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FOUR CORNERS

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TRANSCRIPT

A Blind Eye

Reporter Ticky Fullerton explores the uncomfortably close relationships that the RSPCA is forging with key industry groups – intensive poultry, pork and live exports – and asks whether these bonds have tied it in a knot of conflict.

Reporter: **Ticky Fullerton**

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TICKY FULLERTON, REPORTER: It's the final journey for this old Rottweiler, Jessie. Faced with the much loved family pet in pain and just plain tired out, the owners turn to the animal charity they know and trust - the RSPCA.

VET: Hello there, big fella. How are you going, hey? Oh, you poor old man. Gee. Alright, can we just...? If we can, I just want to try and lift him up and see if he can actually take any weight or if he can't. So he's gonna be a little bit of weight but let's just... One, two, three.

VET 2: OK, come on, matey.

(THEY LIFT DOG, WHICH CANNOT HOLD ITS OWN WEIGHT AND WHINES PITIFULLY)

VET 2: That's all, matey.

VET 1: She's got a lump inside her belly as well.

VET 2: Hey, old girl, hey.

VET 1: I've had a look at her, and given her age, it also feels like there might be a mass in her tummy. There's probably not really a lot we can do that will make her a happy dog with an enjoyable life again. So we've decided that it's time to let her go. Poor darling.

OK, Jessie, you're going to have a big sleep now, darling. You'll be up there chasing tennis balls.

VET 2: Absolutely.

TICKY FULLERTON: For this old girl, the 'green dream' provides a dignified end.

VET 1: (Gives lethal injection) No more pain, Jess.

TICKY FULLERTON: In a world where the emotion attached to one loved companion is all-consuming, the RSPCA devotes many millions of dollars every year to caring for man's best friends. Yet in this same world, millions of less-loved animals are now big business, helping to drive state economies.

GEORGE LEWIS, SA RSPCA COUNCIL, 2001-2003: We have tens of thousands of animals in intensive farming situations that are turned a...basically, a blind eye to, that no-one's watching over.

CHRIS GALLUS, FEDERAL LIBERAL MP: We love the RSPCA. It's one of those icons of our society and you just presume that it's a good organisation.

TICKY FULLERTON: Tonight on Four Corners - is the charity charged with protecting animals from cruelty living up to its brave motto, 'For all creatures great and small', or have the very forces it is supposed to police captured it - the powerful businesses that profit from animals?

The Royal Society for Prevention of Cruelty to Animals was set up to protect working farm animals - cattle and horses like these, rescued from a storm drain. It became defender of the five freedoms for animals - freedom from hunger and thirst, discomfort, pain, freedom to express normal behaviour, and freedom from fear. The RSPCA is funded largely by public donations and legacies but in its 133-year history, the focus has changed to the animals that now make our closest companions.

DR HUGH WIRTH, RSPCA NATIONAL PRESIDENT: That's why our shelters that deal with dogs and deal with cats and deal with the other cast-off animals are seen to be a very good thing and something admirable about the RSPCA. But when you get to farm animals, then, of course, self-interest comes about.

TICKY FULLERTON: Farming is a crucial part of Australia's economy and way of life, but with huge industries involved, the RSPCA's watchdog role is more and more important. There are now serious allegations of conflict of interest and failure to act at the highest levels of RSPCA throughout Australia.

State Governments have made the RSPCA their main prosecutor. They subsidise the charity and have given it legal powers to inspect and prosecute animal cruelty.

How connected is the RSPCA to government?

SUE BARKER, NSW RSPCA COUNCIL, 1992-2003: Um, I would almost see it as a government department and a lot of other people do as well.

CAROLYN JONES: This society is completely untouchable. It is completely unaccountable. There's just...you just can't get anywhere.

TICKY FULLERTON: The RSPCA itself is a complex animal - to its critics, it's run by a club of old boys who rule over private fiefdoms in some States with no tolerance for criticism. In States where industry has most to lose, the RSPCA's willingness to fight the good fight is now in question.

Two weeks ago, under cover of a dark winter evening, the animal rights group Animal Liberation filmed its raid of a battery hen farm operation near Newcastle in New South Wales. New South Wales is the Egg State. Last year the industry made \$115 million. Four Corners has obtained a copy of the group's tape.

Mark Pearson had no doubt what he'd find. It's the fifth time he'd raided this property. He says each time he's called the RSPCA as the body legally empowered to enforce the law, but on three of five occasions, his phone call was not even returned.

(ANIMAL LIBERATION FOOTAGE OF BATTERY HEN FARM, JUNE 2004, PLAYS)

TICKY FULLERTON: Inside the sheds - what supermarket shoppers drive, but never see. And among the layers of caged hens, evidence of neglect is clear.

MAN: These cages are really bad design, with the bars on the floor being too far apart so they actually can get their joints stuck down in between the wires.

MARK PEARSON, ANIMAL LIBERATION: I think this bird has actually had its head caught in the bottom of the cage here, 'cause I can't move her out. Her head is actually stuck through the back of the cage and that's how she's died. Here's a perfect example of why the bones in battery hens, 55% of them are fractured or broken. They can't stand on anything but these thin sloping wires. They can't stand on perches, and so as you can see here, the bird is lifting one leg up, to give some relief to that, and then it puts that down and lifts the other one up, to give some sense of relief to the pain and extreme discomfort that it feels.

MAN: (Displaying hen having difficulty walking) She's totally crippled from the cage.

BERNIE MURPHY, CHIEF EXECUTIVE, NSW RSPCA: We respond to complaints and every complaint that they've brought to our attention we have investigated.

TICKY FULLERTON: You've thoroughly investigated?

BERNIE MURPHY: We've investigated their complaints.

TICKY FULLERTON: What does that involve, investigation?

BERNIE MURPHY: We have an inspector go to the property in question and form a view, take corrective action where necessary.

TICKY FULLERTON: Mark Pearson says this is not always true. In one raid on these premises three years ago, he went to the police as well as the RSPCA. The police inspection led to the first successful prosecution of a battery hen farmer in New South Wales. At that time the farmer was an independent operator.

What you're doing is illegal, on occasion, isn't it, 'cause you're trespassing?

MARK PEARSON, ANIMAL LIBERATION: Well, we wouldn't have to do it if the RSPCA were doing their job and fulfilling their charter - 'For all creatures great and small'.

TICKY FULLERTON: Animal rights groups are anathema to RSPCA. The Society is at pains to stress its mission is about animal welfare, not animal rights.

SUE BARKER, NSW RSPCA COUNCIL, 1992-2003: They detest Animal Liberation. They detest anyone who's involved in Animal Liberation. In their mind they're extremist, they're radical.

JOHN STRACHAN, SA RSPCA PRESIDENT: We believe that there are better ways of going about it and there are more sure ways of bringing change. I don't think change is ever brought about by breaking the law.

TICKY FULLERTON: So what is the RSPCA's position on battery hens?

DR HUGH WIRTH: Totally opposed.

TICKY FULLERTON: The public spokesman of the RSPCA is national president Hugh Wirth, a veteran of 40 years. This month he was appointed head of the world organisation, the World Society of Protection of Animals. In Australia, though, he's a lone voice. He's the driver for the big campaigns to ban the battery hen and live animal exports. What is less well known - some of his biggest battles are with his own State presidents. He likens his power over his recalcitrant State colleagues to an impotent monarch.

DR HUGH WIRTH: It's rather like royalty, you know, the constitutional monarch who...who advises and persuades.

TICKY FULLERTON: With not much power?

DR HUGH WIRTH: With no power - not when it comes to that.

TICKY FULLERTON: In 1996, RSPCA's landmark deal with Pace Farms introduced barn-laid eggs. It was a compromise between battery-caged and free-range hens. It was also controversial. Pace Farms pays the RSPCA royalties on the eggs sold. Some of this money is used for barn inspections.

(ANIMAL LIBERATION FOOTAGE OF BATTERY HEN FARM, JUNE 2004, PLAYS)

For the last three raids on these operations, Pace Farms has owned the chickens. Last week, the RSPCA did agree to inspect the premises, but Mark Pearson believes it's only because of tonight's Four Corners program.

MARK PEARSON: It's Pace Farms. They have a business arrangement with Pace Farms. Pace Farms is the largest battery egg producer in Australia.

TICKY FULLERTON: It's not Pace that critics are vocal about. It's the entire chicken industry.

SUE BARKER, NSW RSPCA COUNCIL 1992-2003: We never have any major prosecutions against farmers. I'm not saying that all farmers are bad, you know. Most farmers are good, but there are bad ones out there.

TICKY FULLERTON: How powerful is the chicken industry?

MARK PEARSON, ANIMAL LIBERATION: They have enormous power - not only in terms of economic power, but power in relation to the government, and to government policy. It's very clear, over the years, that there has been a very deliberate, planned, overt and covert program to undermine and destabilise the major inspectorate body which protects animals, and that is the RSPCA.

TICKY FULLERTON: The RSPCA's critics claim the society is influenced by the intensive farming lobby. By the end of 2001, barn-laid and free-range eggs had taken 10% of the egg market from battery hen eggs. About this time, there was a new face on the society's New South Wales board. Dr Alick Lascelles is a scientist who has spent 10 years as an advisor to the National Farmers Federation.

He came on the board to argue for the battery hen?

DR HUGH WIRTH: Oh, there's no doubt about that.

SUE BARKER: Alick Lascelles came onto our board, I believe, at the end of 2001, um...and brought a lot of pressure to bear on the board.

TICKY FULLERTON: Alick Lascelles says he was approached to join the board by an RSPCA director. According to Sue Barker, this director was vice-president of the State RSPCA and an influential farmer.

DR HUGH WIRTH, RSPCA NATIONAL PRESIDENT: I have a lot of friends in a lot of places, and I soon realised or was told why Alick Lascelles had joined the State council and what his position was.

TICKY FULLERTON: And why did he join and what was his agenda?

DR HUGH WIRTH: He...his agenda was at the behest of the national...of the New South Wales Farmers Federation and the National Farmers Federation based in Canberra, to turn the RSPCA policies around, because they saw us gaining too much political clout and, particularly, gaining too much headway with the Australian community.

TICKY FULLERTON: Alick Lascelles told Four Corners that it was Hugh Wirth who was politically motivated. But Dr Lascelles admits he fought to change national policy on battery hens, bringing science, not emotion, to the RSPCA. He says it is stupid for humans to imagine they can interpret the feelings of animals, and if hens were too stressed, they wouldn't lay over 300 eggs a year.

Dr Lascelles was supported by State chief executive Bernie Murphy. In March last year, Mr Murphy recommended the board endorse a key report by Lascelles. It attacked one of the fundamental beliefs of the RSPCA.

But he questioned the RSPCA's fourth freedom, didn't he? He questioned the issue of whether behaviour was a key aspect of animal welfare.

BERNIE MURPHY, CHIEF EXECUTIVE, NSW RSPCA: Yes, he did question that, and the board said that, under the circumstances, this is a matter that should be dealt with by the policy review panel, nationally. So we went to that panel and had the matter fully tested there.

TICKY FULLERTON: You supported his view at the time, didn't you?

BERNIE MURPHY: We said it was a view that was worth being looked at, in terms of did we wish to address the issue of those 10 million birds that are currently in cages?

TICKY FULLERTON: This was a view that really says chickens are not sentient beings, they don't have feelings.

BERNIE MURPHY: That was not our view at all.

TICKY FULLERTON: Alick Lascelles resigned in March this year, disappointed that the NSW RSPCA failed to change a national policy he called 'indefensible'.

Those who have tried to reform RSPCA say there's something Orwellian about how the society is controlled.

GEORGE LEWIS, SA RSPCA COUNCIL, 2001-2003: Very much 'Animal Farm', and we have Napoleon at the top. Yeah, everything is geared towards keeping the power in a very specific spot and keeping the organisation from changing.

TICKY FULLERTON: The man in charge of the RSPCA in SA is president John Strachan.

JOHN STRACHAN: I've been involved for well over 30 years. Um, I've been president since 1988.

CAROLYN JONES: It is his kingdom and there is no, um, welcome for anybody that he would regard as an outsider.

TICKY FULLERTON: Your critics say you run the RSPCA in SA as your own personal fiefdom. Is that true?

JOHN STRACHAN: Well, I...I've not heard that before. Um, and, uh, if that's meant to be an accolade, well, I take it as such. No, that's not true. Uh, the council is very active.

TICKY FULLERTON: If NSW is the Egg State, then SA is the Pork State - nearly a million pigs a year in an industry worth \$157 million, and growing. Intensive pig farms are the target of the next national RSPCA campaign. And this is why. Animal Liberation, who took these pictures, say these breeding sows epitomise cruelty - too oversized for the crates they are crammed into for 16 weeks at a time, they say their legs swell and they grind the bars in frustration. In Britain, these crates are now banned.

Done properly, the industry in SA argues that crates prevent cruelty. They stop sows squashing their litters and protect them from aggressive behaviour. And it says an anthropomorphic concern about pig wellbeing and a need to express natural behaviour - the RSPCA's fourth freedom - is misplaced.

Do you think, though, that putting an animal like a sow in a crate for that length of time - for 16 weeks - which is permitted legally, is that cruel?

ROB BERLIN, PORK SECTION, SA FARMERS FEDERATION: Well, the science says that it's not - the science that goes behind it. They are no different to humans in the fact that if they are in a poor environment, they don't produce.

TICKY FULLERTON: In the last 20 years, crate sizes have extended just 20cm. The weight of pigs has grown 50%. And in the next 10 years, SA hopes to double production.

These are very fast changes in intensive farming. Has RSPCA SA tried to match that?

JOHN STRACHAN, SA RSPCA PRESIDENT: Oh, yes. We have indeed.

TICKY FULLERTON: In what way?

JOHN STRACHAN: Um...well, firstly with the policy. But more particularly, in dialogue with the pig industry.

DR HUGH WIRTH: You'll find that the national council is totally opposed to sow stalls.

TICKY FULLERTON: Just how hard the South Australian RSPCA will be campaigning to ban sow stalls is under question. As with the battery hen, Animal Liberation says it has reported five operations for cruelty to the State RSPCA. None of them have been prosecuted.

ROB BERLIN, PORK SECTION, SA FARMERS FEDERATION: All of those ones we've had in SA, there's been no convictions of the farms.

TICKY FULLERTON: Why is that, do you think?

ROB BERLIN: Well, because the farms, those larger farms that Animal Liberation has targeted have actually been inspected and are monitored by

the RSPCA on a regular basis. And those farms really have all been up to the standards that are required.

TICKY FULLERTON: The RSPCA's policy is to give farmers notice before they inspect.

Will you do random inspections?

JOHN STRACHAN, SA RSPCA PRESIDENT: Oh, yes. Yes.

Will you do random inspections without notice?

Um...I suppose you're suggesting that by going in without notice we will take the intensive farmer by surprise and he won't be able to clean up before we get there.

TICKY FULLERTON: That's precisely what I'm suggesting.

JOHN STRACHAN: Yeah. Uh, well, um...I think it would be very difficult on short notice - and we give short notice - uh, to clean up an intensive piggery. Um, but again, we must act within the law.

CAROLYN JONES: I don't swallow the argument that they can't clean up their act in 24 hours at all. I think you can do a lot of cleaning up in 24 hours.

TICKY FULLERTON: Carolyn Jones is one member who feels her State RSPCA has gone soft on industry. She points out that the State law gives powers to inspectors to enter at a reasonable time any premises that are used for holding animals for sale or any other commercial purpose.

JOHN STRACHAN: Um, a farm is not necessarily a commercial purpose in the broad sense.

TICKY FULLERTON: But these intensive piggeries are, aren't they?

JOHN STRACHAN: Well, uh, that's a view that some people take. I actually share that view. But we have been advised to be very careful.

TICKY FULLERTON: It seems to me that you trust the intensive farmer more than you trust Animal Liberation.

JOHN STRACHAN: Well, uh...to say that we don't trust Animal Liberation, uh...is not something I want to answer. Uh, but, um...

TICKY FULLERTON: Why not?

JOHN STRACHAN: I'm simply saying to you that if you're going to use evidence of a photographic nature, it must be taken by the person who is going to actually deal with the complaint.

CAROLYN JONES: If they're not up to it, then I think that the role of policing and enforcing the Prevention of Cruelty to Animals Act should be handed to an authority that can do it. I know that some people suggest that the police are the ones to do it. Maybe they are.

TICKY FULLERTON: Right now, the Society is in discussion with a national peak body for pig producers to help fund the training of RSPCA inspectors.

Does it worry you that that's a conflict of interest?

JOHN STRACHAN: I was about to say, certainly, we would be concerned about a perceived conflict of interest. But if there is funding coming to increase the training of our inspectors in ANY area we will look at it very carefully, simply because we don't like shunning money.

TICKY FULLERTON: The RSPCA is also in talks with the industry about endorsing its pork products.

CAROLYN JONES: The RSPCA is a powerful brand. You can see that by the barn-laid eggs. You put a 'RSPCA-approved' logo on there and you sell.

TICKY FULLERTON: It was concerns like these that spurred Carolyn Jones and four others to stand for the RSPCA State council in September last year. But in the first election in 128 years where the membership challenged the council, not one of them was elected.

JOHN STRACHAN: They did their electioneering and the election took place, and they were not elected. And that really is a very simple story.

TICKY FULLERTON: Under this process, membership lists were not available to new candidates to send out their policies, and on election day, the candidates were not even given a chance to state their case before the vote. There on the day was local MP Chris Gallus.

CHRIS GALLUS, FEDERAL LIBERAL MP: So the members had no idea what those who were challenging were standing for or why they were standing. And that is against all rules of public accountability, especially for an organisation that does depend on the public for its continuation.

TICKY FULLERTON: After the election, five sitting councillors resigned in protest. President John Strachan says it was the newcomers with the agenda, a radical animal rights agenda backed by Animals Australia. Animals Australia is a peak body. Its membership is a broad church, from Animal Liberation to the RSPCA itself in New Zealand.

JOHN STRACHAN: I think that this group clearly were animal liberationists. They even were wearing badges on the day of the election. The words seemed to be the words that Animals Australia use.

TICKY FULLERTON: What did they say?

JOHN STRACHAN: I think, "We're here for the animals," or something like that.

TICKY FULLERTON: But they were actually a former inspector of the RSPCA, a vet who does work for the RSPCA. None of them are members of Animal Liberation.

JOHN STRACHAN: Well, the others, I think are, or have Animal Liberation leanings.

TICKY FULLERTON: They're not members, actually.

JOHN STRACHAN: Aren't they? Oh, well. It was interesting to note the names of the people who had in fact nominated them to, uh, be, um, candidates for election.

TICKY FULLERTON: It's just that they feel that they were indeed smeared that they had these close connections with Animal Liberation in a way that would frighten members of the RSPCA to elect them onto the council. And it seems that you've helped that happen.

JOHN STRACHAN: Well, no. I don't think so. I would dispute that.

TICKY FULLERTON: Critics were also suspicious that intensive farmers actually attended the election meeting.

Why did you attend the meeting?

ROB BERLIN, PORK SECTION, SA FARMERS FEDERATION: Because we're members of the RSPCA and we tried to get to those meetings because we were there.

TICKY FULLERTON: In fact, the State Farmers Federation is quite open about its interest in the animal charity.

ROB BERLIN: We certainly do encourage farmers to join the RSPCA. We believe that farmers should understand what the RSPCA's all about.

TICKY FULLERTON: It is in Western Australia where the RSPCA's links with farmers is most under scrutiny. The man in control of Western Australia's RSPCA is president Eric Ball.

And how long have you been with the RSPCA?

ERIC BALL, WA RSPCA PRESIDENT: Um, I'm in my 20th year now. When I say... I'm in my 20th year in my present position.

YVONNE PALLIER, WA RSPCA COUNCIL: Well, the president is also the chairman of the council. He decides with the CEO what information comes to the board. He has complete control.

TICKY FULLERTON: This is one industry the national RSPCA wants to ban - the live export trade. Live exports are worth an annual \$750 million to Australia, but this comes at a cost. Last year, over 4 million sheep were shipped to the Middle East and Asia. About 40,000 animals died in transit.

DR HUGH WIRTH, RSPCA NATIONAL PRESIDENT: Our next phase has to blow out of the water major myths and untruths about live animal export. The number one of that is that it is an economic issue of high relevance to Australia, high benefit to Australia.

TICKY FULLERTON: Strong words again from Hugh Wirth, but you won't hear them from the State where 80% of the cargo is shipped - Western Australia. And in what is now a familiar tale, prosecutions against this industry by Western Australia's RSPCA are almost non-existent.

ERIC BALL, WA RSPCA PRESIDENT: If you're going to change the live export trade, you've got to start changing it at the Federal Government level. Now, we've all agreed that there should always be a single spokesman.

TICKY FULLERTON: Isn't the issue you're supposed to be shouting about from the rooftops in the West, the live export industry?

ERIC BALL: And someone is saying we're not?

TICKY FULLERTON: Yes, your critics are saying that you are not and Hugh Wirth is saying that you are not.

ERIC BALL: Oh, is he? OK. Well, I haven't heard Hugh say that at all.

TICKY FULLERTON: Would you like them to be more vocal about it?

DR HUGH WIRTH: Yes.

TICKY FULLERTON: Why aren't they?

DR HUGH WIRTH: I can't tell you that because I've had long discussions with both the chief executive and the president on this very factor.

TICKY FULLERTON: In reality what is happening is that you, representing the national body, are parroting from the top anger at live transport...

DR HUGH WIRTH: Correct - because that's my role as national president.

TICKY FULLERTON: But are you more than a parrot, given that on the ground, that this issue is being ignored, effectively, in Western Australia?

DR HUGH WIRTH: Well, if it's being ignored it's not for the want of trying.

TICKY FULLERTON: For farmers, selling livestock for export is business as usual. The whole industry is set up support it. In Western Australia, the RSPCA, whose national goal is to ban live exports, has for years allowed lobbyists for the industry to sit on its State board.

(ARCHIVAL FOOTAGE FROM ABC'S 'COUNTRYWIDE' PLAYS)

REPORTER: The \$200 million live sheep export industry typifies the conflict of interest farmers have with the goals of the RSPCA.

TICKY FULLERTON: 20 years ago, the ABC's 'Countrywide' program talked to the president of the WA Pastoralists and Graziers Association who was also on the RSPCA board.

REPORTER: Do you support live sheep exports?

MAN: Um... Now, just stop there.

Yes, I do. I think that the live sheep export industry, as such, is important to Western Australia and it's important to the nation's income.

TICKY FULLERTON: Today, it seems, very little has changed.

YVONNE PALLIER, WA RSPCA COUNCIL: There are two councillors who have only in the last two meetings declared a conflict of interest in respect that they have... they export live animals.

TICKY FULLERTON: Only in the last couple of meetings?

YVONNE PALLIER: That's right.

TICKY FULLERTON: Yvonne Pallier has been a State councillor for eight years. She says the conflict of interest only surfaced when the group Animals Australia started asking questions. President Eric Ball admits that Councillor Des Gooding and Councillor Neville Marsh have declared that they had sold animals that may have gone to the live export market.

And what was your response when you heard this declaration of conflict of interest?

YVONNE PALLIER: Stunned. I think the whole council was stunned.

It's just that the live transport of animals is something to which the RSPCA is philosophically opposed. They want to ban it.

ERIC BALL, WA RSPCA PRESIDENT: Yes.

TICKY FULLERTON: Having farmers on the board is one thing, and maybe a good thing. Having farmers on the board with interest in the live transport industry, one way or another, surely is a gross conflict of interest that shouldn't be tolerated.

ERIC BALL: It's a gross conflict of interest which they declare, and when they declare it they don't participate in the discussions on that issue.

TICKY FULLERTON: Yvonne Pallier says this is not true - Des Gooding made his support for the industry clear at a council meeting.

YVONNE PALLIER: Des Gooding indicated that he wanted to renegotiate the issue of live animal export as a national policy.

TICKY FULLERTON: Do you think the RSPCA has the will to prosecute in the live export industry?

YVONNE PALLIER: No.

DR HUGH WIRTH, RSPCA NATIONAL PRESIDENT: We are dependent on certain aspects of the Western Australian Society, like its inspectorate, to help police state law.

TICKY FULLERTON: Mmm. And how is that going to work if there are people with interests in live transport on the Western Australian council?

DR HUGH WIRTH: Well, it can't possibly work.

TICKY FULLERTON: This month, the WA RSPCA is facing the biggest challenge in its 112-year history - a possible test case for prosecution, which if it won, could herald the end of the live export trade. On 11 November last year, the ship 'Al Kuwait' left the Fremantle docks, bound for the Middle East with over 100,000 sheep on board. Two weeks later, in Kuwait, Animals Australia took this vision as evidence of cruelty during the voyage.

(FOOTAGE OF SHEEP LYING IMMOBILE ON SHIP PLAYS)

GLENYS OOGJES, ANIMALS AUSTRALIA: Some of them looked like they'd been dead for quite some time. Sheep that were so depleted, so ill, that they had collapsed after being unloaded and they weren't even pulled out of the way and they certainly weren't put down. They were given no assistance whatsoever. They had suffered on board. They had been ill on board and this was the outcome.

TICKY FULLERTON: Animals Australia took their evidence to the WA RSPCA. President Eric Ball says he's been handed a nightmare.

ERIC BALL: If I could give a description, it's a little bit like walking a Trojan Horse into your boardroom and opening it up to find it's got a Pandora's box inside, because the jurisdiction issues are far more complex than we could have imagined, and the evidence which would be required to sustain a prosecution is clearly very...going to be very clearly defined.

TICKY FULLERTON: Animals Australia had other advice. It came from a leading barrister and president of the WA Law Society, Ian Weldon.

Based on what you've seen from Animals Australia, do you think there is a prima facie case to prosecute?

IAN WELDON, BARRISTER: I think there's quite a strong case to prosecute on all the material that I've seen, yes. We're talking about Section 19(3)(c), which is showing that the transport was likely to cause harm. That's what the prosecutor will have to establish to succeed in this prosecution. There

are four ways in which it causes harm. One is that sheep don't eat properly. One is that they're much more susceptible to salmonella. The third is that they get blinded by pinkeye because of the dust from the pellets that they're fed. And the fourth is just general trauma and damage caused by the way in which they're loaded - falling over, sheep falling on top of each other, etc.

TICKY FULLERTON: To fix these problems could well make live export commercially unviable. In late May, the State RSPCA board met to discuss the controversial case. Eric Ball told councillors there was insufficient evidence to mount a case, yet councillors were not shown any of the film footage. Even more disturbing, the president did not pass on that Animals Australia had been advised by barrister Ian Weldon that there was a case for prosecution.

YVONNE PALLIER, WA RSPCA COUNCIL: No. No councillors were told that information. That advice did not come to the council meeting.

ERIC BALL: Why would we not make that information available?

TICKY FULLERTON: Well, that's my question to you.

ERIC BALL: Well, I can only ask the same question. If that was... Because that just isn't true.

TICKY FULLERTON: So you believe that they were clear that Mr Weldon believed there was a prima facie case?

ERIC BALL: Yes. I'm certain they were. There'd be no reason to withhold that from our council. Goodness me!

TICKY FULLERTON: After the interview, Mr Ball told Four Corners he was mistaken - Ian Weldon's views were not conveyed to the board.

GLENYS OOGJES, ANIMALS AUSTRALIA: I'm really surprised that the councillors don't appear to have been given all the relevant and important information so they could make a decision.

TICKY FULLERTON: Why do you think the councillors weren't told?

YVONNE PALLIER: Because it would have significantly changed the council's decision.

TICKY FULLERTON: What the Board did receive was another opinion from law firm Phillips Fox. Eric Ball says he passed Ian Weldon's views and Animals Australia's evidence to Phillips Fox but that is not clear from the opinion.

ERIC BALL, WA RSPCA PRESIDENT: It's our principal legal advice.

TICKY FULLERTON: My understanding is that Phillips Fox have advised you that there is a marginal chance of success in prosecution.

ERIC BALL: Yes.

TICKY FULLERTON: If that's the case, why then did your executive director provide that opinion to councillors but with a covering note that Phillips Fox's advice was to say that the prosecution was not sustainable?

ERIC BALL: There was no such opinion put forward by our executive officer along those lines.

TICKY FULLERTON: The executive director's cover note obtained by Four Corners does in fact take the more negative view that "a prosecution on this matter could not be sustained." Councillors were also discouraged by the cost of mounting a case. The State Government gives the society powers to prosecute but it must use its own money to do so. In this case, according to Eric Ball, up to \$300,000.

DR HUGH WIRTH, RSPCA NATIONAL PRESIDENT: We haven't got, as the smoking lobby has got, people in the legal profession to come out and say, "We are so appalled about this cruelty, we will do our pro bono work."

TICKY FULLERTON: However, at the WA council meeting, Eric Ball neglected to mention that Animals Australia had in fact received a pro bono offer to prosecute the case.

IAN WELDON, BARRISTER: I did offer to act or to prosecute without a fee if a prosecution could be brought.

TICKY FULLERTON: So you offered your services for free?

IAN WELDON: Yes.

YVONNE PALLIER: I was shocked because the whole issue, um, raised in the discussion was about the cost of this prosecution.

ERIC BALL: I haven't said that that's preventing us from prosecuting at all. I've said one of the issues, which we haven't yet dealt with in serious debate, is the question of cost.

TICKY FULLERTON: One message councillors did receive came as a warning. The State Government relies heavily on the live trade economy. The RSPCA's \$250,000 annual funding from government could be under threat.

YVONNE PALLIER: The chief executive was very clear to the council. He said that if we proceed... If we proceed with this prosecution, we will lose our government funding.

TICKY FULLERTON: He actually said that at a meeting?

YVONNE PALLIER: He said that. Mm-hm.

ERIC BALL: Uh, that's got to be put in perspective. What he said was that the council needs to recognise, needs to recognise, that if we succeeded in

stopping the live export trade, you may well then alienate any funding from any State Government.

TICKY FULLERTON: If you succeeded in stopping the live export trade in Western Australia, wouldn't that be worth a couple of hundred thousand dollars?

ERIC BALL: Oh, yes, and he wasn't suggesting that we...we should be influenced by that. But he did say we need to recognise that not only will it cost us funds to prosecute, but it may also stop the future flow of funds. And that may be...may be important in our sustainability.

TICKY FULLERTON: Just last Friday, Eric Ball told Four Corners that the case was not closed. He has further reports to present to this week's council meeting. But there's another factor that could influence the decision - a fear that government could strip the RSPCA of its prosecution powers.

MARK PEARSON, ANIMAL LIBERATION: I asked Dr Hugh Wirth quite clearly, "Why is it that the RSPCA aren't proactively investigating, and when necessary, prosecuting intensive farming corporations for cruelty to animals?" And he said to me very clearly, "Well, look, Mr Pearson, if I were to do that - if the RSPCA were to do that - proactively as you say, we would lose our powers. The government would take away our powers as a prosecution authority."

DR HUGH WIRTH, RSPCA NATIONAL PRESIDENT: Well, it is true that the governments in Australia have in the last 15 years, uh, tightened up on who can prosecute and have tightened up on who can be an RSPCA inspector. And remember that Labor governments are throughout Australia now. Labor party policy is to remove all private organisations from enforcing criminal law.

TICKY FULLERTON: Paws, not hooves, are what the society spends its time promoting. To the public this is what the RSPCA does best and many would forgive it for pushing much-loved companion animals to the fore. Yet at the RSPCA, it seems, all animals are equal but some animals are more equal than others.

In the eyes of the RSPCA, is a dog's right the same as a sheep's right?

YVONNE PALLIER: I don't believe so.

ERIC BALL: I don't believe in animal rights.

TICKY FULLERTON: In New South Wales the RSPCA's big project is a \$30 million shelter upgrade for dogs and cats across the state. The man asked to chair the fundraising was chicken magnate Peter Bartter.

(ANIMAL LIBERATION FOOTAGE OF BATTERY HEN FARM PLAYS)

This is one of one of Animal Liberation's numerous raids on Bartter's battery hen operations.

BERNIE MURPHY, CHIEF EXECUTIVE, NSW RSPCA: We spoke to Peter Bartter about the possibility of having a look at assisting us but Peter Bartter had a number of other projects on at the time and he was unable to assist.

MARK PEARSON, ANIMAL LIBERATION: I mean it's just an extrao... I can't believe it. It's an extraordinary thing to think that the chief executive officer of the RSPCA New South Wales would even consider such a man to take such a role in an organisation to which the community looks to look after all animals.

BERNIE MURPHY: The RSPCA policy is to ensure that cruelty does not...does not exist and we work with industry.

GEORGE LEWIS, SA RSPCA COUNCIL, 2001-2003: We try to maintain the status quo. We don't want to upset the farmers. We don't want to upset our membership. We don't want to upset government. We want things kept the same. But if you go through the goals and objectives of the RSPCA, I mean, none of them are aimed at protecting the profits of the farming industry.

CAROLYN JONES: There needs to be a government inquiry into the make-up of the RSPCA. I think that we need to know exactly who has been allowed to have influence over this society, uh, to determine just why it strayed so far from its reason for being.

TICKY FULLERTON: In the eyes of the law the RSPCA is the protector for all creatures great and small. 133 years on from its first good deed in Australia, is a charity of which so much is asked still willing and able to live up to its charter?