DOG AMENDMENT BILL 2013

Committee

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

Clause 1: Short title —

Hon SIMON O'BRIEN: I am in favour of clause 1 standing as printed, but I indicate that there are a number of clauses that require some further examination in the Committee of the Whole House. This is the function of the house of review and so we had better make sure that that happens. A prominent law officer of the state—Edwardi Septimi Regis—whose representative sat not too far from where I am sitting now, generously provided me with a copy of the original Dog Act, number 6 of 1903. The original Dog Act ran to 35 very brief sections and four brief schedules, forms and the like. That act created a regime for dealing with the question of dogs in the community, just like our current legislation purports to do. It basically required that a dog had to be registered if it was over three months of age and had been kept by someone for more than 21 days. It was an offence for the dog to be allowed to run amok, bite people or be a nuisance. If the dog was found abroad unsupervised, it could be picked up by a worker of the municipality or road board district and taken to a place of impoundment. Then if they had to dispose of the dog, they had to get in contact with the registered owner and let them know what they proposed to do. It occurred to me that it was a pretty simple and straightforward regime.

Now when I contemplate the Dog Act, I see that it is about half an inch thick and runs to 76 pages. I might add that those 76 pages include title pages and notes and what have you at the end. The bill before the house does not include notes at the end but it runs to 76 pages. It is therefore growing like Topsy. One of the things that we need to examine at the Committee of the Whole stage is why on earth we need more and more, and more complex, legislation to deal with problems that were dealt with more than 100 years ago in a far more simple manner. I wonder whether we are really doing what we should be doing by producing pages and pages and pages of extra legislation.

I am aware that the world is a bit more sophisticated—we think—than it was in 1903. We have allowed over a century of lawyers to run amok in drafting evermore complex legislation. Presumably, the drafters of these documents are paid by the word, so we end up with reams and reams of material. I sometimes wonder, on the rare occasions when we get to review it, why on earth we have so much of it. Ten years, I understand, this bill was in the making, and I believe it.

As I said during the second reading debate, I am prepared to support the further evolution of our Dog Act by the provisions contained in the bill, because I believe they improve the current provisions of the Dog Act. They are sensible, and I congratulated the minister for taking on board so much of the consultation that has happened in recent years. But still there are a few clauses about which I shake my head in disbelief. I will not give a complete overview of them now in the debate on clause 1, Madam Chair; you and other members will just have to hug yourselves in delicious anticipation of the consideration of further clauses as we get to them!

One of the things I am looking out for is some points of clarification. Also, I want to ask particular questions about red tape. There is a lot said about red tape. The committee stage such as this is when we actually consider the mechanics of the legislation before us and how it is meant to work in practice. That is the right time to ask some questions, and I can ask the minister at the table, "Is this government dinkum about reducing red tape? Would the minister that she is representing and that minister's department knowingly inflict more red tape on the community for no good reason?" When they tell me, "No, we would not do that", I might point out one or two things to them and ask, "Why is it so?" At that point, of course, they might hope that they have a really good reason for doing what they are doing and I will end up with egg on my face! But it is a point that I want to make, because I do not know why we continually make legislation more and more complicated. I support clause 1, "Short title", being agreed to and I look forward to the rest of the debate.

Hon HELEN MORTON: I have a couple of comments to make about the speech we just heard. One of the reasons that we need to do more in this respect than was done in—sorry, was it 1800-something?

Hon Simon O'Brien: No, it was 1903.

Hon HELEN MORTON: — 1903, was evidenced by the amount of community interest and community expectations about this legislation. I remind people that 1 500 submissions were made on this legislation through the passage of the review that took place. I was astounded to realise that that was in fact more than the total number of people who made submissions on the Mental Health Bill. Despite putting out an exposure draft of the bill and a green bill, yet still more submissions came in on the Dog Amendment Bill than came in for the Mental Health Bill over the 10 years of the making of this legislation. Also, I am pleased to tell Hon Simon O'Brien that red tape will be significantly reduced as a result of this legislation. In particular, the first thing I mention is the

lifetime registration of dogs, for example, rather than periodic registration. There is red tape reduction about the nuisance-barking processes. There is less red tape about greyhounds and assistance dogs, and there is no longer the requirement for a tag on a dog. There is therefore a reduction in red tape in these processes.

Hon LYNN MacLAREN: I want to make some comments on clause 1 and ask the minister some questions so that I am sure we will all be illuminated further about the intricacies of this bill.

My question is basically this: could the minister please explain for my constituents and for the record why we are going down the path of trying to identify dangerous dogs by breed? As I indicated in my speech in the second reading debate, there is quite a bit of evidence that legislating on the basis of restricted breeds does not work. I am concerned because I do not believe the minister's reply to the second reading debate explained why we are doing this when, for example, the RSPCA has said that restricted-breeds legislation does not work; the Australian Veterinary Association has said that restricted-breeds legislation does not work; and Bill Bruce from Canada, the advocate for what is known as the Calgary model and who will be here at the end of this week, has said this also. There are 13 000 signatures on a petition saying that this approach to dangerous dog identification does not work. If I could get from the Minister for Local Government a clear explanation of why the government is continuing to go down this road, that would be very helpful to us in debating the rest of this bill.

Hon HELEN MORTON: I could almost give my second reading response again to respond in full to the comments the member has just made about the Calgary model, because the member would then have some understanding that the Calgary model has been considered and it certainly has been taken on board in the development of this legislation. The Calgary model is based on a by-law in the city of Calgary, Canada, that focuses on dog education and stronger enforcement rather than the banning of specific breeds. The city of Calgary undertakes an extensive dog safety public awareness campaign. It also focuses on punishing the behaviour of the dog, not the breed. That is well understood. The city of Calgary has put in place significant penalties, including for chase and bark incidents. Officers are also empowered to declare specific dogs as dangerous, which results in higher licence fees, muzzling rules and restrictions on dog handlers. It has been reported that the number of aggressive dog incidents in the city of Calgary has decreased as a result of that legislation.

It is important to note that this legislation contains a number of elements of the Calgary model, because it enables dogs that have attacked or have repeatedly threatened to attack to be deemed dangerous on the basis of their deed, not the breed. That component is already in this legislation. What I am saying is that we are dealing with both—we have picked up from the Calgary model the deed aspect, and we are dealing also with the breed aspect. The provisions around dogs being declared dangerous have been strengthened, and the penalties have been increased. I therefore seriously wonder why people can continue to say that this is not a better piece of legislation to put in place when there is a known breed of dog that is significantly more dangerous than other breeds. I have provided to the member, in both questions on notice and questions without notice, a number of statistics. I have also provided, through my second reading response, statistics from the United States and New South Wales, and other places, about the number of dog attacks. Although we are talking about five breeds that are dangerous, only one breed in Western Australia will be placed on the banned list. A number of scientific studies in the United States and Canada have shown that pit bulls are overwhelmingly the greatest contributors to fatalities and serious injuries from dog attacks. Between 1979 and 1994, pit bulls were responsible for more than 35 per cent of deaths from dog attacks; and between 1994 and 2005, pit bulls were responsible for 35 per cent of attacks that resulted in death or serious injury. Fatalities were most often reported when children were attacked, with 70 per cent of victims being under the age of 10. This propensity to attack and cause serious injury is also evident in the statistics on dog attacks kept by the New South Wales government. There is a significant level of information around pit bulls and the way in which they attack. I therefore do not think there is any problem with our taking the best of the Calgary model, plus this restricted breed, and incorporating that into this new piece of legislation.

Hon LYNN MacLAREN: I know that there is a range of statistics that we can use, but I do not seem to have the same statistics that the minister has. I am referring to page 11 of an Australian Veterinary Association paper of 2012, which contains a graph of the number of dog attacks in New South Wales. This is very concerning to me, and this is the reason I am bringing this matter to the attention of members. That graph shows that the number of dog attacks has increased considerably regardless of pit bull involvement. My concern is that we will pass this bill, and Western Australians will rightly expect the number of dangerous dog attacks to reduce. However, that will not be the result of this bill. I believe that is the essence of why we should not try to restrict any particular breed, as has been pointed out by the Australian Veterinary Association and the RSPCA. The statistics that I have indicated that over time—it depends on which slice of time we look at—the dog breeds that have been dangerous have been German shepherd, Doberman, greyhound, Rottweiler and American pit bull. This will be my final question on this matter in clause 1. In the list that I have of dog attacks in New South Wales, kelpie is six per cent, Rottweiler is 5.7 per cent, Jack Russell terrier is 4.7 per cent, German shepherd is eight per cent, all

types of bull terrier is 7.9 per cent, Doberman is 1.2 per cent, and all types of heeler is 6.3 per cent. If we want to go down this road of restricting one particular breed as being the dog that is dangerous—in addition to the dogs that are declared dangerous no matter what breed they are—why have we chosen the pit bull? Why have we not chosen other dangerous dogs that are involved in fatal attacks? Anyone who has been reading *The West Australian* of late would see that hundreds of dog attacks occur each year. Many different breeds are involved in those attacks. If we go down this road of identifying only the pit bull as a dangerous breed, two things will happen. The first is that all pit bulls, and all dogs that look like pit bulls or are mistaken for pit bulls, will be treated as dangerous dogs. The second is that a lot of other dogs that are dangerous will not be picked up as dangerous dogs. We need to have a clear understanding of the bill that is before us. I completely support declaring dogs as dangerous and imposing additional requirements to ensure community safety. No-one disputes the fact that we need to do that. However, I have lot of sympathy for people who own a dog that may have some pit bull in it, or that is a pit bull, because those dogs should not be captured by this approach that is being taken to restricted breeds. That is not just because of my compassion for these constituents. It is based on evidence from around the world that restricted-breed legislation is ineffective.

Hon HELEN MORTON: The comments that the member made about the RSPCA and the Australian Veterinary Association were also looked at by the people involved in drafting this legislation. Both the RSPCA and the Australian Veterinary Association have stated that they do not support breed-specific legislation. That is fine; we understand that. However, the RSPCA states that there is a strong genetic component in a dog's propensity for aggressive behaviour, trigger point for aggression and capacity to inflict serious injury. The Australian Veterinary Association, in its August 2012 report on dangerous dogs, states at page 2 —

> While genetics are an important factor, the impact of the environment and learning are critical to the behaviour of a dog. The tendency of a dog to bite is dependent on at least five interacting factors:
>
> - heredity (genes, breed)
> - early experience
> - socialisation and training
> - health … and
> - victim behaviour …

Unfortunately, this report is flawed by its use of statistics. On page 6, the report states that —

> The Pit Bull Terrier has been the target of recent state legislation, despite data that the breed is responsible for no more attacks than a number of other breeds.

It quotes the New South Wales raw data on attacks, failing to take into consideration the size of the population of this breed and thus the demonstrated aggressiveness of the breed. For example, in 2009–10 in New South Wales, there was, in fact, one attack for every 29 pit bull terriers. The report argues that breed-specific legislation has failed because it has not reduced the number of attacks by this breed or the percentage of the breed that attacks. It does, however, show that the proportion of dog attacks carried out by pit bulls has decreased. Perhaps this is, in fact, evidence that the controls have had some effect.

The Australian Veterinary Association, in its draft paper "Elements of effective dog legislation", states, according to my notes —

> While all dogs can bite, it is recognised that the size of the dog plays a significant role in the potential harm that can be done. Data based on medical surveys have identified that certain breeds are more likely to cause injury requiring medical attention than others. Bites from large breed dogs are more likely to do more serious damage to the victim.

I will respond to the particular statistics from New South Wales, because, as I recall, it has the best contained statistics around dog bites et cetera.

Hon Lynn MacLaren interjected.

Hon HELEN MORTON: Yes. In New South Wales, the Companion Animals Act 1998, as amended in 2008, requires that councils report to the New South Wales Division of Local Government, within the Department of Premier and Cabinet, information on dog attacks within 72 hours of receiving the information. A dog attack can include any incident in which a dog rushes at, attacks, bites, harasses or chases any person or animal other than vermin, whether or not any injury is caused to the person or animal. In March 2012, the department released a report covering council reports of dog attacks in New South Wales in 2010–11. Eighty-seven attacks were by purebred pit bull terriers, with 2 567 pure–breed pit bull terriers on the register. This represents an attack rate of 3.4 per 100 dogs on the register. Only Tibetan mastiffs had a higher attack rate, but as only two attacks occurred, with 43 on the register, the numbers are too small to draw a conclusion about the aggressiveness of that breed. That is the problem when we are dealing with some breeds that have very small numbers.

Of cross-breed dogs, pit bull terriers accounted for 50 attacks. With 1 287 cross–breed pit bull terriers on the register, this represents an attack rate of 3.9 per 100 dogs on the register. This was the fourth highest rate of attack after St Bernard, British bulldog and Dogue De Bordeaux, but these accounted for only four, six and four attacks respectively—so we must be careful when we use very small numbers of attacks, and very small numbers of dogs—and had registered numbers of 58, 101 and 87. The pure–breed pit bull terrier had the highest rate of attack in 2005–06 and 2007–08, the second highest in 2006–07 and 2009–10, and the third highest in 2008–09. The cross–breed pit bull terrier had the highest rate of attack in 2006–07, 2007–08 and 2008–09, the fourth highest in 2005–06, and the fifth highest in 2009–10. Over the six years that data had been collected and collated on dog attacks in New South Wales, the pit bull terrier, whether a purebred or a cross breed, had never been outside the top five most dangerous dogs, and five times it had headed the table. No other breed of dog has appeared in the top five of the 12 lists of most dangerous dog breeds, pure or crosses, more than seven times, compared with 12 by pit bull terriers. In New South Wales, 523 dog attacks over the six years were attributed to pit bull terriers.

Where I indicate that we are doing both, I believe that the community's interest and community safety are best served by incorporating into this legislation both those dogs by breed and the pit bull terrier by breed.

Hon LYNN MacLAREN: I was very interested to hear those statistics, and I think it proves that it is just how we look at those statistics, does it not? Therefore, we should perhaps consider a lot of breeds to be dangerous and try to isolate whether they —

Hon Helen Morton interjected.

Hon LYNN MacLAREN: One of the problems that I have with what the minister just read to us from the RSPCA was a small clause that was left out of that quote. Just to finalise this, I feel it is very important that the RSPCA's complete statement goes on the record. I will then take the minister's stats on advice. Obviously, we are going down this road regardless of the counterargument. However, the RSPCA's position is clear. As the minister said—I am quoting —

> Our view, based on the available international scientific evidence, is that any dog may be dangerous and that dogs should not be declared as 'dangerous' on the basis of breed. While we recognise that there is a strong genetic component in a dog's propensity for aggressive behaviour, their trigger point for aggression and capacity to inflict serious injury, these factors are not isolated to any specific breed.

That is the phrase that the minister left out at the beginning of her remarks. That is the phrase I am talking about in my proposed amendments on the supplementary notice paper, which I draw to members' attention.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Section 3 amended —

Hon LYNN MacLAREN: I will move the amendment standing in my name, which is to delete line 21 on page 3 of the amendment bill, which is under the definition of "dangerous dog". I will just describe it and then move it, for the benefit of *Hansard*. As the minister described, a dangerous dog has three components: a declared dangerous dog, a restricted breed dog, or a commercial security dog, which we know is trained to be dangerous. Of those three elements, I will move that paragraph (b), "a dangerous dog (restricted breed)", be deleted from this bill. That will still enable us to declare dangerous any dog that is dangerous, whether it be a pit bull, a Japanese Tosa or any of those other five restricted breeds. Then, if, say, one-third of pit bulls are dangerous, that one-third can be declared through the process by which this bill declares any dog dangerous. It means that the two-thirds that would not be declared dangerous would not be immediately assumed to be because they are either a pit bull, part-pit bull or mistaken for a pit bull. I move —

> Page 3, line 21 — To delete the line.

Hon HELEN MORTON: The government will not support this amendment. Just so we can look at the totality of the amendments that Hon Lynn MacLaren is seeking to put in place, this amendment and the one subsequent that cover lines 26 to 31 on page 3 look to knock out of the Dog Amendment Bill 2013 anything to do with dogs declared dangerous as a result of being a restricted breed. I assume that if this amendment is successful, Hon Lynn MacLaren will not necessarily go on to move the further amendments, but she might.

Hon Lynn MacLaren: I do have a point to make on the second one, so that is why I have moved it separately.

Hon HELEN MORTON: I think I have already put the argument on the government's intention to pursue a "dangerous dog (restricted breed)" definition in the bill, and I have talked at length about the propensity of the pit bull terrier and pit bull-cross in that respect, and I think the government will continue to support that position.

Hon SIMON O'BRIEN: I just wanted to confirm—possibly the member could indicate—that it is line 21, or is it line 20, that we are proposing to —

The CHAIR: It is line 21.

Hon SIMON O'BRIEN: I am looking at bill 19–1.

Hon Helen Morton: It is 19–2.

The CHAIR: You need 19–2.

Hon SIMON O'BRIEN: So we are definitely talking about a "dangerous dog (restricted breed)".

The CHAIR: I think you are being handed a copy now.

Hon SIMON O'BRIEN: Thanks very much; the amendment makes a little more sense now. I was aware there had been a second print.

In relation to the amendment, I notice the supplementary notice paper contains some proposed amendments to clause 36, which obviously contemplates what might happen if this present amendment is defeated. I want to ask for advice on whether there are currently restricted breeds prescribed by regulation. Also, regardless of what happens with this bill, the regulations that currently exist obviously will persist, so, in effect, is the amendment currently before the Chair actually going to achieve, in the first instance, what the member moving it wants it to?

Hon HELEN MORTON: Hon Simon O'Brien is correct; these restrictions currently apply in the regulations. The Dog Amendment Bill 2013 will actually bring it into the legislation. If the government were to support the amendment, which it is not inclined to, then it would make no difference because the regulations would apply.

Hon LYNN MacLAREN: It is my understanding that the regulations that will be underneath the framework of this bill have yet to be drafted, and that this framework of the bill replaces the existing bill with the regulations as they exist. The bill will actually increase the strength of the framework around dealing with dangerous dogs, which right now sits in regulations, but as it moves up into the bill, and therefore the act, there are various other clauses in the act that will then apply to this definition we are debating. So my understanding is, yes, it is true that the regulations might be amended to make this a moot point, but it is also true that they might not be amended to deal with it. My understanding is that this would achieve what it is I want to achieve, and that it is simply that the government does not at this stage support it.

Hon HELEN MORTON: The only difference is an increase in the penalties for a breach. I am just trying to get my advisers to tell me what the increase in the penalties will be. But other than that, the provisions dealing with things such as wearing a muzzle and a collar will still apply.

Amendment put and negatived.

Hon LYNN MacLAREN: I move —

> Page 3, lines 26 to 31 — To delete the lines.

This amendment is to the clause that further clarifies what is meant by "restricted breed". I want to delete these lines because of, as I indicated during the second reading debate, the problem with identifying a dog with pit bull in it. At line 29 the definition of "dangerous dog" reads that it —

> (b) is a mix of 2 or more breeds, one being a breed prescribed by the regulations to be a restricted breed;

There are significant concerns about the ability of rangers, and veterinary surgeons even, to identify a dog with aspects of a restricted breed in it. I am very concerned about capturing all kinds of dogs that should not be captured by this legislation. I move this amendment, knowing that the previous amendment weakens it somewhat, because I am keen to have those lines deleted. I could amend it, but I fear it would be a futile attempt to try to encourage support for this amendment, so therefore I will test the amendment as it stands on the supplementary notice paper.

Hon HELEN MORTON: The government does not support deleting those lines. This is the definition in the act around "dangerous dog (restricted breed)". It means a dog that is a breed prescribed by the regulations to be a restricted breed, or is a mix of two or more breeds, one being a breed prescribed by the regulations to be a restricted breed. It is continuing the notion that a restricted breed is a dangerous dog, and therefore there will be certain requirements on owners in terms of how they manage those particular dogs. It does not, for example, mean these dogs have to be euthanased, nor does it prevent somebody from owning a dog; it purely outlines the arrangements those owners have to have in place to be able to manage those dogs.

Rangers will not be required to identify pit bull terriers in the field. Most people who own a pit bull know what they own. Hundreds of people have lobbied us as members of Parliament on the basis that they know, understand and love their pit bulls. They have responded to advertisements for pit bulls for sale, so they know the parentage when they acquire their dogs. On the registration form they will be asked to state whether they have a pit bull or

a pit bull mix. I expect that, because of the pride they have in those particular dogs, they will take responsibility and generally respond truthfully. The legislation is about requiring people to take responsibility for their dogs. I repeat; it is not about putting down the dogs or indicating that people cannot own them. However, if people do not put protective measures in place, the ranger will issue an infringement notice. If, for example, someone believes their neighbour has a restricted breed dog, they may report it to local government and, after discussion with the owner, if the ranger believes it is a restricted breed dog, the ranger will advise the owner to put the protective measures in place. Again, if this is not done, the ranger will issue an infringement notice. If the owner believes they do not have a pit bull or have not committed an offence, they may choose to have the matter considered by a magistrate. I can only say that very few cases will get to that situation. Most people know, and take pride in the fact, that they own a pit bull terrier or pit bull terrier cross. If that is the case, the magistrate will make a determination about the breed of the dog on the evidence put before them.

I was looking previously for information about why this will be included in the legislation and the changes to the penalty for a breach. It will increase from a maximum of $5 000 to a maximum of $10 000.

Hon SIMON O'BRIEN: I want to say something about this proposed amendment, which I thought would have sunk or swum with the fate of the last amendment. But I am glad it is being pursued independently because it gives me an opportunity to mention a couple of things to the honourable member and to the people who have corresponded with not only her but also a lot of other members in this place. I asked the question just now about the consequences of deleting the term "dangerous dog (restricted breed)" given a provision is in the bill for regulations to prescribe some restricted breeds. Indeed, the regulations do provide them. We heard the minister talk about this today and last Thursday. I will advise the house of some things that have already been announced by the Minister for Local Government and, I think, replicated in some of the literature accompanying this bill, such as the explanatory memorandum. That includes an undertaking that the government has no intention to include any further restricted breeds in those regulations. At worst, we will end up with the status quo, which, as I pointed out and I think was confirmed before the recent vote, that, in effect, nothing will change. By acceding to that amendment or this one, we will not achieve what is sought to be achieved by the mover of the amendment. That is not to say that I do not have understanding and sympathy for what the mover is trying to do. But it would be a hollow gesture for me to say that I will vote with the member, knowing it would not make any difference and it would be defeated anyway. I am not into those sorts of hollow gestures, but I think it is important that we put on the record that the people's concerns have been noted and, indeed, have been responded to by the relevant minister. I mentioned, I think last week, some correspondence I had received from a constituent, Ms Kelly Duffy, about restricted-breed legislation. I did not have it at the time, but I have just received a letter from the Minister for Local Government dated 11 October, received apparently in my electorate office on 15 October, in which the minister states, inter alia, the following —

> The Bill —

It is this bill 19–2, I hasten to add —

> proposes to move the requirements in the current *Dog (Restricted Breeds) Regulations (No. 2) 2002* to the principal Act and, at the same time, strengthen the provisions. The Liberal–National Government has no intention to add additional breeds of dogs to the restricted breed list unless they are banned from importation into Australia by the Federal Government.

I was further reassured when the letter went on to address another question in the following terms —

> I can also assure you that there is no intention to require the destruction of restricted breed dogs that are not registered, as is the case in Victoria. The emphasis in the Western Australian legislation is on responsible dog ownership.
>
> It is accepted that any dog can attack, and this is why the legislation includes provisions to declare a dog dangerous that has attacked, or repeatedly threatens to attack. If a local government declares a dog dangerous, it places specific restrictions on ownership of the dog, including the need for it to be muzzled in public at all times. This approach is in line with the Calgary Model referred to in Ms Duffy's letter.

Other discussions are probably going on about whether this bill is truly reflective of the so-called City of Calgary model or whether it differs in important ways, but that is not germane to this debate. We need a bill that works for Western Australia and I think the government has gone to strenuous efforts, including taking note of the many people who have participated in consultation, to get to that point.

I note on the supplementary notice paper that the honourable member has moved an amendment to clause 36, which I think is sympathetic to what she has proposed and what I think reflects the spirit of those who are opposed to breed specific restrictions. With that in mind, there is probably not much point in pursuing

amendment 2/4, but I think we could approach the next amendment on the supplementary notice paper in a slightly different way. It is probably worth a good debate when we get to that.

Amendment put and negatived.

Clause put and passed.

Clauses 5 to 7 put and passed.

Clause 8: Sections 10AA and 10AB inserted —

Hon SIMON O'BRIEN: Clause 8 proposes new sections 10AA and 10AB be inserted, which will allow a local government to—I refer to 10AA (1), where it states —

> ... delegate to its chief executive officer any power or duty of the local government under another provision of this Act.

It also may provide for that delegation to be further delegated—which is unusual—a delegation of a delegation. I cannot get up much of a head of steam about that; it is not the point I want to make.

Proposed section 10AB requires that the chief executive officer of a local government keep a register of delegations made under the previous section—that is, 10AA(1)—and further delegations made under the authority of such a delegation, at least once every financial year, are to review delegations made by the delegator. Subclause (2)(b) states that any —

> ... further delegations made under the authority of a delegation ... are to be reviewed by the delegator.

There is a lot of delegating going on! Again, it is not the point I want to raise. I refer the minister to section 29(1) of the principal act, that is, the Dog Act 1976, which states —

> A local government shall, in writing, appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by this Act.

Maybe I am wrong; maybe there is some other provision that provides the legal mechanism that proclaims what we all presumably know—that is, that dog control is generally under the responsibility of local government. Local government officers, quite often called rangers, carry out that responsibility and are already empowered to do so. However, my question to the minister is, firstly, whether my understanding is a little incomplete; namely, that section 29 of the act is not the actual head of power I should be looking at; and secondly and more relevantly, why do we need these new powers to delegate?

Hon HELEN MORTON: I thank the member for the query. Local government, that is, council officers, can only delegate to the CEO of a local government authority. The provision will allow for that delegation to go further; that is, only the CEO can deal with staff. Therefore, the CEO has to appoint rangers and provide them with their duties. That is what this proposed section of the bill provides.

Hon SIMON O'BRIEN: I thank the honourable minister for that explanation. I ask, firstly, has this matter not existed before the introduction of this bill; and secondly, how is it currently dealt with under law?

Hon HELEN MORTON: It is a very good question; if the member could just wait.

Hon Simon O'Brien: Thank you.

Hon HELEN MORTON: The government is implementing in legislation what happens in practice because the current legislation is unclear. It has been incorporated into both this Dog Amendment Bill 2013 and the Cat Act to make the process absolutely clear.

Hon SIMON O'BRIEN: Again, I am rising to speak because I am not necessarily of the view that clause 8 should stand as printed. I find it hard to believe it has taken us all of this time until 2013 to work out this legal deficiency in the legislation; namely; that officers, who we thought were authorised officers, have not been authorised at all. Unless the CEO himself or herself of the relevant local government runs around carrying out all the dog legislation provisions, rangers have not somehow been empowered. I was looking back through the 1903 legislation, as I am wont to do, and I did not see any clause that would seek to be like this provision. Again, I wonder whether the minister is saying that at the moment there is no capacity for a ranger or other officer to exercise powers under the dog legislation.

Hon HELEN MORTON: The Dog Amendment Bill 2013 and also the cat legislation bring forward provisions that already exist in the Local Government Act. However, it was the lawyers, during the drafting of the legislation, who made it absolutely clear that this provision needed to be replicated in both of these acts as well. It is not putting anything different in place. It is making both the dog and cat legislation clear. Given that I am

referring to the Dog Amendment Bill, I will confine myself to the bill. However, the provision establishes clarity for those people involved in that process, which currently exists in the Local Government Act.

Hon SIMON O'BRIEN: Perhaps the minister could indicate, even by way of interjection, whether the terms of the further delegation is much the same as the provision contained in the Local Government Act.

Hon Helen Morton: Yes.

Hon SIMON O'BRIEN: I thank the minister, but how extraordinary this is. What would be wrong with having a provision in clause 4 that gives a definition of an "authorised person" or an explanation about what an "authorised person" means—that is, an officer of a local government—so that when we read the legislation that an authorised person can do this, that and the other, we know they are authorised to do it? What is wrong with that? Let us look at the detail of the proposed sections that outlines what has to happen. It states under proposed section 10AA(1) —

> A local government may, by absolute majority ... delegate to its chief executive officer any power or duty of the local government under another provision of this Act.

Let us look at what will happen. The relevant local government will raise an item for one of its committees; that is, the provision of delegation to the CEO of powers under the Dog Act. Officers will write up a report, which will include all the background on everything and their recommendations. It will then be distributed to the council members of whatever committee it is who will meet on some windswept Tuesday night, moving and seconding things as they are required to do by the Local Government Act. In due course that item will go forward to the full council. The officers will write it up as an item for full council. It will include the background. It will tell everybody what went to the standing committee earlier to consider this matter and who voted for what; someone moved that the CEO be given this delegation; Councillors Brown, White and Black all voted for this motion, no-one voted against it, and that is why it is on the agenda here. There might be a bit of discussion because Councillor Jones has a dog problem in his ward. They will digress a bit to discuss the dog problem in a certain street before the mayor, having received a nudge from the clerk, pulls it back on track and says, "That's fine, but we're talking about the delegation." Eventually it will go through and be duly recorded with the requisite absolute majority. That is the first thing that happens.

The second thing, according to proposed subsection (2), to flow from that meeting is, "The delegation must be in writing." On behalf of the council, the CEO writes a letter to himself saying, "I am commanded by the council to write a letter to me saying, 'You are officially delegated to do all of this stuff that you thought you were able to do for the last 120 years'"! There are probably some other provisions there, if the council remembered the first time around to do it, to use subsection (3) to "expressly authorise the delegate to further delegate the power or duty". If they have forgotten and they do not want the CEO to be the ranger and run around responding to dog-related inquiries, they will have to bring another item to next month's council meeting and do what I have just described. Most likely, the chief executive officer will exercise his prerogative under proposed subsection (5) and "perform a function through an officer or agent". A separate range of instructions will be drawn up. I do not know; it might be on big bits of parchment with a seal on the bottom. The chief executive officer's prerogative to the ranger—who knows damn well why he is working for the council as a ranger and what he has to do anyway—by way of delegation of authority under section 10AA of the Dog Act 1976 will state that he is authorised to be the dog catcher or whatever. That is what will happen. I do not know if notification of the delegation of council's delegation has to go to council. Maybe it does; maybe it does not. But by jeez a decent size bureaucracy would make sure it generated a bit more paperwork.

While the chief executive officer is going about his business—not as the ranger because he has delegated the delegation—he has to keep a register. Of course he will not do it himself; he will have some other officers, or department of them, keeping a register of who he has sub-delegated to. When rangers come or go, he will add to the register and delete from the register, and generally adjust the register. He will do that as required; and at least once every financial year he will review it to make sure the delegations are right. Why would this be required? It is because it says so in the act. Presumably he will report back on this delegation, and probably umpteen others, to the council. It will be another full agenda item. I have to ask myself: why?

The CHAIR: That is a very good question. I need to leave the chair until the ringing of the bells. Sorry, I apologise; I was so enthralled!

Hon SIMON O'BRIEN: Madam Chair, if you do not mind me saying so, that was a rush of blood that could have left us with a terrible cliffhanger!

The CHAIR: Blame low blood sugar levels.

Hon SIMON O'BRIEN: In the Chair's attempt to provide some relief to the minister and her advisers, I was just about to say what should happen and you would have left everyone waiting for 15 minutes!

I have laboured the point, have I not —

Hon Helen Morton: Yes.

Hon SIMON O'BRIEN: The point needs to be made; otherwise it will be made in 142 local governments across the state all the time. Why do we not have a provision stating "an authorised officer is" or "authorised officer means" and then be done with it? That would be too easy. Why do we have to go through all of this quite extraordinary amount of red tape? If it already exists in the Local Government Act, that is an indictment on the custodians of the Local Government Act because it should not exist there either! If we are now legislating and touching on the same things, we should be taking the opportunity now to get rid of this quite silly institutionalisation of unnecessary red tape and bureaucracy. We should let CEOs get on and earn their money doing some useful things instead. I invite the minister's response.

Hon HELEN MORTON: And respond I shall.

Hon Simon O'Brien: Be brief, please!

Hon HELEN MORTON: I will keep it really simple. The kind of delegation we are talking about is not dissimilar to the sort of delegation that operates between a minister and an agency or a department. Yes, we know that the director general or the CEO of an agency knows what is required, but as Hon Simon O'Brien would be aware, there are legal requirements for us to formally delegate certain powers and duties beyond the minister to the CEO of the organisation. If there were delegations beyond that, of course that would need to be in writing as well and it would need to be legally undertaken. It is all very well to say that everybody knows what they should be doing and let them get on with the job, until of course something goes wrong and somebody wants to find out who is legally responsible for this particular matter, whatever the particular matter might be. They would immediately look for the formal delegation process that had taken place to ensure that this person calling themselves the ranger was properly delegated to do whatever it was he or she did. In talking about a potential $10 000 fine or a suggestion that an issue might escalate to the courts—although I consider that to be quite a small likelihood—there is a requirement in that process for proper delegation to have taken place for that to be a legal instrument that can be used to ensure that that delegation is done properly. This is what this puts in place in the dog bill.

Hon PETER KATSAMBANIS: I was not going to speak on this particular clause of the bill, but in listening to the discussion raised by Hon Simon O'Brien and the minister's response, I started getting some concerns about this delegation of the delegation and then the sub-delegation thereof from the local council to the CEO to someone who, in proposed section 10AA(5) of the legislation, is an officer or agent. There has been significant discussion about the fact that it is likely to be a ranger who will have this power delegated to them, and a ranger's duties are well understood; however, this particular provision does not limit the delegation to a ranger. In some areas of our state that will not totally matter because local government areas are substantial. However, in some parts of my electorate, the North Metropolitan Region, especially parts closer to the river, as we know, if a person takes their dog for a leisurely stroll for, say, half an hour or 45 minutes on a lovely sunny Perth afternoon, they may well walk through two or three different municipalities in that time because of the fact that we have so many very small municipalities at the moment. If during that walk the person traverses these three different boundaries, there is potential under this delegation of the delegation and then the sub-delegation of that delegation that different types of officers have been authorised under this provision in each of those municipal areas, which would of course cause confusion for the general public—remembering that this legislation is not really about the interplay between us and local government; it is really about giving effect to the public's desire to keep animals, to be able to walk them freely and for them to be kept in good order. Therefore, I seek from the minister—I see the minister quizzically looking as to what exactly I might be seeking!—some explanation about how that power given to the CEO to further delegate to anybody will be somehow or other constrained, or at least made consistent between local government authorities, so that the general public will know that it is a ranger who will interact with them if there is an issue about their dog, rather than, say, another by-laws officer or even possibly a community safety officer or the rate collector, for that matter.

Hon HELEN MORTON: To be clear, all the local government authorities will have the same process in place. There is no suggestion that one local government authority will do it one way and another will do it another way. It is about the process by which those powers and duties under the legislation are delegated to the appropriate person. The second thing is that each local government authority is responsible for what takes place inside its boundaries. In preparation for this bill I asked the question about what would happen if a dog ran across one local government area boundary to the other side of the road into another local government area. I was assured that the ranger, who it would be in most cases, would be able to continue to pursue that dog across boundaries.

The issue is about responsibility for the management or implementation of the legislation in the particular local government area where the incident occurs. The pursuit across boundaries, if necessary, is fine.

Hon SIMON O'BRIEN: I thank the minister for that further explanation. I also thank Hon Peter Katsambanis for further adding colour to consideration of this bill by contemplating errant dogs bolting for the local government border and what happens then if a ranger is, presumably, in hot pursuit or if there are cross-border powers such as exist at the Northern Territory–Western Australia border or the Western Australia–South Australia border, where when police from either side are in hot pursuit of a criminal, they can cross the border and exercise their powers accordingly. I thank the honourable member for that contemplation, which I am not sure has anything to do with the proposed sections.

Hon Peter Katsambanis interjected.

Hon SIMON O'BRIEN: He assures me it does!

I have already referred to the 1903 act, of which I am becoming extremely fond the more I look at it. They knew how to call things simply in those days and life must have been awfully simple. I do not know how governments would manage these days if they did not have these comprehensive, prescriptive regulations that make them employ vast numbers of staff to engage in bureaucracy at their ratepayers' expense for no apparent reason. I will not live in the past, I will come up to 1976—the Dog Act 1976 to be exact, which contains the provision I referred to earlier. It contains section 29(1), which states —

> A local government shall, in writing, appoint persons to exercise on behalf of the local government the powers conferred on an authorised person by this Act.

There is a definition of "authorised person" in the principal act which is as follows —

> ***authorised person*** means a person who is appointed by a local government, to exercise powers on behalf of the local government, under section 29(1);

That is what we have had in the act since 1976. What is broken about that? Presumably all of the local governments have done what the minister quite correctly pointed out needs to be done—that is, to have some official form of appointment as to who is responsible as an authorised person for whatever duties so that when some live matter has to be progressed we know who is responsible for the act or omission to act that takes place. We have already got it. Someone decided that in the Local Government Act 1995 or by amendment after then that we needed reams and reams of other information about delegations and sub-delegations, councils endorsing by absolute majority and all of this other rot. This is the red tape that I alluded to earlier. It is a blatant, caught red-handed with your pants down case of unnecessary red tape being propagated. The minister, who in fairness is in this chamber in a representative capacity, has not been able to satisfy any one of us, I am sure, that any of this is needed. I hope that I have been able to demonstrate that it is actually counterproductive. If we want to talk the talk that of course we are committed to getting rid of red tape, here is a chance to walk the walk. Therefore, I ask the minister, as she contemplates leaving the chair for the taking of questions, and members can also contemplate this over the next half hour or so, whether this clause is actually necessary, because I am currently of the view that it should be opposed. I will have to run around and do the numbers during question time!

The CHAIR: The President is not yet here to take questions, so if the minister wanted to give a quick reply to the comments made by Hon Simon O'Brien, she could take the opportunity to do so

Hon HELEN MORTON: I will give a very quick reply, Madam Chair, so that members may have something else to contemplate, if they wish to, while Hon Simon O'Brien does the numbers on this clause! The council may delegate to the CEO the ability to approve kennel establishment, for example. This clause applies to more than just a ranger; it is about the administration of some other parts of the bill as well. An example would be that a council may delegate to a CEO the ability to approve kennel establishments to deal with excess dog numbers. The CEO may then delegate the power to a person to accept money for a modified penalty. That is very much separate from the idea of the appointment of a ranger. There is a power of delegation required under the bill that is separate from the things we have been talking about at this moment.

Committee interrupted, pursuant to standing orders.

[Continued on page 5223.]