

DOG AMENDMENT BILL 2013

Committee

Resumed from 22 October. The Chair of Committees (Hon Adele Farina) in the chair; Hon Helen Morton (Minister for Mental Health) in charge of the bill.

Clause 36: Sections 33GA to 33GE inserted —

Progress was reported after the amendment moved by Hon Simon O'Brien had been partly considered.

The CHAIR: Minister, can I clarify whether your advisers are here?

Hon Helen Morton: They are in the parliamentary precinct somewhere.

The CHAIR: We will wait a few minutes in the hope that we are able to locate the advisers.

Hon Helen Morton: We can start without them, if you like.

The CHAIR: If that is the wish of the minister.

Hon Helen Morton: Unless I get a serious problem.

The CHAIR: Hon Simon O'Brien has moved amendment 5/36 —

Page 55, after line 6 — To insert —

; or

- (c) the Minister has given permission for a transfer of ownership in circumstances that he considers justify it.

Hon SIMON O'BRIEN: We are considering clause 36. I have asked for a supplementary notice paper, issue 3, to be issued. The first thing I need to do is seek the leave of the chamber to withdraw the amendment currently before the Chair.

The CHAIR: Members, supplementary notice paper 19, issue 3, contains a different version of an amendment to be moved by Hon Simon O'Brien. It necessitates the amendment moved by Hon Simon O'Brien yesterday to be withdrawn.

Amendment, by leave, withdrawn.

Hon SIMON O'BRIEN: In accordance with supplementary notice paper 19, issue 3, I move —

Page 55, after line 6 — To insert —

; or

- (c) the Minister in his absolute discretion forms the view that extraordinary conditions exist in a particular case and a transfer of ownership is justified in that case.

There was discussion about this during earlier stages of consideration of the bill. I hope this represents—I believe it does—a considered version of words to achieve what Hon Lynn MacLaren and I both supported when we previously were in committee on this bill; that is, to provide a third way in which transfer of ownership of a dangerous dog restricted breed or a restricted breed pup could be effected lawfully in addition to the two that already exist in the bill, which are very finite. Although it may never come to pass that a minister is confronted with a particular case in which he is asked to form a view—that would be on the basis of government policy of the day and departmental advice—that extraordinary conditions might exist in a particular case and that a transfer of ownership might therefore be justified in that case, I think it is important, as I have discussed before, that we have it.

I thank the minister at the table for her consideration in this matter. I also thank the Minister for Local Government and his staff for their assistance. It is so much better if we can resolve these things in the way that we have. I thank them for that, and commend the amendment to the chamber.

Hon LYNN MacLAREN: I speak in support of the amendment as proposed. I commend the member for thinking on his feet last night and trying to solve what I had been at pains to describe as one of the problems in this legislation; that is, that it was going to capture the innocents. I commend the amendment and the member for moving it. One of the points that I made quite clearly last night in debate was that it would be heartbreaking for someone to be separated from their animal if there were extraordinary circumstances and they could no longer look after their animal. If that animal happened to have some pit bull in it, the person would be in the unfortunate position of not having any choice whatsoever and would not be able to transfer ownership to any other competent owner or would not be able to adequately look after their pet of some years. Hon Simon O'Brien

Extract from Hansard

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Chair; Hon Simon O'Brien; Hon Lynn MacLaren; Hon Helen Morton

made the point that the person could have had a long relationship with a companion animal and then go into a nursing home, for example. They would be unable to keep their pet and it would be unfathomable to have to put an animal down under those circumstances. To be able to transfer the ownership of the animal at that stage would be a welcome option in the bill.

There could have been other ways to deal with this and Hon Simon O'Brien has suggested that it will be decided by the Minister for Local Government at his absolute discretion, which gives extraordinary power to the minister. I hope the minister can deal with the pressure that they might be under at that point. It will be interesting to see how the policy develops around it and how a person could request the minister's attention. Does someone write a letter to the minister and say, "Please let me transfer my dog of some years"? Is there some involvement by animal behaviour specialists who could assess whether the animal could adequately adjust to a new home? What are the other elements of this amendment? This is raised in my mind and I am sure in other members' minds as well. The fact is that the amendment does provide that opportunity. I welcome it, I support it, and I hope that the minister supports it as well.

Hon HELEN MORTON: This is a situation that we have given a lot of thought to and it was the reason that we sought to report progress, which allowed me to speak with the minister responsible for the legislation and consequently we have had a series of discussions. I comment on what Hon Lynn MacLaren said about the nursing home scenario. We should not forget that there is a provision in the bill that covers the situation in which a person, because of their ill health, their frailty, a progression of their inability to manage or their moving into a nursing home for full-time care, has to transfer ownership of their dog or dogs. There is already in the bill a provision for someone who has become extremely ill and is unable to manage, with a general practitioner's letter of endorsement, to transfer the ownership of the dog. Equally, as has previously been discussed, if it was a matter of someone dying and an estate situation, the dog ownership would be transferable.

This is a case that we were trying to think about in terms of what other absolute, extraordinary conditions might apply that are out of the control of, and would be completely unforeseen by, the current owner of the dog. The minister listened carefully to the conversations that we had in the house and afterwards. In particular, he was aware of the concern that was being raised by both Hon Lynn MacLaren and Hon Simon O'Brien about when a person may be unable to continue to look after their restricted breed dog in really extraordinary circumstances that were completely unforeseen. The minister has accepted that there may be a rare situation that is beyond the control of an owner that would necessitate that person having to give up their dog. I hasten to say that this is not going to be a catch-all opportunity for people who made a decision to own a dog and then decided that it was something that they no longer wanted to continue doing, or they had a new partner and that person did not like dogs. That is not what this amendment is meant to catch. People who take on these sorts of dogs have to take them on knowing and understanding the responsibility that they have. I am putting on the record for future reference, if it is needed, that it is not going to be considered by the minister as some sort of catch-all opportunity to get rid of a dog because someone did not anticipate the difficulty of managing a dog.

Rather than seeing a dog euthanased under these rare circumstances, the minister is willing to accept that there should be a provision in the bill that would enable the minister at the time to consider the matter. The minister would take into consideration things such as whether the circumstances were indeed extraordinary, whether they were outside the control of the owner, what steps the owner has taken to remedy the situation so they can retain the dog, whether the dog had shown aggressive tendencies and other pertinent matters at the minister's discretion. In response, the minister, and therefore the government, is willing to support the amendment put forward by Hon Simon O'Brien.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 37 to 63 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and, by leave, the report adopted.

Standing Orders Suspension — Motion

On motion without notice by **Hon Helen Morton (Minister for Mental Health)**, resolved with an absolute majority —

That standing orders be suspended so far as to enable the bill to be read a third time.

Third Reading

HON HELEN MORTON (East Metropolitan — Minister for Mental Health) [5.50 pm]: I move —

That the bill be now read a third time.

HON LYNN MacLAREN (South Metropolitan) [5.51 pm]: I acknowledge that the minister has amended this bill and I appreciate that the government has done that. It is great that the government has agreed that there were some issues with this bill and that it has sought to amend it in at least one of the clauses that I brought to the government's attention. I restate that the Greens remain opposed to breed-specific legislation. In town today in fact is the gentleman I mentioned in my contribution to the second reading debate, Dr Bill Bruce, who has now arrived in Perth to give us the benefit of his wisdom about how that has not worked in Calgary and how there is a different system there. I encourage interested members to make their way to the interesting forum that will be held on Saturday. I briefly note the reasons we oppose specific breed targeting. I do not oppose this bill, I support it, and I support the declared dangerous dog restrictions and all the other elements of this bill that will modernise our dog management strategies in Western Australia. However, it would be remiss of me if I did not note the reasons we believe that specific targeting is not a good way forward. First, dog attack statistics are unreliable, as there is no certainty about the exact breed to which any dog in question belongs, and I discussed in detail the difficulties with identifying breeds of dogs. Second, all dogs by their very nature are capable of biting humans. Third, public education on how to interact with dogs and how to be responsible owners is better than placing bans on specific groups. Fourth, bans on specific breeds tend to result in the sins of other breeds being ignored. Fifth, specific bans are not easy to enforce because of the uncertainty of breed identification. Sixth, it is not the breed that makes a dog dangerous; it is the irresponsible attitude of the owner. Finally, the deed should be punished, not the breed. In that respect, this bill we are about to pass is flawed; however, I support it.

Question put and passed.

Bill read a third time and returned to the Assembly with an amendment.