

HOUSE OF ASSEMBLY
THURSDAY 15TH OCTOBER 2015
SURVEILLANCE DEVICES BILL

Second Reading

Debate resumed.

Mr PEDERICK (Hammond) (16:58): I rise to speak to the Surveillance Devices Bill 2015. I concur with a lot of the remarks that have been expressed already by the members for Schubert and Heysen. This bill will repeal the Listening and Surveillance Devices Act 1972 and make other amendments. From 2012 there has been a progression to try to get this bill through.

This has been related to work in line with COAG about cross-border recognition of surveillance device warrants. It also allows urgent warrant applications, for example, where there is an imminent risk of violence to a person or substantial damage to property to be made by a senior police officer instead of a judge. There are remote applications to allow for instances where physical remoteness makes it impractical to make a warrant application. It allows for specified person warrants which allow for warrants for surveillance on specific people instead of warrants on a particular place.

It prohibits a person from knowingly using, communicating or publishing information or material derived from the use of a surveillance device in circumstances where the device was used in the public interest, except in accordance with an order of a judge. There are exceptions in this:

(a) the use, communication or publication of the information or material is made to a media organisation; or

(b) the use, communication or publication...is made by a media organisation and the...material is in the public interest; or

(c) the information or material relates to issues of animal welfare and the use, communication or publication of the information or material is made to the RSPCA; or

(d) the use, communication or publication of such information or material is made to the RSPCA and...[it] is in the public interest.

This bill makes other changes, including expanding the definition of premises to include land, buildings and vehicles, including aircraft and boats, and an expanded definition of private activity to remove ambiguity.

As I indicated, these amendments come in 16 years after the act was reformed in 1998, and much has changed, which we are aware of. The latest electronic surveillance equipment people can have that can intrude into privacy includes drones. It was back in 2002 that the Council of Australian Governments (COAG) met, and their idea was:

To legislate through model laws for all jurisdictions and mutual recognition for a national set of powers for cross-border investigations covering controlled operations and assumed identities legislation; electronic surveillance devices; and witness anonymity. Legislation to be settled within 12 months.

They were pretty hopeful, weren't they? It is to be noted that, interstate, New South Wales, Victoria, Queensland and Western Australia have all passed respective versions of electronic surveillance legislation. The police have certainly taken the view in the last five years that our legislation in this state is long overdue for overhaul.

Obviously listening devices are caught up in this legislation, but I just want to talk about the issue of the installation, use or maintenance of an optical surveillance device being subject to similar restrictions and exemptions. The bill prohibits the installation, use or maintenance of an optical surveillance device on or in premises to record visually or observe the carrying on of a private activity without the express or implied consent of each party to the activity. The bill prohibits trespass onto premises or interference with premises to install, use or maintain an optical surveillance device to capture private activity.

It is also noted—it has been spoken of quite widely here today already—that if the installation, use or maintenance of an optical surveillance device is in the public interest, there is an exemption for that. The bill prohibits the use, communication or publication of information or material derived from the use of a listening or optical surveillance device. In the bill, there is a similar offence provision created for the use, communication or publication of information or material derived from the use of a listening device or optical surveillance device in circumstances where the device was used in the public interest, except in accordance with an order of a judge.

The bill has moved on from the 2014 legislation to provide an exemption to the general rule that there must be a court order for a media organisation; information or material that is used, communicated or published to such a media organisation; the Royal Society for the Protection of Animals SA (RSPCA) where issues of animal welfare are concerned; and, obviously, information or material that relates to issues of animal welfare that is used, communicated or published to the RSPCA.

I certainly have some concerns, as the member for Heysen and the member for Schubert have, as to whether this legislation does go far enough. On our side of the house, we like to acknowledge freedom of speech and the freedom of media to operate, but sometimes I think things go well beyond the pale.

I also have major problems with the RSPCA being the sign-off officers on animal welfare issues. It would certainly be my wish in the parliament—and we nearly got there except for one member in the other place who changed his vote—to put the policing powers in the hands of the government because you have one organisation who is judge, jury and executioner. Quite frankly, I do not support that.

In fact, and this may sound harsh, I think the government gives them \$1 million now and they get some funding from donations but I think this organisation

should either go crowdfunding or raise its own money because I just do not have the faith that some people may have in the RSPCA, especially with regard to production facilities and production animals. It might be a fine organisation with regard to dealing with cats, dogs and pets but they certainly have proved their incompetence in relation to some big cases.

One big case I have talked about here many times is that of Tom Brinkworth where an officer in the RSPCA stuffed up the paperwork, essentially. Why would you do that? Because they thought they were the judge, jury and executioner. To think that they had to do that to get something legally done, I hope that officer got what they deserved because it is outrageous.

I do not condone animal cruelty, not at all. Coming off the land, and having run cattle and sheep, I know there is no such thing as making money out of skinny stock or dead stock—there is no money in that. There is no money in that at all: you are there to run a commercial property and you are there to make a profit. Anyone who runs their stock that hard needs action taken.

I have had instances in my electorate where there was alleged animal cruelty to some cows. It did not look good from the information I received post the case but it was also alleged that it took six shots from an RSPCA officer to put a cow down. Since then I have written to the RSPCA and its lawyer to seek advice on whether that is true. I do not think I have had an answer yet but I can check with my office.

If you have to put an animal down—I had to put a horse down in the last couple of years—you get a high calibre rifle. It was a .30/.31 shot and the poor old horse went down but it was done cleanly. A lot of people believe in the green dream but I live on the land and we do things practically. The horse was 28, it had a cancerous eye and his future was going nowhere.

I have severe concerns about the RSPCA and its exemptions in this. If people want to know why it is because it is an active animal welfare organisation and a lobbyist against live trade. It is a lobbying group against live trade. I wonder if they even have one thought about how many station owners and others have taken their lives since the federal minister at the time stopped the live trade to Indonesia and put a big nail into cattle livestock operations in Australia. That had impacts all the way down, not just with cattle suppliers but to the feed suppliers—Johnson's at Kapunda who supply a lot of the pellets for the feedlots in Darwin—and the ships that take these cattle to Indonesia and other ports like Vietnam, etc.

I have heard some crazy arguments from federal politicians on the other side who believe that there are plenty of chilling facilities for people on the other end and that is why we do not need live cattle. I am sorry, but have they ever visited the people of Indonesia and seen what facilities they have? It is 'kill just in time' and use it fairly quickly.

I admit that there have been some issues. There is no doubt that there have been some issues. Meat and Livestock Australia have moved to get people accredited under ESCAS—the licensing scheme for abattoirs overseas killing our livestock. Things have moved a long way, but it is still not good enough for some

people, because some people would rather rely on lentils and lettuces. I have lettuce farms in my electorate; you cannot hear a lettuce scream when it is pulled out of the ground.

People may think that is a bit flippant, but it annoys me that you have someone who is the judge, jury and executioner, and also a lobbyist against live export. I am happy to meet with them at any time and have a discussion, but it caused major issues when the then federal minister Joe Ludwig cut that trade. I was the state shadow minister for agriculture at the time, and it caused major issues. Families lost husbands, brothers and partners. It was a terrible situation, but some of these people do not care about those things that happened; they do not care about those costs.

I suppose, in expanding on that, we talk about the access by media organisations. What we have seen, along with this anti-live animal export program that some people are on, is that there are a whole range of activists that get involved. There was quite a case in New South Wales where a piggery had cameras installed and illegal filming was being made. One day, someone caught up with the people filming and basically chased them out of the sheds. You have biosecurity issues happening there. For some reason, their car would not work because it had been made immovable, with smashed windows, etc., because people were venting their anger. I do not condone that, but you can understand why, when their business is being infiltrated by these people who think they are doing something for the greater good.

We had an issue where there was an abattoir in Murray Bridge that was invaded by some of these radicals. The member for Schubert and I met with the people afterwards to talk about what had happened. They had put in quite technological gear; there were cameras right down to the chamber where the pigs are gassed (humanely, I must say). These people could have been at real risk of triggering something and actually killing themselves.

They were also breaking and entering, but they have got away with that. That seems to be fine; people seem to condone that. They set up a series of cameras and could remotely access the footage with a wireless network they set up from that gear. I saw a photograph of the cables that were found by some of the men operating the plant.

These people have got off scot-free. Not only that but they sit on the evidence, like they did with the live animal export film. The evidence gets sat on. If they were really worried about animal welfare, you would have this footage in the media the next day, or on that day. But no, 'We'll wait for a prime spot where we can make some political points,' so it is done six, nine, or three months later, or whenever it is.

It is not about the so-called protection of these animals that are involved, it is about making a political statement. That it is what it is about. If they were really concerned about animal welfare, that material would be out in the media straightaway. I note that the Attorney is making some notes; I hope he gives me something to feel good about this legislation when we go into committee, or even beforehand when he speaks, because I still have some problems with it.

I think we are well on the way to something we need to have, but when you think about it, here we are: we are essentially giving the media a free run because they said we would be in court every time, otherwise, getting a story. We have managed to basically put in legislation against listed bikie gangs just for being bikies. Why can't we do it here? I do have a real problem with these activists who break into farming properties.

As I said before, there is no joy or profit in skinny stock or dead stock. There is no profit in that. There is no point farming like that—no point at all—and many of us do enjoy eating meat. For example, goats are being live exported by the thousands and they are quite a profitable outcome, especially for station country where there a lot of goats. Goats are animals that are basically wild and they are rounded up, and there is a bit of anecdotal evidence that that pays the school fees for the station kids to come into town to school. Good on them, if that is what it does, so the rest of the property's work, whether it is with cattle or sheep, pays for the operation and running of the property.

I hope I am convinced, in going through this legislation, that there are protections for people on their properties and that it will not be carte blanche for the media or the RSPCA, because I do have a real fear, as does the member for Heysen, about what could happen. What would these people think if we just decided to walk inside their home or their business, set up some cameras and film what they were doing? I am sure they would not like it.

On a farm, whether it is in your house, your shed, your workshop or your intensive animal shed, that is home. The whole place is home and people are invading people's homes, and they need to be stopped. They need to be given a big whack, because I am over it from the cases I have seen printed in rural media and from cases I have heard about. As I indicated before, in the case of Tom Brinkworth in the South-East where there were allegations of animal cruelty, Tom did not get to have his say in court because someone from the RSPCA stuffed up big time, and that is the best way you can describe it.

I want some peace for people in the operation of their daily lives. It is very sad that Holden's is closing down in 2017, but could you imagine if they were being filmed for whatever reason, whether it was about work health and safety issues, and surveillance devices were put in there? Perhaps there might be some action because that is a bit more Labor-held country. We have to be careful about protecting people's rights and we have to make sure that people can operate their practices, whether it be a farming practice or other businesses, with the freedom of knowing that they will not have some idiots breaking in and disturbing their cattle, their sheep or their pigs just to make a political statement, because that is what I am sick of.

I am sick of organisations—I do not care who they are—that hold this footage for months and, just when it is politically opportune, they put it up there and they go whack, whack. As I said before, that is not about animal cruelty, that is about making a political point. I hope the Attorney gives me some joy when he responds to this legislation.