

CAT BILL 2011

Third Reading

Resumed from an earlier stage of the sitting.

MR M.P. WHITELEY (Bassendean) [8.00 pm]: I had barely started my comments before private members' business. While the Minister for Transport is in the chamber, I might just follow up on the issue that he raised with the member for Rockingham about Minister Norman Moore. He asked the member for Rockingham to quote Norman Moore's comment about outsourcing the Army to China. An article in *The Australian Financial Review* of 1 July this year, headed "Back off or WA may secede, minister warns", quotes the minister as saying —

... there is no reason why you couldn't have a unilateral declaration of independence."

...

The new nation could form alliances with China and the United States to cover for a lack of an army, navy or air force, ...

The concerns that I raised about the father of the other house perhaps being a sleeper agent for the People's Republic of China need some consideration.

The ACTING SPEAKER (Mr J.M. Francis): Before we go any further, we are talking about cats, are we not?

Mr M.P. WHITELEY: We are talking about cats. It is an important matter. But I think treasonous behaviour by members of the other place is also an issue that demands the attention of this place. I invite the Minister for Transport to look at this article. I am sure that he will take it up with his party room and see whether he cannot purge that Communist Party operative from the other place!

Now that I have dealt with those important matters of state security, as I said briefly before I was interrupted for private members' business, the Cat Bill is full of good intent, and no-one will argue with the intent. Frankly, until I had heard the debate in this chamber, I did not understand the full substance of it. But I am incredibly concerned with clause 51(c) of the bill as it was originally drafted and the powers that it will confer on authorised persons—that is, local government inspectors. Under the clause, they will be given powers to —

- (i) examine, seize, copy or take extracts from any documents relevant to the offence; or
- (ii) take photographs, films and audio, video or other recordings relevant to the offence; or
- (iii) direct a person to answer questions; or
- (iv) take any other action that the authorised person believes, on reasonable grounds, is necessary.

These are extraordinary powers to be given for a trivial offence. I would be opposed to giving these powers to the police to search clandestine drug laboratories without a warrant. If we are looking for illegal activities around cat breeding, this is just absurd. I see what has happened. The minister was amendment fatigued yesterday. He went through 11 amendments, and that is commendable. It is not commendable that he brought to this place a bill that needed at least 11 amendments, but it is commendable that he made those amendments. However, the minister got to the point at which he said, "I can't make another amendment, because if I make another amendment, it'll just make me look foolish. I can put in a cricket team's worth of amendments, but I can't take it up to the even dozen, so I'm not going to accept this amendment." Frankly, it says a lot about what must happen in the minister's party room and the lack of scrutiny of this bill.

Several members interjected.

Point of Order

Mr P. PAPALIA: Mr Acting Speaker, even though I am sitting next to my colleague who is speaking, I am having difficulty hearing him over the interjections of the two ministers opposite. I ask that you point out to them the same point of order that was raised by the Minister for Transport only moments ago.

Mr G.M. Castrilli: You ought to talk! What a joke!

The ACTING SPEAKER (Mr J.M. Francis): Thank you, minister. I am not on my feet, but I ask members to tone it down.

Debate Resumed

Mr M.P. WHITELEY: I thank the member for Warnbro for that protection from, and the opportunity to regain my thoughts after, that withering attack opposite!

I suspect that the member for Jandakot drove this process in the party room because he is very passionate about the issue. That is why we need proper, thorough, robust party room processes—to make sure that people's great

enthusiasm for a particular issue is measured and subject to appropriate scrutiny. Clearly, that has not happened in this case. I am sure that even within the minister's party room, there is sufficient intellect and sufficient experience to recognise the absolutely over-the-top powers that will be conferred on authorised persons with the implementation of the Cat Bill. Clearly, there was a failure in the party room.

I return to a comment I made before the break. This bill absolutely convinces me of the need for an upper house to review legislation. I was not aware of the existence of the original clause 51(c) when the Cat Bill was first brought into our caucus room. I did not know that these sorts of powers would be contained within the bill. We have made a decision to support the bill at this stage, but I certainly think it is a decision that we need to review as the bill moves to the upper house. These are extraordinary powers. I support the intent of the Cat Bill and believe that what the minister is trying to achieve with the bill is commendable. But given the caveat I expressed about the fact that the increase in financial impost is likely to see many cats abandoned in the bush and may, in fact, have exactly the opposite effect on environmental protection than that intended in the legislation, the legislation has been developed for worthy purposes. However, I do not think we can be confident that this sort of extraordinary, unfettered power will be exercised responsibly by people who will have nowhere near the level of training of police officers, who have far lesser powers than these without a warrant.

One of the issues raised by the member for Warnbro was about the original clause 51(c)(iii), which provides that one of the powers is to direct a person to answer questions. The member for Murray-Wellington, a former policeman, interjected and said, "Under the Criminal Code, you're misinterpreting the meaning of the word 'direct'." He gave me an extract, which I presume was from the Criminal Code, that indicated that the word "direct" means to give direction, to point out a course or to act as a guide. I guess he was trying to show me that "direct" does not mean that people can compel. Maybe the member is correct, but a person untrained in the law will be the authorised person operating on behalf of the council. That person will be able to seek permission to enter the house of, say, a little old lady who may be keeping a cat as a pet. He could say to her, "The act gives me the capacity to direct any person to answer questions in these circumstances." The little old lady will not have a QC handy, but she may say, "Show me where it says it in the act", and maybe the authorised person would have an extract from the legislation that provides that he can direct a person to answer questions. He could also take photographs, films and audio, video or other recordings relevant to the offence. Therefore, in her mind she would feel compelled to answer questions in the absence of a QC to give her advice, and the authorised person would have the right to videotape the interview. I think that is just extraordinary. Subparagraph (iv) states —

take any other action that the authorised person believes, on reasonable grounds, is necessary.

Clearly, these words have been picked up from somewhere. I wonder where they have been picked up from. I do not think they would have entered the minister's head or the member for Jandakot's head. Clearly, they have been picked up from some other piece of legislation out of context and dumped in this bill. I think the wise thing to do between the bill's transmission from this place to the other place would be to review this clause and to recognise that it is absurd and over the top. Failing that, I think it is incumbent on members in the other place to do everything they can to look at this clause. Although I say that the Cat Bill 2011 has good intent—although it simply misses the point in terms of its potential to decrease the feral cat problem—we cannot allow these sorts of clauses to sneak into such legislation. What sort of precedent does it create? If we are to give these sorts of powers to the administration of the Cat Bill, what will we give for far more serious offences? What sorts of powers will we translate to police searching homes for drug labs or for child pornography or for all sorts of other far more serious and disturbing offences than illegally breeding a few cats?

I was not aware of this aspect during the second reading debate. It was the good work of the member for Warnbro that made me aware of it. This is of incredible concern. It shows a failure of process in the Liberal Party room. The Liberal Party needs to get people to cast their eyes over such legislation in the way that the member for Warnbro has done on behalf of the Labor Party and the way the members for Forrestfield and Cannington have done on behalf of the Labor Party. That sort of energy and effort needs to be made within its own party room. I would certainly be encouraging us to take the opportunity that the upper house presents to revisit the Labor Party's position on this measure, and to see whether some sort of amendment can be made. We need to look at the bill in total. It is absurd to put such powers into this sort of legislation. These are the sorts of powers conferred perhaps in issues of national security. Perhaps if there was an imminent terrorist threat, Parliament might look very cautiously at the transfer of these sorts of powers. We certainly do not look at them because we are trying to find out whether someone is illegally breeding a few moggies. I am extraordinarily concerned, and, unlike some of my parliamentary colleagues and former parliamentary colleagues, I am extraordinarily grateful that we in fact have an upper house. I know the former member for Armadale was not a fan of the upper house, but I think this sort of rubbish is the most compelling case to be made for the need for a house of review. I encourage the minister to say, "Okay, we're going to one beyond 11; we're going to go to 12 amendments", and make sure this amendment is made when this bill is debated in the upper house. Failing that,

it is incumbent on all members of the upper house, including those from my own party, to have a fresh look at this to see whether this makes this legislation worthy of reconsideration.

Question to be Put

MR R.F. JOHNSON (Hillarys — Leader of the House) [8.12 pm]: I move —

That the question be now put.

The ACTING SPEAKER (Mr J.M. Francis): The question is that the motion be agreed to.

Mr M.P. Whitely: That's pathetic!

The ACTING SPEAKER: Member!

Several members interjected.

The ACTING SPEAKER: Member for Cannington!

Several members interjected.

The ACTING SPEAKER: I am trying to put a question! Member for Cannington, I call you to order for the fourth time today. I do not know where that leaves me with the standing orders, but I am going to put the question.

Mr M.P. Whitely: We've had three speakers!

Mr P. Papalia: It's disgraceful.

The ACTING SPEAKER: Member for Bassendean, member for Warnbro —

Mr P. Papalia: Impossible behaviour.

Mr M.P. Whitely: Just retire, Johnson!

The ACTING SPEAKER: Member for Bassendean, member for Warnbro, I am going to call you both for the first time today. Member for Cannington, I am going to seek advice from the Speaker now; I just called you to order for the fourth time.

Mr M.P. Whitely: It is outrageous what's happening.

The ACTING SPEAKER: Member for Bassendean, I call you to order for the second time today.

Mr P. Papalia interjected.

The ACTING SPEAKER: Member for Warnbro, I call you to order for the second time today as well.

Mr M.P. Whitely interjected.

The ACTING SPEAKER: Member for Bassendean, I call you to order for the third time today.

Question put and a division called for.

Bells rung and the house divided.

[The Speaker took the chair.]

Several members interjected.

The SPEAKER: Order, member for Cannington, Leader of the House!

Several members interjected.

The SPEAKER: Member for Bassendean, Minister for Transport, if you want to have this discussion, take it outside. You are not having it in this chamber at this moment.

Several members interjected.

The SPEAKER: I am not interested in any debate across the chamber.

Several members interjected.

The SPEAKER: Leader of the Opposition, Minister for Transport, I do not want to call either of you to order at this stage. I am going to advise that once this division is concluded, if you do wish to talk about it, talk about it outside this chamber.

The division resulted as follows —

Extract from Hansard

[ASSEMBLY — Wednesday, 21 September 2011]

p7523b-7526a

Mr Martin Whitely; Mr Paul Papalia; Acting Speaker; Mr Rob Johnson

Ayes (22)

Mr P. Abetz
Mr F.A. Alban
Mr I.C. Blayney
Mr I.M. Britza
Mr T.R. Buswell
Mr G.M. Castrilli

Mr M.J. Cowper
Mr J.H.D. Day
Mr J.M. Francis
Mr B.J. Grylls
Dr K.D. Hames
Mr A.P. Jacob

Dr G.G. Jacobs
Mr R.F. Johnson
Mr A. Krsticevic
Mr J.E. McGrath
Mr W.R. Marmion
Mr P.T. Miles

Ms A.R. Mitchell
Mr D.T. Redman
Mr M.W. Sutherland
Mr A.J. Simpson (*Teller*)

Noes (18)

Mr J.J.M. Bowler
Dr A.D. Buti
Ms J.M. Freeman
Mr J.N. Hyde
Mr W.J. Johnston

Mr F.M. Logan
Mr M. McGowan
Mr M.P. Murray
Mr P. Papalia
Mr J.R. Quigley

Ms M.M. Quirk
Mr E.S. Ripper
Mrs M.H. Roberts
Mr T.G. Stephens
Mr C.J. Tallentire

Mr P.B. Watson
Mr M.P. Whitely
Mr D.A. Templeman (*Teller*)

Pairs

Mrs L.M. Harvey
Dr E. Constable
Dr M.D. Nahan
Mr C.J. Barnett
Mr C.C. Porter
Mr T.K. Waldron

Mr P.C. Tinley
Mr R.H. Cook
Mr A.P. O'Gorman
Ms R. Saffioti
Mrs C.A. Martin
Mr J.C. Kobelke

Question thus passed.

Third Reading Resumed

Question put and passed.

Bill read a third time and transmitted to the Council.