operate and, at the same time, allow the very many of us who care about these issues to consider that the welfare of the animals involved is in fact being ensured in a very public way.

I finish with a sentence that resonated for me out of this old article from *Quarterly Essay*. I cannot believe it; I have never in this house quoted anything more than five years old, because it is my practice to only quote contemporary

research. When I was researching for this particular presentation, I found that this article had so many messages that are still sound 10 years later. When I said at the beginning of my speech that sometimes it has been a long haul, I cannot believe it has taken 15 years to see these kinds of improvements to animal welfare.

Mr P.J. Rundle: Do you acknowledge there has been a lot of improvements with farming and animal welfare over the last 10 years, and that when farmers look after their sheep or their cattle or whatever, it's to their own benefit as well?

Ms L.L. BAKER: If the member is asking me do they understand that, I think they do. Quite recently we brought farmers together with animal rescue groups. They were in furious agreement. It was a bit of a watershed. It is the first time I know that it has been done, and I am pretty chuffed that it came off. The farmers in that room were very concerned. I will give members a couple of instances of things that they were concerned about. One of them, who is also a shire president, by the way, is absolutely fed up with the shooters that he has to try to keep off his property. He wants blood sports like that banned off all private land. He has been hit, punched and threatened with guns by absolute rednecks who get there. They cut the ears and tails off piglets and let them run wild on the farm. The member for Roe would know about this; it is right in his heartland. It is absolutely abhorrent. Those animals are not covered under the Animal Welfare Act. They are considered pests. It is a bit like the example in the *Quarterly Essay* that states —

In poet John Kinsella's essay "Scapegoats and Feral Cats," he writes about the gradual "decaying" of his sanity while working in the wheatbelt of Western Australia, accompanying his colleagues "aged nineteen through to their mid-twenties" as they "spent their evenings down at the local tip, shooting feral cats and their offspring."

In the ... light of an "outback" sunset, I still see D. jumping up and down on an old car bonnet, driving the cats out into the open, and "blowing them away" with his pump-action shotgun. I see my co-sampler with his high-powered rifle, picking others off as they broke away. These people were military in their operation. It made for good stories at the pub, and was met with approval from all there. Cats were vermin and deserved shooting. Furthermore, they deserved to suffer. Half dead, swung around by their tails and flung into the rubbish piles.

That is the difference. I have no problem with humane culling, absolutely not when there are too many animals and they are their own worst enemy, but that does not always happen, and certainly not on farms. A culler guy who was meant to be qualified came in to shoot kangaroos on the property next door to me. I said to the farmer who owns that property, "I don't mind you doing this." I did mind him doing it, actually, but I said, "If you're going to cull these animals, who have you got to do it?" He said that the person coming in was qualified. I said that if I found one animal that had not been clean killed, I would report him. He said that it would never happen. The guy came in and shot the animals. He came at 7.30 at night. I had been at Parliament. I got home at 10.30 at night and let my dogs out to have a pee, as you do, and saw these spotlights 50 metres from my bedroom. This guy was shooting on the other side of the bitumen 50 metres away from my bedroom. I had let my dogs out while that was happening. I was shaking with fear over that for my dogs' sake.

Three days after that cull, when I went out to feed my horses, I walked through the gate to one of the paddocks and saw a kangaroo with a bullet that had come through from the bottom to the top of its head lying dead in the middle of the gateway. That would have been 200 metres away from where it had been shot three days earlier—so much for a clean kill. The problems with culling are manifest. I could continue on that subject for a very long time. But I want to finish with this quote, and I totally believe these words; in fact, I would quite like to make them my own, but I credit Anna with them. She said —

What I want to say is, let's not kid ourselves. The injustice is complete. This is not a debate over whether our treatment of animals is unethical or not. It's unethical. We know this.

...

The question is: just how much injustice do we want to partake in?

I add—before we actually stand up and say no. This is not the way humanity should relate to both the animals on the planet and the planet itself.

MR D.A.E. SCAIFE (Cockburn) [5.21 pm]: I rise to make a contribution to the debate on the Animal Welfare and Trespass Legislation Amendment Bill 2021. It is my great displeasure to be following the member for Maylands, because she is such a font of knowledge on matters of animal welfare, and I cannot say that this is my bread and butter, so I am thankful to her for her contribution. I am afraid that, for the first time, I am comparatively conservatively following the member for Maylands. I admire her passion for this issue and I think that many of the things she said are correct, but we all have our passions in this place, and this is not necessarily an issue that gets me out of bed in the morning. However, I appreciate the seriousness of the issues that are being canvassed here, from the perspective of both trespassing and animal welfare, and I would like to make a few comments about how this bill is properly balanced in addressing the issue of potential animal cruelty in our industries and preserving confidence in our

agricultural industries, while at the same time providing appropriate punishments for people who trespass onto intensive farming properties.

I want to start on the topic of trespassing. I want to put on the record very clearly that I do not, have not and never will support activists who break the law in pursuit of their causes. I do not agree with the protests of James Warden, who is the best known activist who has trespassed onto farming properties. I think he sees what he does as liberating farm animals, but I think others would see it differently. I do not agree with that. It is trespass. It is breaking the law. There is no excuse for it. It is our responsibility as members of Parliament to uphold the rule of law and, in that case, I say that it does not really matter how strongly someone feels about something; if they break the law, there will be and should be consequences.

However, I also take the member for Maylands' point that putting in more laws is not necessarily going to be the thing that deters people. I think that I have a slightly different view from the member for Maylands, but I do take her point that some people treat these issues as a matter of conscience. They feel very passionate about these issues and feel them viscerally, and they see civil disobedience as a legitimate end towards reaching their goals. I do not agree with that, but I understand their perspective. However, I still think that there is an important place for making sure that our laws not only serve as a deterrent, but also send a message about community and government expectations. Although I take the member for Maylands' point that people are not necessarily deterred from speeding by the prospect of a speeding fine, I make the point that fines do still have a general deterrent effect.

Ms L.L. Baker: It never worked with me!

Mr D.A.E. SCAIFE: No. We put fines out there because the idea is that people do have that second thought. They think to themselves, "Is this actually worth it? Maybe I should not be speeding. Maybe this is not the right thing to do." Maybe they decide to do it anyway, but it has at least some deterrent effect on people. I think in this case it is important that the penalties associated with trespass are in keeping with community expectations about what people want to see from activism, but that they also have a deterrent effect. In that respect, I support this legislation, particularly in increasing the maximum penalty in the circumstances of aggravation. I believe the maximum penalty will increase to \$24 000. I also agree with the setting of a minimum penalty, which will be \$2 400, together with a community service requirement for the new aggravated trespass offence under this bill.

We find that legislation like this does change behaviours over time. I have seen it happen in the industrial relations space, which is an area that is often closely fought on ideological lines. I certainly know employers who think that they should not have to comply with things like the minimum wage entitlement, because they think that it cuts across their right as businesses to operate in the most effective way possible. Equally, I know that union activists have sometimes felt that the only response to a law that they feel is unjust is to break that law. We then see unlawful industrial action being taken. I have certainly seen repeat offenders who breach industrial laws change their behaviour because they have been met with the consequences of breaking the law. Perhaps they have been met with the consequences for a second time. Over time, having to face the consequences of breaking the law leads to cultural change within organisations and amongst people, and they look for more constructive ways to make their point and engage in their advocacy. I have certainly seen employers blithely going along ignoring industrial laws and ignoring minimum terms of employment who, once on the receiving end of civil penalty proceedings, have engaged in a root-and-branch review of their operations, which has led to them uncovering other wrongdoing. In the case of an underpayment, they have then proactively compensated people without the need for an inspection or enforcement proceedings. I have also seen organisations that have realised that the penalty is sufficiently serious and that they will be caught and will face those consequences, and they have over time changed their behaviour, as well. I certainly think there is merit in these new penalties, this upgraded offence in the case of aggravation, and also the upgraded penalties.

I think it is important to note the provisions of the bill that provide for a community supervision order. Obviously, in high-profile cases in which people break the law, it is sometimes possible for them to crowdfund the cost of the fine, for example. The difficulty with that is if a person does not feel the consequences of the fine or thinks that they will never face the prospect of a penalty, they are less likely to change their behaviour. This principle has been discussed at length in court cases relating to industrial relations. In the case of some union officials, the courts eventually made the decision to impose what are known as personal payment orders. These orders mandate that certain people who receive penalties under industrial relations legislation are prohibited from having their penalty paid by another person. I personally think that is a bridge too far. I much prefer the model that this government has introduced, which is that people will still be allowed to crowdfund to cover a penalty. If a person who is in a position of financial distress is able to crowdfund a penalty, that should probably be afforded to them. However, I believe that the addition of a non-pecuniary penalty that the person will not be able to crowdfund away—namely, a community supervision order—will act as a deterrent and strike the appropriate balance in this legislation.

This is slightly unrelated to this bill, but I want to comment on the actions of the vegan activist Tash Peterson. I put on the record that although I do not believe that Ms Peterson has ever trespassed on farming properties, she is obviously well known for her high-profile protests at restaurants and other public places. I do not agree with

those actions. I say that based on the same principle that I commented upon earlier. I respect everybody's right to protest and express their opinion. However, it is important that people do that in a lawful way. It is clear from some recent findings by our courts that the activities of Ms Peterson in the last few years have not been lawful. I call on those activists to absolutely put their case and their point of view, but to not break the law in doing so.

I also want to send the message to activists that not only does it go without saying that they should respect the law, which should be reason enough for them not to do what they have been doing, but also their actions are alienating vast portions of the community. I do not think they are speaking effectively to voters in my electorate. I suspect that they are also not speaking effectively to people in your electorate, Acting Speaker (Mrs L.A. Munday). The average Western Australian who cares about animal welfare is turned off by the style of protest that some of these people engage in. If these activists want to make concrete advances in animal welfare, they need to bring the public with them in a sensible, reasonable and open-minded way. As much as these people might get a short-term sugar hit in the media from these types of protests, I do not think they are walking the road towards delivering change in the animal welfare space.

I am stretching the standing orders a bit here, Acting Speaker, but I would liken it to some of the protests that we have seen of vandalising art in the name of climate change. I respect people's passion on the issue of climate change. I respect their calls for us to do more. I also respect their right to protest. However, in many cases, these people lose their audience when they vandalise centuries old pieces of art that seemingly have no connection to the issue whatsoever. A friend of mine is an avowed Greens supporter and hands out how-to-vote cards for the Greens at every election. She has, frankly, been turned off by the antics of some of these protesters in art galleries around the world. I say to these people that if they are not persuaded by the fact that they should not be doing that, because they are breaking the law, and if they are not persuaded by the additional deterrent that will be levied upon them by virtue of this bill passing this Parliament, hopefully they will be persuaded by the fact that I do not think they are doing their cause any favours whatsoever.

One area on which I agree with the member for Maylands is that we should not only provide a deterrent, but also deal with the root problem of why these activists act in the way that they do. In some cases—I am not saying all—it is because they do not think the industry is being properly regulated. They think the industry is engaging in neglect or cruelty. I think that is the rare exception. However, we cannot deny the fact that the reports of cruel practices over the last 10 or 15 years have been damaging to people's views of our agricultural and husbandry industries. It is important that we strengthen the inspection regime so that we can say to these activists that we are not only putting forward tougher penalties if they engage in trespassing behaviour, but also creating a more robust inspection regime.

This legislation provides that only designated officers will be given the power to enter into and inspect intensive farming locations. There should not be any concern about the use of those powers. It will not be the case that third parties or representatives from non-government organisations will be given what we would call common informer status, or the ability to enter a site. Only designated officers who are employees of the Department of Primary Industries and Regional Development will be allowed to exercise the powers of entry and inspection. That is the responsible thing to do to make sure that these powers will be exercised only by trained professionals and accountable people who are acting on behalf of the executive, while at the same time reassuring activists that we are taking seriously their concerns about the potential for animal cruelty in our agricultural industries.

I also want to say, to echo what the member for Maylands said, that I come from the perspective that these types of laws are important to ensure that we maintain consumer confidence in our livestock and husbandry industries. Agriculture generally is a significant part of the Western Australian economy. Our meat and livestock trade are significant parts of that agricultural industry. I would not want us to get to the point that public confidence has been so eroded by the series of scandals that we have seen over the last 10 to 15 years, and the perception that government and industry are not taking these concerns seriously, that there is a fall in public confidence in the industry. Consumers will vote with their feet and their wallets, and they will look for other options, whether that be competition from the eastern states or from overseas, to get products that in their view have been more ethically produced or farmed. It is important that this state has a strong regulatory regime so that people can be satisfied that they are buying a Western Australian product that has been subject to the absolute best animal welfare methods possible.

[Member's time extended.]

Mr D.A.E. SCAIFE: On that note, I want to say that I believe that the Western Australian livestock and husbandry industry is a leader in this space. I believe that 99.9 per cent of the time, farmers take very seriously the welfare of the animals in their care. We have been innovators in animal husbandry in Western Australia. I certainly do not want my comments to be taken in any way as besmirching the industry because, as I said, I think the examples of cruel or neglectful behaviour are the very rare exceptions to the rule. However, it is important for industry as a whole that, where those exceptions do pop up, industry and government are seen to be responding to them and maintaining public confidence in our industry.

The member for Maylands referred to “social licence to operate”, and understanding that term is key. Social licence to operate can be really difficult to measure. The other thing about social licence to operate is that it changes with time. Practices that were acceptable 10 or 15 years ago might no longer be acceptable. I understand that that is frustrating for any type of business or producer because it means that something they may have set up and invested in 15 years ago—a system they were trained in and have implemented—is suddenly not acceptable. It is not because of a change in the law or regulations, it is just because of an amorphous idea that community expectations have moved on. I understand that that is frustrating. Cockburn Cement is an example on the edge of my electorate. It has all the correct regulatory licences to operate, but as a result of the expansion of the Perth metropolitan area and the encroachment of urban areas to our outer suburbs, which is not the fault of Cockburn Cement, it is now in a position that it potentially does not have its social licence to operate. It is not necessarily because of anything it did. It has been doing the same thing—if anything, it has improved its practices over the years—but its practices have now come up against changing social expectations as a result of people living in closer proximity to it. As a result, Cockburn Cement, over the years, has had to invest in significant upgrades to its infrastructure in order to keep pace with community expectations and maintain that social licence to operate.

I appreciate that it can be frustrating for anybody who runs a business, whether they are a farmer or a manufacturer, but the reality is that community expectations change. They have changed in the last 10 to 15 years particularly for animal welfare. They have changed drastically for issues like carbon emissions as well. There have been pretty seismic changes in consumer expectations, but there is no point grumbling about them. The best thing we can do is get on the front foot, both as industry and government, and be seen to be moving with those social expectations.

I want to finish by talking about some of the criticism made of this bill in the past when it was introduced in the previous Parliament. I have to apologise to the member for Roe; I missed his contribution to the bill earlier. I was in a meeting, so he is welcome to correct me if I have this wrong. As I understand it, in the last Parliament, the member for Roe moved some amendments to expand the remit of the trespassing offences to cover places like restaurants and food outlets so people would not be able to trespass on those facilities and get into aggravated situations with staff. I assume that was directed at the likes of Tash Peterson —

Mr P.J. Rundle: I proposed separating it into two bills.

Mr D.A.E. SCAIFE: Yes, the member wanted to separate it into two bills but I think he also wanted to increase the circumstances in which the trespass offence would apply. Is that right?

Mr P.J. Rundle: It was to increase the number of places, yes.

Mr D.A.E. SCAIFE: Yes—to expand the circumstances in which the trespass offence could apply. I assume that was partially in response to the Tash Peterson examples.

Mr P.J. Rundle: Yes; it was at the Royal Show and other places like that.

Mr D.A.E. SCAIFE: I worry about that type of amendment. I think it could have some unintended consequences and it is our responsibility as legislators to be aware of the possibility of unintended consequences. For example, if we expand that sort of offence to disruptive behaviour in a restaurant, like we have seen Ms Peterson engage in in the past, we could unintentionally capture other people. It might capture a person who may have had a few drinks on a Saturday night; they may have some mental health issues and wander into McDonald’s in the CBD. They get into an argument with the cashier, who could be defined as a food process worker. If they get into an argument and maybe abuse them in some way, that would bring into play the circumstances of aggravation. Someone who probably needed to be dealt with just by a move-on notice or something like that would suddenly be on the receiving end of a minimum fine of \$2 400 and a community supervision order. I do not think that is the intent of the bill.

The intent of the bill is to target, in a quite forensic way, activists who are trespassing onto agricultural properties. I think there is less of a need for such a provision as well because, if someone is at the Royal Show or in the CBD, they have pretty easy access to call the police. They can call the police and the police will find it relatively easy to attend, subject to the other resourcing constraints they have. However, in some agricultural properties like the one Mr Warden trespassed on near Brunswick Junction, there is less police presence in our regional areas by virtue of our police being stretched a little bit further because of the tyranny of distance. I do not think we need to extend the provisions to the sorts of locations that the member for Roe proposed and perhaps may propose again. I would caution against those sorts of amendments because, as I said, I think they may lead to unintended consequences, potentially dragging vulnerable people who are not the intended targets of this legislation into its scope. They also probably do not deal with the issue at hand. The issue at hand is about having a proportionate response to deterring people who might trespass onto farming properties.

I want to make the point that those businesses should have their privacy respected to some extent and have their property rights respected. I say “to some extent” because there is an exception for designated inspectors to be able to enter a property. It is also for health and safety reasons—for the health and safety of the activists. Members would

Extract from *Hansard*

[ASSEMBLY — Tuesday, 29 November 2022]

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Mr Peter Rundle; Ms Lisa Baker; Mr David Scaife; Mr Mark Folkard; Mr Chris Tallentire

not see me wandering onto an agricultural property because there is going to be machinery and animals. I read in an article that Mr Warden had to walk something like four kilometres through tall grass. There could be rabbit holes and whatever else. There are dangers in entering onto a property someone is not familiar with—entering onto a workplace. For example, with industrial relations, a union right of entry permit holder has to receive training before they receive their permit. There are very strict controls around how they exercise that right of entry. They have to follow reasonable work health and safety directions. They are not able to act in what is called an improper manner and they cannot be abusive or disrupt work. There are really strong regulations around even that type of entry onto a premises. In this case, people are doing it unlawfully, so they have not had any training. They are probably not familiar with the site and that is a recipe for harm to come to the activists themselves and also, potentially, harm to come to the workers or the owners of the property.

Overall, I understand that the member for Roe wanted to separate the two components of the bill. I think it is appropriate that they are together because it is important that we send a message to activists who are trespassing on property that it is not acceptable to break the law in pursuit of their cause. We all have to abide by the law and if someone breaks the law, there are consequences, so I think it is right that we update the offence and the penalty. At the same time, I think we also need to send a message to those activists that says that we hear the concerns that they are raising and we are implementing a slightly more rigorous inspection regime. Obviously, there is still work to be done. I note, of course, that in the last term of government, we appointed the independent panel to review the Animal Welfare Act 2002. I know that legislation in response to that review is still in the pipeline.

I want to take this opportunity to thank the members of the review panel: Linda Black, Di Evans, Dominique Blache, David Marshall and Catherine Marriott. I think it was important that we had a cross-section of people who have experience in the industry and experience in the law and regulation and who understand the sensitivities of these issues. I know that the member for Roe rated a mention in the independent review panel's report. He will be pleased to know that the panel members read his second reading contribution when the bill was discussed in the last Parliament, and they specifically dealt with some of the concerns that he raised during that debate. It is pleasing to see that his views have been taken on board not only in this chamber, but also by the independent review panel. I thank the panel for that work. I think this bill strikes the right balance between protecting animal welfare and discouraging trespass on intensive farming properties. I look forward to further legislation being introduced in future and commend the bill to the house.

MR M.J. FOLKARD (Burns Beach) [5.51 pm]: I rise to speak on the Animal Welfare and Trespass Legislation Amendment Bill 2021, but before I do, I would like to have a conversation about the member for Roe's comments about the Pastoralists and Graziers Association, pork processors, commercial egg producers and the Western Australian Farmers Federation. What I have learnt in this Parliament is that if someone has an agenda, they are not necessarily going to tell the truth. The best example of that is what I have just been through with the FIFO inquiry in relation to sexual assault. Individual organisations have agendas, and if their agendas are to hide poor primary producers, I have no time for them. There are some people in the commercial egg sector, and possibly in the pork producers sector, whose behaviour is pretty ordinary.

I picked up on the member's point about the stock squad. I have used its expertise in the past. I agree with the member wholeheartedly; we should reintroduce it. The best model is what is used by the gold-stealing squad whereby a levy is imposed on industry to pay for the officers. There is real merit in what the member is saying about that environment. I note that, to date, one of the biggest things going on in regional WA in an organised manner is the theft of bales of wool. At the moment, a bale of wool, particularly if it is AAA fine, can go for up to 1 800 bucks. Normally, they knock off only one a farm—it is put onto the back of a ute and it is gone. Years ago, we used to find just the bale clips and the stencils that had the origin of the bale had been cut out of the bale. That was organised and without a stock squad, we could not trace it.

We are here today to talk about animal activism-related trespass and the introduction of animal welfare-targeted inspections. I am going to approach this a bit differently from most people, because I have applied historical trespass laws and, in some cases, the provisions of the Animal Welfare Act. I can remember years ago escorting RSPCA inspectors onto a farm out to the east of Merredin. We had an allegation that someone was growing a cannabis crop. We had our warrant under the Misuse of Drugs Act ready to go. One of the inspectors who had been out to the site previously gave us a heads-up that there was a possibility that cockfighting was going on at the property. About half a dozen officers in a couple of cars headed out there. When we got on site, sure enough, we found evidence that organised cockfighting was going on. As we walked further into the property, we found a series of pits, and inside one of the pits was a dead dog. It had been torn apart. As we walked a bit further in, we found half a dozen compounds where dogs were still secured by chains. I remember to this day the horrific sight of two of those animals that had been torn apart but were still alive. Unfortunately, I was one of the poor buggers who had to dispatch one of those dogs in the most humane way we could at the time. As we went through the property, we found cattle prods that were used to antagonise the dogs. It was horrific. It took us a couple of days. Interestingly, there was a relationship between the Vietnamese gangs in Perth and the bikies. The bikies would run the dog fights and the Vietnamese would

run the cockfights. We found the remains of animals all over the place. With the help of the inspectors, we were able to shut down that organised ring. It was definitely an organised crime.

I have locked up people for trespass in regional WA. I will never forget when I was relieving in Dalwallinu, I think it was—I cannot remember. I got a complaint that one of the local farmers had had one of his flocks of sheep absolutely run ragged—or flogged for want of a better word. A vehicle had been seen out that way. I went out and visited the cocky and he showed me the area and the stock, which were absolutely distressed. I could see in the ground the prints made by the animals where they had been run in a circle. They had been cornered in the fencing and just run in circles. I could see it by tracking the stock marks left on the ground. To cut a long story short, we found the offending individual. He had come from one of the bigger country towns. He had an Australian purebred sheepdog and he would find an isolated part of a property and let the sheepdog go. The dog would do what came naturally—it would round up the sheep and run them absolutely ragged. Then the individual would pick up the dog and off he would go. Eventually, we caught up with the bugger. Back in those days, we could not seize the animal, because the Animal Welfare Act did not give us the power to do it. The only thing I could do was charge him with trespass under the Criminal Code. We brought out in the facts what this individual did. I cannot remember the name of the magistrate—Kieran Boothman or Mr Stack—but he gave him a substantial fine. In those days, that was the best we could do in that environment.

Some aspects of this legislation relate to some of the good policing I was doing as a young constable years ago. I will come to this a bit later, but restraint orders were used to enhance the protection of farmers. Ninety-nine per cent of farmers in regional WA are deadset fantastic people. They care for their animals and they are very proud of their properties. My Aunty Robyn and Greg Cavanagh have a property called Springhills in Quindanning. They are lovely people. I would suggest that they would be some of the finest farmers out there. They care for their stock, they care for the environment and they care for their pasture. I do not want to embarrass them, but they also run a farmstay down there. A lot of the Rotary exchange students are taken down there to experience the farming environment. This is what makes me laugh: they have a paddock of ex-poddy calves, one of which is a Brahman bull that weighs over 1 500 kilos. It is a monster of an animal. I took a couple of my nieces down there who live in London and had never been on a country property before—ever. We took them down there to show them the farm. Robyn got half a bale out to feed the poddy cattle—I will not call them calves because they were all grown up—and the Brahman bull came charging. It was 1 500 kilos of bull. I can remember Aunty Robyn screaming across the paddock, “Charlie, just settle down!”, and the bull pulled up. I can remember the kids handfeeding this animal. All it wanted was to get a scratch on the head and be treated like a family pet, but the problem was that it was a massive Brahman bull! But I digress. Farmers who get it right do it well. Farmers who get it wrong discredit their community and their profession. I will go on.

I can remember years ago I got a report that a couple of cows had disappeared from a property over a couple of nights, so I went out and took a report—happy days. I had a bit of a look around and thought nothing of it. Anyway, probably three or four days later, I got a report from the same farmer that someone had thrown a rock at his wife as she was leaving the property. The rock that they had thrown was the size of a football. It missed the driver—the farmer’s wife—and went through the back to where a child was sitting in a safety seat. I got pretty cranky about that. Anyway, the bloke who threw the rock had run off. The farmer’s wife came into town in tears, as one would expect. We took the child out of the car seat and dusted them off. Luckily, nothing had happened to the kid who was in the back seat, probably because of the good little car seat that was in the back of the car, but the rock was clearly visible on the back seat and mum was deadset in tears. How dare someone attack her vehicle and her child as she was taking her to school in the morning! So I went out and tried again. I looked around the area and did some extensive searches, but I could not find anything. Anyway, a couple of nights later, at about seven or eight o’clock at night, I got this banging on the door of my residential quarters beside the police station. It was this bloke, and he was in a bad way. He had a wound across his backside and lower back. There were lots of hole marks and bits of blood and that sort of stuff, so I raced across, grabbed a police car, laid him in the back and took him up to the hospital. I took some notes and that sort of stuff from him. In country areas, nurses often need orderlies to give them a hand, so I was doing the best I could. I am not a particularly good person in that environment, but I will tell another story about that another time. The nurses started pulling out of his backside little grains of salt. I thought, “What?” I turned to the nurse and said, “What do you reckon’s happened?” The nurse said, “I reckon someone’s given him a buckshot full of salt in his backside.” The guy goes, “Yeah, yeah; the farmer shot me! The farmer shot me!” I asked him what farm he was on. I turned around and said, “You weren’t out there after another poddy calf, were you?” He did not want to put his hand up, but effectively he said yes. I asked him where the other animals were and he said that they were around his home. I went and grabbed those animals and took them around to the vet, because I was not going to take them back to the farmer just yet. I think one of them died, but that is another issue.

I went back out to the farm and, sure enough, I found the cocky marching back and forth across the back of his paddocks with a shotgun, protecting his calves. He had a double-barrel shotgun, so I seized that off him. It was a case of: what do I do? This bloke had attacked the farmer’s wife’s car and had been stealing calves from his farm, and the farmer had given him a good old-fashioned shot of saltpetre up the backside. It was probably better than

anything he would have got back in the day or any court fine, but that is another issue. I had a mum who was terrified, a bloke with a gunshot wound, although it was not fatal—he would probably have had a sore backside for a couple of days and that would have been the end of it, as the salt would have disappeared—and a farmer who had been defending his property. The mum was in tears and was terrified. In the end, this is what I did: I charged the fellow who stole the calves with trespass; I got a statement off mum and took mum through the court process to get a restraining order for her; and I prepared a report, which was agreed to by the commissioners et cetera, and seized all the firearms off the farmer. He would never have firearms again. Members might say, “What?” Well, at the end of the day, restraining orders are part of what this bill will bring in. That is interesting. Good policing from many years ago will now be codified in the Animal Welfare and Trespass Legislation Amendment Bill. The bill clearly says that a court must impose a community order with a supervision requirement that the offender must not enter an animal-source or food production place. There it is. The court must do it. There will be no ands, ifs or buts. There is also a fairly reasonable fine. The bill also picks up on the fact and recognises that these people have a propensity to be recidivist offenders. A perfect example of that is the one I gave of the guy who kept on coming back and stealing more poddy calves. They do not do it just once. The other thing that I get a kick out of is that this was before social media. I got to know the farmer over the years and he was not a bad fellah. He kept egging me on about getting his guns back, but that was never going to happen while I was the officer in charge, I can tell you. Long story short, this legislation will now bring that in.

I also like the fact that if we are going to deal with animal activism, we also need to deal with targeted inspections for poor-performing farmers. I served out at Eucla. I have seen pastoralists walk off their stations because they could not afford to keep the places running, but the stock was still left there.

[Member's time extended.]

Mr M.J. FOLKARD: We had the ability to go onto these properties and examine them. We used to do what they called a governor’s stocktake; we would actually go out and count the stock. The only people who could do it were the coppers, because they were the only people out there. We could not get the dogger or the other people who lived out that way to do it because they had no independence. I got to see good stations and I got to see poor stations. The ability to get onto the stations to examine stock and make a determination about whether the pastoralist is doing the right thing or wrong thing will be a good outcome. Marrying the animal activism and animal welfare aspects is a good idea. Some of the recommendations came from the review of the Animal Welfare Act. They have asked for it, so let us get some meat and potatoes going, and going soon. I think this is a good aspect of the Animal Welfare and Trespass Legislation Amendment Bill 2021. I note that it also tidies up some of the definitions, including those for farms with dairy farms, egg farms et cetera—places of highly concentrated animal production. It also looks at abattoirs and knackeries. I remember the Tammin abattoir back in the day; a major job was done on that because of the fraud that was being committed by the owners. I can tell members that the stock squad, when it was still going, the local criminal investigation branch and the local police worked together to identify the poor practices that were being carried out at that abattoir, as well as stock theft. Were it not for good investigative inspectors in that environment, it would have been missed. This is a good piece of legislation; for want of a better term, it is good. Providing the ability to inspect these properties is something that we need to do. With that, I commend the bill to the house.

MR C.J. TALLENTIRE (Thornlie) [6.11 pm]: I am very pleased to speak to the Animal Welfare and Trespass Legislation Amendment Bill 2021. I recall that when we last addressed this matter in late 2020, there was an interesting discussion about the merits of combining trespass legislation with animal welfare legislation. I note that that is still a live discussion, but I really do maintain that it is actually an elegant legislative approach and solution. On one hand, we want to crack down on the problem of illegal trespass on rural properties, but on the other hand, we want to be able to reassure the public that there is authorised investigative capability. That is how I see this legislation. I think I described it as being two sides of the same coin when I made a contribution to the debate in the previous Parliament. It is an elegant legislative solution.

However, I believe from what other members have said, especially the member for Roe, that this legislation is not necessarily viewed favourably by some in the farming community—perhaps especially those who are the spokespeople for the Western Australian Farmers Federation and the Pastoralists and Graziers Association. Sometimes I wonder whether those people are inclined to get into a situation in which they are unfortunately asked a question by media reporters and the situation quickly becomes polarised. The media, of course, needs to have those for and those against, and then there is a story. I wonder whether there is an element of that here.

I say that quite genuinely, because when I think of my experience in rural Western Australia, one of the most worrying forms of trespass I encountered was when illegal shooters went across my property. That is absolutely terrifying because you are worried about actually taking a bullet yourself, but it also puts out an air of lawlessness, and that is so worrying—that people think they are entitled to go out at night with guns in four-wheel drives and travel across private property, the conservation estate or state forest, and to do so with impunity. If people in rural communities

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are really worried about trespass, that is the issue that I really would want to see action on. That is definitely the issue that would have me most worried.

I realise that the likelihood of an animal rights protester turning up on a property is higher in some industries than it is in others, but I do not think that is quite as terrifying as people with guns turning up on properties. The member for Maylands addressed the point about the illegal hunting that goes on in parts of the south west. It really is quite disturbing and is something that I know the Attorney General will receive representations on. There is this veil of worthiness cast over illegal hunting: “Oh, we’re hunting out feral pigs”. In fact, the pigs are often deliberately released as piglets into state forests, national parks or, indeed, forested areas of private land. These people then hunt the pigs with their dogs. There are practices such as cutting off their ears to make them harder to catch. It is just awful, disgusting and cruel in the extreme.

That is the sort of trespass that I am really concerned about, and I am sure that organisations like the PGA and the Western Australian Farmers Federation would share that concern, and I have also heard the concerns of some very solid farming community people in the south west about this issue. That is understandable, given that there is the hint of a connection with organised crime and bikie-type groups. It is a bit of a diversification of the recreational activities of some in the bikie community, and perhaps for that reason there is a wariness about speaking out on this issue, but it is something that is a very real threat to people in some south west communities.

I come to this debate as someone with an agribusiness degree; I think in the last Parliament I was one of only three members who studied at the Muresk Institute of Agriculture. I think now it is only Hon Colin de Grussa and me; previously, there was also the former member for Geraldton, Ian Blayney. Those are my farming credentials. Last time we had this debate, I made the claim that I had probably spent more time in cattle yards than anyone else in the Parliament, and I have not yet had that claim refuted, so I will continue to make it. That leads me to some of the animal welfare issues around the handling of livestock, and particularly cattle. I really believe that we have to move on from some of the current practices, because we can do so much better. I refer especially to some of the dehorning methods and even some of the branding methods that are used. I realise that in the case of branding, it is just a few seconds of pain for the animal and it does not last long, but there are some methods that are really cruel. Even some of the actual grazing practices should change, such as releasing stock onto harsh spinifex country. I refer especially to cattle of the *Bos indicus* variety—cattle that are perfectly adapted to the harsh northern climate, but they have low-hanging skin, which helps keep them cool. Their pizzle and skinfolds hang low to the ground, and they come into contact with very sharp spinifex. That is not always advisable. Indeed, I have had people tell me that it is just not good grazing practice because, effectively, the animals do not move around too much to get feed because they want to avoid the sharp spinifex plants. We need to improve all sorts of things like that. The solution for some people would be to over-sow the spinifex country with buffel grass, but that has its own environmental consequences. Buffel grass is an introduced species. It is not particularly nutritious but it is favoured by pastoralists as a grazing variety. There are also problems with its flammability and the fire cycle that we would engender with that. We can always improve things in livestock handling.

I contrast Western Australian livestock handling with what I see in other parts of the world. One of my family’s favourite TV shows is *The Yorkshire Vet*, which is on 7two on a Saturday evening. We get to see a very intense form of animal husbandry on that show. Farms in Yorkshire are much smaller than farms here and the relative value of the animal seems to be much higher. Whereas here we would be inclined to dispatch a flyblown sheep as the simple solution, in Yorkshire they are inclined to really treat these animals with a high degree of vet time. That can be quite expensive, but, obviously, there is a return on that. I wonder whether the dollar or pound value that is put on animals means that they are more highly valued, and, as such, there is a greater investment in keeping them alive, treating them for various ailments and conditions and bringing them back to full health. That is an interesting comparison. Perhaps we can aspire to have that level of animal husbandry. I realise, though, there is clearly a big difference with the respective acreages, and that might make a huge difference too.

There is a great connection between animal husbandry practices and productivity on a farm. I had the privilege of the member for Roe showing me an aerial photo of his property, and it was a delight to see. His property is clearly very well designed and well managed. I saw the shelter belts on the property; it is really a model farm in many ways from what I could see. Member for Roe, it is fantastic. I have not seen updates on it and I would love to see one, but I recall when the Department of Agriculture and Food put out ag notes about things to do with animal husbandry, one went into the improved growth rates of hoggets when they were able to get the benefit of a shelter belt. Quite strikingly, farmers make a lot more money by having those shelter belts. I would not be surprised if that has been the member for Roe’s experience. Not only is it good for the animals to be comfortable and more content, but also they burn fewer calories if they do not have to burn energy to keep warm. That example shows that good animal husbandry leads to happier animals and, therefore, more productive animals.

I suppose there is always this tension in the farming world. I recall from my studies that some people would say animals are just units of production. If we look after those units of production really well, we will get more out of them. An emerging body of science highlights the sentient nature of animals and just how intelligent they are. Since

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the dawn of humanity, it has been very convenient for us to suggest that animals are grossly inferior to us and that they are nowhere near us in their intelligence levels. However, in reality, the more we learn, the more we come to appreciate that animals have a high degree of reasoning. A constant stream of studies and reports are coming out about animals and the intelligence of ravens, crows and magpies. I came across a magnificent book recently called *The Parrot in the Mirror: How evolving to be like birds made us human*, which refers to an idea called convergent evolution. Of course, birds have been on this planet for much longer than we humans have been. The evolutionary pathway they took to deal with the same sorts of problems that humans have dealt with is very similar to the one that has driven us. Human qualities such as our longevity, intelligence, monogamy, childrearing, learning and language are very similar to those of parrots. Of course, we are not related at all in evolutionary terms—or only way, way back. That we have had this parallel evolutionary history is fascinating. There is a growing realisation about the intelligence of not only some bird species, but also animals in general. That very interesting book that I referred to is by Antone Martinho-Truswell. He is a very respected zoologist and academic at the University of Sydney and the University of Oxford. It is a very readable piece, too.

I like the way this bill is structured and the holistic approach that it takes. Often we see legislation that deals with only one issue, but this approach of seeking to empower the animal inspectors and enable them to go in, where necessary, while at the same time tackling the problem of people who trespass on properties—with what they might see as a worthy motive—is very important. This creation of designated inspectors will be very welcome indeed. I hope that it stops people just turning up on farms. I totally share the concerns of those with properties who fear people just turning up and trespassing on their property, which would pose risks, such as biosecurity risks. There is a potential threat to the landowners as well. We can all agree that that would all be highly unpleasant and the reason that this legislation is necessary. It will tackle this problem of illegal trespass. We will see that remedied with the passage of this legislation.

As a final part of this speech, I want to touch on some of the other things that I think we have to tackle in the animal welfare area. These things can almost seem benign, but how we manage animals or our livestock to encounter things that are very prevalent at this time of year is important. Livestock out in the paddock might be bitten by big horseflies or big march flies. It is unpleasant for us but we can escape them, but sometimes if we leave animals out in the paddock, they struggle with that. We have to find a way to protect them or manage that horsefly situation. It seems to be a problem in areas within which we are using particular types of poultry manure fertiliser, and if we do not deal with that problem properly, we exacerbate the problem and the prevalence of these flies. I think we need to tackle that issue.

I am happy to conclude my remarks, but I will again say that this is important legislation. It has the potential to give the Western Australian community confidence in the direction that all our livestock producers are taking. People need no longer fear that poor practice is going on. People can feel that we have legislation in place to ensure that livestock on properties will be looked after in a way that meets community expectations around animal welfare. That is a good thing for farmers in general. It means that they can be respected for the fine practitioners of animal production that they are and their industry can continue—other members have addressed this—with the social licence that is necessary for any industry. It can be a fragile thing. If an industry loses the community's confidence, the industry can find that the demand for its product can evaporate. This legislation will serve to protect that social licence and community support. I commend the bill to the house.

Debate adjourned, on motion by **Ms C.M. Rowe**.

House adjourned at 6.32 pm
