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Prevention of Cruelty to Animals Amendment (Prosecutions) Bill 2007

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PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (PROSECUTIONS) BILL 2007

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Bill introduced on motion by Mr Michael Daley, on behalf of Mr Nathan Rees.

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Parliamentary Secretary) [11.59 p.m.], on behalf of Mr Nathan Rees: I move:

That this bill be now agreed to in principle.

The Prevention of Cruelty to Animals Amendment (Prosecutions) Bill 2007 brings an important reform in the area of prosecutions made under the Prevention of Cruelty to Animals Act 1979 and the associated regulations made under this Act. The bill proposes amendments to specify who may initiate proceedings for a breach under the Act or regulations. The new provision provides that only an approved charitable organisation, an inspector authorised under the Act, the responsible Minister, the Director General of the New South Wales Department of Primary Industries, a person who has the written consent of the Minister or the Director General, a police officer or any other person or body prescribed by the regulations may commence proceedings for an offence. This amendment will greatly improve the judicial process. It will do this by giving only those with powers of entry and search under the Act automatic authority to institute a prosecution. This will assist with the proper collection of evidence.

The Prevention of Cruelty to Animals Act 1979 provides for the prevention of cruelty to animals and the promotion of animal welfare by carers. Currently, neither this Act nor the Regulations made under this Act specify who has the authority to prosecute. By virtue of the Criminal Procedure Act 1986 any person can institute a prosecution under the Prevention of Cruelty to Animal Act. Specifically, section 14 of the Criminal Procedure Act enables any person under any Act to institute proceedings, unless the right to do so is specified or constrained by that Act. Unfortunately, these provisions have created an inefficient and costly situation to New South Wales. In the past six years several prosecutions arising from alleged cruelty to animals have been initiated by private parties. None of the cases has been successful. Two of the parties withdrew their actions and in another case issues arose about the appropriateness of the evidence being relied upon. These cases imposed unnecessary costs on the New South Wales judicial system. The proposed amendment seeks to overcome this situation.

Currently, only authorised inspectors may enter and inspect premises to investigate reported breaches of animal cruelty. It follows that those inspectors are in the best position to collect appropriate evidence and commence proceedings if that evidence reveals that an offence has been committed. There has been significant concern that the Prevention of Cruelty to Animals Act may encourage trespass and raise biosecurity concerns because private individuals are currently permitted to commence proceedings for an offence under the Act. However, private individuals are not authorised to enter and inspect premises without consent from the owner of those premises. In addition, the gathering of or attempt to gather evidence by such individuals without authority has the potential to raise significant biosecurity concerns.

The ramifications of biosecurity breaches are all too clear in light of the current equine influenza crisis in New South Wales. So far, the New South Wales Government has spent over \$20 million dollars to manage this outbreak. In addition, the New South Wales horse-related industries and community have suffered significant hardship during this outbreak with all sectors of the industry, including businesses large and small, having been affected. The financial ramifications of a pest or disease incursion can be catastrophic to the viability of one or many properties. In some circumstances, depending on the size of the farm, a pest or disease can also have significant implications to the industry and the New South Wales economy. An incursion of a pest or disease could mean that a farmer is required to provide expensive and timely treatment to affected animals and their associated equipment. In more dire circumstances a farmer may be required to destroy their entire stock.

Members of the House may recall the devastating impact caused by the highly virulent Newcastle Disease in 1999. Poultry farmers on the New South Wales Central Coast had to endure significant financial and emotional hardship as a result of having to destroy their entire livestock. Almost two million poultry on 65 affected farms had to be destroyed. The stock provided more than 17 per cent of the State's production of chicken meat and almost 7 per cent of the Australian total. Farmers lost significant income. In addition to the loss of income from the

diseased stock, farmers lost a further six months of income because of the inability to restock immediately. The sheer logistics of supplying chicks meant that some farmers had to wait more than six months to restock. Due to the capital intensive nature of the industry most producers carry large loans. This loss of income meant that some farms were sold or involved in farm debt mediation, even today almost ten years after the outbreak. The virulence of the disease also meant that the community around Mangrove Mountain had to endure the imposition of extraordinary quarantine restrictions.

Farm life offers many challenges to survival, besides plant and animal diseases. Farmers have to cope with droughts, floods, bushfires and volatile domestic and world markets. There is also the challenge of surviving the ageing of the farming population with the loss of younger people leaving for the cities and the subsequent shrinking of towns and villages. In addition, there is pressure for industry to be cleaner and greener. Members will agree that introducing provisions under the Act to remove any encouragement to deliberately or inadvertently trespass to obtain evidence is necessary to help prevent the financial and emotional hardship caused by pest or disease incursions. The bill before the House today proposes amendments to the Act to specify who may institute proceedings for an offence against the Prevention of Cruelty to Animals Act and associated regulations. The bill provides that an approved charitable organisation, an authorised inspector, the Minister or the Director General will rightfully and automatically have the right to commence proceedings.

The Royal Society for the Protection of Cruelty to Animals (New South Wales)—which is better known as the New South Wales RSPCA—and the New South Wales Animal Welfare League are the approved charitable organisations that are able to continue to investigate and initiate court proceedings for breaches under this animal welfare legislation. The mission of the New South Wales RSPCA is to be the lead authority in New South Wales to prevent cruelty to animals. The RSPCA, of which I am proudly a member, upholds this important mandate by actively promoting animal care and protection through education and enforcement. Extensively trained RSPCA inspectors are empowered under the Prevention of Cruelty to Animals Act to investigate complaints against all kinds of animals in all kinds of situations. Similarly, the Animal Welfare League of New South Wales operates a team of inspectors who investigate allegations of cruelty to animals. The league is Australia's second largest animal welfare charity and is a leader in current practice relating to animal welfare issues and takes an active role in the review and development of animal welfare legislation.

These organisations have extensively trained personnel that can appropriately manage situations of animal cruelty and the subsequent enforcement activities. The RSPCA and the Animal Welfare League also have decades of invaluable experience managing and successfully prosecuting breaches of animal cruelty. During 2006-07 the New South Wales RSPCA brought forward 90 per cent of prosecutions made under the Prevention of Cruelty to Animals Act. Police officers will also be able to commence proceedings for a breach of the Prevention of Cruelty to Animals Act or associated regulations. Police officers are extensively trained in the lawful collection of evidence, including laws related to trespass. The New South Wales Police Force has for a number of years also successfully prosecuted breaches of animal cruelty. Members of the House will agree that it is appropriate that trained personnel who have the power to inspect breaches of animal cruelty and consequently gather the appropriate information should be the only ones given the power to commence proceedings for an offence under the Act.

I emphasise to the House that the proposed amendment in the bill is consistent with a trend in some other New South Wales legislation to regulate the manner in which private prosecutions are available. One example of this trend is the Plantations and Reafforestation Act 1999. This New South Wales law deals with timber plantations and the reafforestation of land and permits only private prosecutions with the consent of the Minister administering the Act. I seek the support of the House to progress the amendment to the Prevention of Cruelty to Animal Act 1979. Only authorised officers may enter and inspect premises to investigate reported breaches of animal cruelty. It follows that authorised officers are in the best position to collect evidence and commence proceedings where necessary without a heightened risk of illegal actions or biosecurity breaches. I commend the bill to the House.

Debate adjourned on motion by Mr Thomas George and set down as an order of the day for a future day.

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