



House of Commons
CANADA

Standing Committee on Justice and Human Rights

JUST • NUMBER 014 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, February 14, 2008

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Chair

Mr. Art Hanger

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• (1530)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I call the Standing Committee on Justice and Human Rights to order.

Pursuant to the order of reference of Friday, November 30, 2007, Bill S-203, An Act to amend the Criminal Code (cruelty to animals) is under debate.

On our list of witnesses for today is Mr. Mark Holland, MP; and the World Society for the Protection of Animals, Melissa Tkachyk, programs officer; along with the Department of Justice, Karen Markham, counsel for criminal law policy section.

Please note, witnesses and members, that the time for the conclusion of these presentations and questions would be 4:15 p.m.

So I'll turn the floor over to Mr. Holland.

Mr. Mark Holland (Ajax—Pickering, Lib.): Thank you, Mr. Chair, and thank you to the committee for the opportunity to appear today.

I'm going to start off with four reasons that I believe this committee should defeat this bill. I think they're clear reasons and I hope the committee will consider them.

The first is that the House has actually already—and I'm talking about the House of Commons—passed the same bill that I've introduced, Bill C-373, on two separate occasions. This was done so unanimously, with all-party support. It was the product of an enormous amount of compromise. Members will recall that at that period of time it was very difficult to bring together both those who are involved in animal welfare and those who are involved in the use of animals towards a point of consensus. We got so close that all parties agreed and it passed the House of Commons, and we sent that legislation, effectively the same legislation I have before you today, twice to the Senate.

So why is that relevant to this bill? Because the Senate is telling us today what is possible in this bill. They are rejecting what the House has sent to them twice and have sent something back that is totally ineffective.

That brings me to my second point; that is, to pass an animal cruelty law that has every major animal welfare group opposed to it makes no sense. How in the world we could pass something that every single major animal welfare group is opposed to makes no sense at all. I don't understand how we could possibly explain that to our constituents. I'm not talking about people who are involved in animal rights; I'm talking about people who are involved on the front

lines of dealing with animal abuse. I'm talking about humane societies and veterinarians who, day in and day out, see terrible, egregious abuse against animals, and they say it's time to put an end to it. They recognize that if you merely increase sentences, it does nothing for the fact that we can't get convictions.

That's the problem—people aren't being convicted. Only one-quarter of 1% of animal abuse complaints results in a conviction. You heard from an SPCA officer here just a couple of weeks ago who talked about how impossible it is to enforce today's existing laws.

The other great tragedy, of course, is that not only do we see these terrible abuses happening to animals, but we see that same abuse of animals then translating into abuse against human beings, violence against human beings. That was one of the reasons this committee heard that in Florida they had a campaign that said, if you can stop animal abuse by reporting it early, you can possibly stop spousal abuse, or abuse in the home. So we have to remember the linkage there—even if we don't care about animals, and I'm sure we all do around this table—that this has towards violence against human beings. I'm sure we all want the opportunity to be able to stop violence early.

The third is Senator Bryden's own comments, both before this committee and elsewhere, in which he said he would not support Bill C-373. If this was merely a step along the path to finally doing something, even though the House of Commons has already said we already have effective animal cruelty legislation, then we would expect the senator to say, well, maybe with some minor revisions we can accept what the House has already passed twice. I know that the government, as an example, is not accepting this with Bill C-2. They want the Senate to pass it immediately. Crime is extremely important. It needs to be dealt with immediately. The Senate shouldn't be telling the House what it should do; it should be dealing with the matter post-haste. Yet when it comes to animal cruelty, there's the application of a very different standard. Even though we've sent legislation to the Senate twice, we are somehow letting the Senate dictate to us what is possible and what should be done.

The fourth comment I would make is the overwhelming outpouring from Canadians. In front of me here are thousands upon thousands of signatures that were received just in the last month that I'll soon be presenting to the House. I had a Conservative member approach me last week with 2,300 signatures from his own riding of individuals who oppose this Senate bill and support Bill C-373. There are over 130,000 signatures that have been attained in a formal format, such as this, calling for the defeat of this Senate bill and for the passage of effective animal cruelty legislation, such as the legislation that the House of Commons has already passed and that is before us again. On Facebook there are thousands upon thousands of members, and there are people everywhere clamouring and calling for something very simple; that is, to update our animal cruelty laws.

The passage of this bill, which only deals with sentencing, will mean that the international embarrassment that is Canada's animal cruelty laws will continue. Today we are behind the Philippines. We are a third world nation when it comes to our animal cruelty laws. This bill would do nothing to fix that.

• (1535)

I would ask that members have the courage to stand up for what the House has already supported, to stand up for the legislation the duly-elected members of the House of Commons have already stood for, and to say to the Senate, enough is enough, it's time to pass effective animal cruelty legislation.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Holland.

I'd like to turn to Melissa Tkachyk from the World Society for the Protection of Animals.

The floor is yours.

Mrs. Melissa Tkachyk (Programs Officer, , World Society for the Protection of Animals (Canada)): Thank you, Chair and honourable members, for allowing me this opportunity to speak about an issue that is of utmost importance to the World Society for the Protection of Animals, and to Canadians.

WSPA is the world's largest international alliance of animal welfare organizations. We work in partnership with more than 850 organizations in 170 countries. Our global partners include the Royal Society for the Prevention of Cruelty to Animals, the American Humane Association, the American SPCA, and many others. WSPA holds consultative status with the United Nations and observer status with the Council of Europe. We work to improve animal welfare standards around the world through field work and advocacy.

WSPA Canada is based in Toronto. We are a Canadian charity and have more than 30,000 supporters across the country, and hundreds of thousands worldwide. If one takes into account the supporters of our member societies in Canada, we represent the voices of over 200,000 Canadians.

WSPA joins its member societies, the Canadian Federation of Humane Societies, the Ontario SPCA, and other international groups, such as the International Fund for Animal Welfare, in opposing Bill S-203. It is suggested that this bill was introduced to improve the protection of animals, yet not a single animal protection group in the country supports it. We oppose this bill because it is not

an effective improvement to the current animal cruelty provisions in the Criminal Code, which haven't been significantly revised, as you know, since first enacted in 1892. This antiquated bill does not address the deficiencies in the current legislation, which allow so many animal abusers to slip through the cracks unpunished.

As you know, the Canadian Federation of Humane Societies was already before this committee. They've calculated that less than 1% of animal abuse complaints made across the country lead to a conviction. Bill S-203 increases sentencing penalties; this is the only change it makes. We do not support this bill because we do not believe these increases are very useful if law enforcement officers are unable to prosecute animal abusers in the vast majority of cases. What difference does increasing penalties make if offenders cannot be successfully prosecuted?

Bill S-203 requires the court to prove that someone wilfully intended to neglect an animal. We have heard from SPCAs across the country that the burden of proof is too high, and that it is one of the main reasons so few complaints about animal abuse lead to convictions under the Criminal Code. Prosecutors have not been able to convict people who have starved their animals, because they cannot prove that the owners intended to cause harm, even though any reasonable person knows that animals, like people, need food daily and suffer when they are hungry, and that an emaciated body clearly indicates that an animal has been starved for a long period of time. The inactions or actions of the offender should be sufficient to convict them in these cases.

We believe the language in Bill C-373 makes this offence much clearer and will, therefore, improve conviction rates in cases of neglect.

Bill S-203 does not make it an offence to breed, train, or sell animals to fight each other to death, so long as the person is not found actually present at the fight. I'm sure you understand that illegal blood sports are not exactly publicized. Dog fighting should be prohibited as explicitly as cock fighting is in this bill. It is our submission that training dogs to fight and being in possession of dog-fighting equipment should both be prohibited. We believe this is necessary to crack down on the people who are participating in and encouraging this brutal blood sport. Great Britain's Animal Welfare Act takes it even further by making it an offence to profit, publicize, and promote any animal fighting.

Like the antiquated legislation currently in force, Bill S-203 provides less protection for unowned animals, even though stray, feral, and wild animals suffer just the same. So it's not an offence to kill, maim, poison, or wound unowned animals without a reason or a lawful excuse. It is legal now, and would continue to be legal, to beat a stray dog with a baseball bat, so long as the dog dies quickly. WSPA strongly believes that all sentient animals should be equally protected from being killed, maimed, poisoned, or wounded, in addition to being protected from suffering and neglect.

If the government is serious about tackling crime to build stronger and safer communities in Canada, it should not ignore the strong relationship between crimes against animals and crimes against people. Research shows that people who abuse animals are more likely to commit future acts of violence against people. Some of the most notorious serial killers abused animals before they murdered people. Their first crimes against animals should have served as an early warning that they were predisposed to harming people next.

• (1540)

The government has the opportunity to pass effective legislation that not only addresses animal abuse effectively, but can also help stop a cycle of violence in our communities. I do believe that if people are taught to respect the sanctity of animal life, it will contribute to the respect for the sanctity of human life as well.

I have summarized our main concerns with this bill, but there are many other problems, which I won't elaborate on, including the fact that it retains the illogical categorization of animals and the strange definition for cattle that is currently in the Criminal Code. As well, Bill S-203 still distinguishes animals as property, and it categorizes offences against them as property offences. Unlike inanimate objects, animals have the capacity to feel pain and suffer. Since their sentience is why we have legislation to protect them, this very basic fact should be reflected in the language of the law and how these types of offences are labelled and how the offender is punished.

Your committee has heard a lot of unfounded hysterical fears that the amendments animal protection groups support, such as those that are in Bill C-373, will somehow affect the right to hunt, trap, and go fishing. Some stakeholders have accused this bill's opponents of having an ulterior motive, such as an underlying animal rights agenda. Comments like these are absolutely absurd.

WSPA and the many other groups that are supporting Bill C-373 are simply advocating for legislation that effectively protects animals from horrific acts of cruelty, abuse, and neglect. Amendments like the one Bill C-373 proposes strikes a great balance between effectively convicting and punishing those who abuse animals, while protecting those who legally use animals.

During his deputation to your committee, Senator John Bryden acknowledged that his bill dealt only with one part of the problem, but that additional amendments should be made later. The committee is therefore being asked to pass deficient legislation on the grounds that some stakeholders would be uncomfortable with the changes sought by other stakeholders. Should we not be asking instead whether there is any validity to their concerns? If these stakeholders are concerned that the right to use animals is not adequately

protected, then the solution, I would think, is not to maintain loopholes in the law, but to clarify the rights of these groups.

WSPA would gladly support this bill if it could be amended to resemble Bill C-373, which is essentially the same bill as the previous bills, Bill C-50, Bill C-15B, Bill C-10, which were twice passed by the House of Commons. Those bills were based on nearly 10 years of consultation, received broad-based support—that's support from all different groups that use animals, including support from all political parties—and also received strong public support.

This bill is clearly flawed if people who starve animals to death, bash stray dogs with bats, and train dogs to fight can slip through the cracks unpunished. This bill does not address the current loopholes, archaic language, and inadequacies in the original legislation. It retains them.

Bill S-203 does not deliver what Canadians are demanding from their government. Canadians do not view animals in the same way as people did in the Victorian era. They want modern, effective, and enforceable legislation that protects animals from reckless acts of cruelty. We have waited a long time for strong legislation to protect animals, but I'm afraid the proposal that is before your committee right now is just not worth that wait.

On behalf of WSPA, I'm asking you today to oppose Bill S-203. It's taken more than 100 years to make changes to our animal cruelty law. Let's make sure the new legislation is worth the wait.

Thank you.

• (1545)

The Chair: Thank you.

Ms. Markham.

Ms. Karen Markham (Counsel, Criminal Law Policy Section, Department of Justice): Yes, thank you, Mr. Chair. I appreciate the opportunity to be here.

I have been asked to come as a resource for the answering of questions on the law, etc., as opposed to making a formal presentation.

I might just indicate that I've been a criminal lawyer for 26 years, and part of that experience was as a crown prosecutor. That may be of some interest.

Thank you.

The Chair: Thank you. We will probably be calling upon you at some time during the question period.

We will go to questions then.

Mr. St. Amand.

Mr. Lloyd St. Amand (Brant, Lib.): Thank you, Mr. Chair.

I just have a question or two, perhaps to you, Mr. Holland, or you, Ms. Tkachyk.

First, thanks for your presentations.

Would it not be of some comfort to you, limited though it might be, to at least see Bill S-203 passed? Based on the fact, and it's well established, that harsher penalties serve as some deterrent to wrongdoers, would it not move the yardsticks along, advance your noble cause of protecting animals? Would it not move the yardsticks to some extent if, however flawed you may view this bill, it was passed?

Mrs. Melissa Tkachyk: I don't think it's very effective to increase penalties if it doesn't deal with the very root of the problem, which is that the vast majority of animal abuse complaints don't lead to a conviction. In that regard, no, I think this bill is too flawed—it's riddled with flaws—and it's not a good starting ground for making further amendments later.

As well, as a campaigner, I know that it's very difficult to get amendments addressed later. It will likely be less of a political priority. It's very difficult once an issue has been dealt with, even partially, to get further amendments down the road.

I hope you can understand as well that if you look at the pace of change on our animal cruelty law in Canada, we had something first enacted in 1892 and small changes made in the mid-1950s. I don't want to be here in 2060—I will, but I don't want to be—debating another small change, and that is our concern. It's far too slow. We've waited so long. Let's make it right.

Mr. Lloyd St. Amand: Mr. Holland.

Mr. Mark Holland: Thank you, Mr. St. Amand.

It's a fair question, and the answer to the question would be no. It would be not only of no comfort, but for somebody who has worked on this, worked very closely with Mr. Cotler, who was the justice minister in the last Parliament, I would see it as being a very sad day if we were to pass it, for the following reasons.

The point was just made that this does nothing to address the fact that we can't get convictions, that every day people know they can get away with animal abuse because they have legislation that allows them to do it. Making the sentences stronger when they know they can never get convicted isn't going to do anything.

Worse than that, it sends the wrong message. It sends two messages that are wrong. The first one it sends is that we're doing something about animal cruelty when we're not. We're saying to people that we're increasing sentences and we're getting tough on animal cruelty. When you've had people who are on the front lines, people like the SPCA officer who is the chief for Ontario and responsible for Ontario, say to you that they can't get convictions today and that they're deeply frustrated every day, and when we have veterinarians who see case after case that can't be prosecuted.... Being behind the Philippines with third world legislation just isn't good enough, and if we pass that, we simply entrench it.

The worst part of it is that we send a message to the Senate when we had already said...we wouldn't do this on any other issue. Can you imagine any other issue where the House of Commons sent essentially the same bill twice to the Senate, and then the Senate sends something back that's infinitely weaker, and we accept the argument from the Senate as well that it's the best you can get? Are we going to allow the Senate to dictate to us, an elected House, that

the best we can get is something so watered down that every animal welfare group in the country opposes it?

• (1550)

Mr. Lloyd St. Amand: As a matter of practicality, Bill C-373 passes at the House of Commons, we don't know when, but we're perhaps talking months before it passes. On a practical basis, what assurance or insight do you have that triggers a new confidence that the Senate will pass Bill C-373?

Mr. Mark Holland: I think if the House sends the same bill three times to the Senate, it becomes very hard to turn it down. It becomes much easier if you've passed an extremely weak bill and you can hold it out as a smoke screen, "Oh, we've already done something on animal cruelty, that's why we're not accepting your bill". The senator said it himself. He said that one of the reasons we are so concerned about this bill getting passed is that we would lose the lever. He's right. To a large degree we would lose the lever. That's a big concern, because we would see animal cruelty legislation that's utterly ineffective.

If you want to talk about something this justice committee could do today, it would be to pass a motion saying adopt immediately the comprehensive animal cruelty legislation this House has already passed twice. Why would we even need any debate? It's already been passed through the House twice. Pass that motion, send it to the House, and say to the government, pass it today.

We've already received unanimous consent for this legislation previously. Why on earth would we need to debate it any longer? Advance it, and that's the way we could advance animal cruelty legislation immediately.

Mr. Lloyd St. Amand: I have no further questions.

[*Translation*]

The Chair: Mr. Ménard.

Mr. Réal Ménard (Hochelaga, BQ): It is more of a statement than a question, and I will, of course, be making it in French.

Mr. Mark Holland: That is no problem. Unfortunately, however, my French is not very good. Indeed, it could be said that I have a habit of murdering the French language.

Some hon. members: Oh, oh!

Mr. Réal Ménard: I will resist the temptation to make a joke, Mr. Petit.

Firstly, I would like to congratulate you on the work that you have done as a member of Parliament over the years since you were elected. I know that you have the courage of your convictions and that you have fought hard on this issue. I also believe that this has to be recognized as a considerable improvement on the status quo.

Our party supports the abolition of the Senate. We fully concur with your view that the Senate essentially ran roughshod over democracy when it failed to consider legislation that had been adopted by the House of Commons. The reality, however, is that the bill before us better addresses offences and constitutes an improvement on the status quo. Nevertheless, I accept that it does not go far enough. Were we to carry out a comparative analysis between this bill and your bill in the House tomorrow, there is no doubt that your bill would come out on top.

However, unless I am mistaken, you are 146th on the list. You know full well that your bill will not be considered by the House in the near, or not-so-near, future. You also know that you will not be granted consent to leapfrog over other colleagues who are higher up the list—to do so would render the system meaningless.

We are tabling amendments similar to those put forward by our colleagues from the NDP. The Bloc and the NDP will be proposing amendments to this bill. We will see how the committee chooses to proceed. We hope that the bill will be amended. It would be a shame for it to not be sent back to the House for report stage and third reading, as it does contain some of your plus points. If, however, that is the will of the committee, we will respect it. If your bill can be considered in the near future, you will have the support of the Bloc Québécois. Of that there is no doubt. We cannot agree with the arguments advanced by certain activists to the effect that if this bill is adopted with amendments, the Senate will not consider your bill. We cannot base our decision on speculation.

Once again, I would like to sincerely congratulate you on the work that you have done. It is said that you are a rising star in the Liberal Party. I am sure you will agree with me that it is not always easy to understand the Liberal Party, but you have worked with conviction, which is admirable. The Bloc will be introducing amendments and hopes that the bill will be adopted with amendments.

Mr. Mark Holland: Thank you for your question, Mr. Ménard. The problem is that the bill does nothing to address cruelty to animals.

[English]

If you have 100% of a problem and you can fix 1% of that problem, but you have to entrench all the things that create the other 99%, you're asking me whether you would take that.

I would suggest that's a bad deal. What we're doing is entrenching all the things that give us a problem. Bill S-203 as it exists today entrenches all the things that make our laws third world laws. If you pass this, we're going to exit this House of Commons worse than we started, because we will have passed a placebo motion that people can hold up as a pretence that action was taken. We'll say we passed something; we did something about animal cruelty—

• (1555)

[Translation]

Mr. Réal Ménard: Have you read the Bloc and NDP amendments? Would you be satisfied, or at least happier, if they were...

Mr. Mark Holland: I would prefer that the bill were defeated.

Mr. Réal Ménard: Even with our amendments?

Mr. Mark Holland: Yes, even with the amendments. I would rather table a motion in the House arguing that it is very important that we immediately adopt a bill on cruelty to animals, such as Bill C-373. The decision is in your hands.

[English]

It's important not to think, though, that if you pass this today... I understand the amendments; I understand where you're coming from and I think they're well-intended, but I think we would be far better served by a motion from this committee that says to pass what the

House has already passed, a motion that says to the government to make the same demand of the Senate that you did on Bill C-2.

How is this any less important? It's just as important to deal with crime before it happens as it is to deal with crime afterwards. We have shown time and time again that when it comes to cruelty and violence against human beings, cruelty and abuse to animals is a precursor, so I think we should say the same thing that the government is saying to the Senate about Bill C-2.

[Translation]

Mr. Réal Ménard: I would like to make one last comment, Mr. Holland.

The Chair: Go ahead.

Mr. Réal Ménard: The problem is that your bill is not a government bill. As you well know, our system does not give priority to a component of a private member's bill. If it were done for you, it would have to be done for others as well. You should bear that in mind.

Mr. Mark Holland: I understand the problem, but...

[English]

I still am saying—and I think that every animal welfare group in the country is saying the same thing—that it just doesn't advance it enough.

What we're going to be left with is something that entrenches the problems, that leaves the people on the front lines of dealing with animal abuse frustrated. We're going to see no meaningful improvement, and unfortunately it will be held out as a placebo, not by the people who legitimately want to do something about this but by others. And what we're going to be left with next Parliament, if I'm fortunate enough to be back, is fighting to introduce something and people saying that we've already dealt with it.

[Translation]

Mr. Réal Ménard: Thank you.

[English]

The Chair: Thank you, Mr. Ménard.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): I was going to start with a statement just to refute both the questions we've had from the Liberals and the Bloc. I understand the politics of this. I'm just surprised that we're not getting the same kind of response from both of them.

I want to pursue, to some degree, the line of questions from Mr. Ménard.

Ms. Tkachyk, have you taken on any consultation with the current government of trying to prioritize the old Bill C-50, Bill C-373? Have you had any indication from them of a willingness to prioritize it, to move it up? Because you know, I'm sure, of the difficulty and how long it will take Mr. Holland's bill to get to the top of the list.

Mrs. Melissa Tkachyk: Specifically on Bill C-50, I have not. But certainly as a campaigner I've had tremendous experience in trying to push things forward, and when something is tweaked a bit, it is extremely difficult, in my experience, to make further changes to it afterwards.

As well, I am concerned about the public perception. I do agree with Mr. Holland that this entrenches a problem, but it's also about the public perception when a government deals with something. I don't think it's a far stretch to say that the government would put out a press release and the groups that support Bill S-203 would put out press releases, and none of those would mention that this bill has deficiencies that need to be addressed urgently.

Mr. Joe Comartin: What I'm really asking you is, since this Conservative government has been in place, has there been any consultation with you or any of the other groups that you're associated with of trying to move forward the old Bill C-50?

Mrs. Melissa Tkachyk: No.

Mr. Joe Comartin: Okay.

We did have some suggestions of some amendments from the coalition of farmers and producers that was here in front of us two weeks ago. There were a couple of amendments, and I'm trying to remember what they were. One was around the section in terms of killing and having some intent in that.

Is your organization willing to accept an amendment in that regard?

• (1600)

Mrs. Melissa Tkachyk: I'm not aware of the particular amendment they proposed, but—

Mr. Joe Comartin: It wasn't them proposing. We were proposing to them, and they responded affirmatively.

Mrs. Melissa Tkachyk: I see.

I would have to see the amendment. Going through the bills before us, I understand now the importance of every little word. So it would be important to review what that proposal is. I'm not aware of it.

Mr. Joe Comartin: Ms. Markham, has the department done any analysis? We have conflicting evidence on the success rate of convictions. Has the department done any analysis of that?

Ms. Karen Markham: It has not done an independent analysis recently. I think the department has relied upon statistics from the front line workers, and I believe that the Canadian Federation of Humane Societies has been very helpful in that regard.

Mr. Joe Comartin: Are you aware of any draft legislation coming forward from the department that would, in effect, reintroduce the old Bill C-50?

Ms. Karen Markham: I am not aware of any such initiative.

Mr. Joe Comartin: If there were that kind of draft legislation in the department, would you be aware of it?

Ms. Karen Markham: I assume that I would be.

Mr. Joe Comartin: Those are all the questions I have.

The Chair: Thank you, Mr. Comartin.

Mr. Moore.

Mr. Rob Moore (Fundy Royal, CPC): Thank you, Chair.

Thanks to the witnesses for their presentations.

Ms. Tkachyk, I have just one bit of a correction. You mentioned a government news release or something on this bill. To be clear, this Bill S-203 is not a government bill; it's a bill coming forward from a member of the Senate. So the issue is do we as a committee support that Senate bill or not. It's certainly not part of anything that we as a government have put forward.

Ms. Markham, on your understanding of the bill, am I correct that if an individual has committed an act of cruelty towards an animal and is arrested, tried, and convicted for an act of cruelty towards an animal, the bill that Senator Bryden has put forward would mean that the sentencing judge would have a higher penalty to impose on the convicted person? Is that your understanding of the bill?

Ms. Karen Markham: Yes. Actually, the increased penalties and characterizing the offences as hybrid have two impacts. One, it allows for a crown election to proceed either summarily or by indictment, which in turn triggers an election by the accused if the crown proceeds by indictment. So it has that impact. Second, if the accused is convicted, the accused would be subject to higher penalties than is currently the case.

Mr. Rob Moore: Good. That brings me to—

Mr. Mark Holland: The only concern I have—

Mr. Rob Moore: Yes, I have a question for you, Mr. Holland, but I just want to make—

Mr. Mark Holland: The only comment I'd make, because it's a fair point.... The only problem I have is that there is not—

Mr. Rob Moore: Just one second. It's my question time. I do have a question for you.

Based on what Ms. Markham has said, that is the difficulty we're struggling with here. I've not heard one group that has come to this committee, either supporting or opposing Bill S-203, suggest that we need lower penalties for those convicted of animal cruelty. I've heard people say they support the bill or they oppose the bill, but no one has said the penalty should be lower. And I've heard a great many of them say the penalty should be higher.

So while I agree this bill is not the be-all and end-all when it comes to animal cruelty, and I know there are other proposals out there, I think part of this campaign against the bill—and I'll let you address this, Mr. Holland—that I find odd is that you have a bill that doesn't claim to do everything. All it claims to do is increase the penalty when someone is convicted. I think that an increased penalty is something we should all support. But the argument we're hearing is that if this bill passes, then there'll never be any more animal cruelty legislation.

Ms. Tkachyk, you mentioned it has been a hundred years and you don't want it to be a hundred more. And I could agree with that. But we are only dealing today with one bill that does one thing, and we either support higher penalties or we support leaving the penalties where they are or we support lower penalties.

I personally support raising the penalties, because with some of the horrific things we hear about and that have been raised, the judges need to have stiffer penalties available. But what I absolutely reject is—and I think it's important for people who are following this to understand, and Mr. Holland, I'll let you address it—the premise that if this bill passes, there cannot be future legislation or that somehow it would take the wind out of the sails of anyone ever passing or bringing forward future legislation that did something else.

• (1605)

Mr. Mark Holland: To answer, maybe I can use a metaphor. You have a starving man and he is desperately hungry. And on the other side of glass is a rotten apple. You can change that rotten apple and make it the biggest cornucopia of food you've ever seen, but it's still behind glass and that hungry man can't get it.

Why that analogy? If you change only the sentencing, that's wonderful, and I agree with you, but you can't get convictions. So if you want to get a conviction, it's on the other side of that glass. You can have the strictest, hardest, toughest sentences in the world, but if you can never get a conviction, then it simply doesn't matter.

So if you want to get effective animal cruelty legislation, what you do is say that this doesn't cut it. You turn it back—

Mr. Rob Moore: All right, but we're talking about this legislation, so I have another—

Mr. Mark Holland: —to the Senate so it can pass the Senate, the same way you did to Bill C-2, the same way you sit on Bill C-2.... Just let me finish, like a good chair.

Mr. Rob Moore: All right. Thanks, Mr. Holland.

I have a question for Ms. Markham. I have another question.

Mr. Mark Holland: Just let me finish. I wanted to respond.

The Chair: You answered the question. That's fine.

Order, please.

Mr. Rob Moore: I actually have another question to Ms. Markham.

Are there currently convictions under the current animal cruelty legislation? Is there ever anyone arrested, tried, and convicted under the current legislation? Does it happen?

Ms. Karen Markham: Well, it happens.

Mr. Rob Moore: It happens.

Mr. Mark Holland: So that's the standard.

Mr. Rob Moore: Mr. Holland, with respect, it does happen, and we're dealing with a bill that says—

Mr. Mark Holland: If I could answer, it happens—

Mr. Rob Moore: —that someone convicted gets a—

The Chair: Mr. Moore has the floor. He will pose a question to you shortly.

Mr. Moore.

Mr. Rob Moore: I think that people have been led to believe something that is just patently false: that if this bill passes, there cannot be or there will not be other animal cruelty legislation.

We're here today at this committee dealing with a private member's bill from the Senate. My way of looking at it, and I think the way a lot of people look at it, is that this bill does one thing, and it's one thing that I support. So for me to oppose a bill that does something that I support, which is an increased penalty, doesn't make any sense at all.

I think, Mr. Holland, that what's happened with this campaign is that people have been led to believe something that's absolutely untrue: that when we, as legislators, legislate an area, we're prohibited from doing so at some point in the future. That's just absolutely not the case.

There are convictions under the current law. The sentences are too low. This provides for greater sentences, and I think that better sentences is something that people are calling for.

We have a bill that is being attacked for not being all things to all people, but it also doesn't claim to be that, as far as I can see.

The Chair: Thank you, Mr. Moore.

Mr. Holland.

Mr. Mark Holland: Mr. Moore, maybe you can appreciate my frustration here. In the last Parliament I and a lot of others, and not just from one party but from many parties, spent a lot of time trying to get effective animal cruelty legislation passed. I sat in a room and compromised, and things I wanted to see in the bill didn't get in. There was a lot of give and take, and this give and take happened between the animal use industry and the animal welfare groups. We reached a compromise and we tried to get this passed, and we couldn't, because we had a Senate that was standing in the way. So now we have that same Senate standing in the way, sending back incredibly weak legislation that just doesn't do it.

You're right, some convictions happen, but as I mentioned before, only one-quarter of 1% of animal abuse complaints result in a conviction. I would encourage you to go to your local humane society and talk with SPCA officers, talk about what it's like for them to try to enforce today's legislation, and then ask them if tougher sentences would help them. You'll get the most frustrated, tired look that you've ever seen.

The Chair: Thank you, Mr. Holland.

Mr. Holland, I should point out too that I think you were sitting as a member on the committee when there was some question about that particular statistic when it comes to convictions and some that were presented by some of the other groups, which vary dramatically from what you're saying.

Mr. Mark Holland: If you'll recall, what the SPCA officer said was that this is true, that it's one-quarter of 1% of animal abuse complaints that result in a conviction. If he had effective legislation, he thought he could probably get convictions in somewhere in the order of magnitude of about 300 to 400 cases out of 1,000, whereas right now it's infinitesimally smaller than that.

• (1610)

The Chair: Mr. Bagnell.

Hon. Larry Bagnell (Yukon, Lib.): Thank you, Mr. Chair.

I only have a couple of technical questions for Ms. Markham, just on the improvements in this bill. They're nuances.

You talked earlier about being able to proceed in hybrid offences by summary or indictment. Is that available now, like in previous legislation?

Ms. Karen Markham: In terms of the current animal cruelty provisions?

Hon. Larry Bagnell: Yes.

Ms. Karen Markham: No. The cattle provision is the only indictable offence, and it's a straight indictable offence. All the other offences in that section are summary conviction offences only.

Hon. Larry Bagnell: So what is the change here? What is added here?

Ms. Karen Markham: It's a fairly significant change in the sense that the bill restructures the offences to some degree and segregates those that are committed wilfully, if you like, from those that involve wilful neglect, and makes the first category of offences hybrid offences and increases the maxima that are available for those offences. Similarly, although the maxima are lower, it increases them from the current provisions. The bill does not, however, change any of the elements of any of the offences or create any new offences.

Hon. Larry Bagnell: On the section on restitution to a person—I don't know if that's the right term, but where you can pay a person or an organization, and I think it's near the end somewhere—is that new? What does that allow?

Ms. Karen Markham: That is new, and that allows, upon conviction, for the court to be able to order the costs, if they're readily ascertainable, for rescuing or looking after an animal to be, if you like, claimed from the accused.

Hon. Larry Bagnell: So a humane society, for instance, that took care of one of these animals could force the accused to pay for the expenses.

Ms. Karen Markham: The crown would apply, or the court on its own motion, as I understand it, can make the order.

Hon. Larry Bagnell: This is the last question. What is the change in the penalties?

Ms. Karen Markham: Regarding the change in the penalties, currently that one offence involving cattle is a straight indictable offence with a penalty, I believe, of five years. All of the other offences currently in the animal cruelty provisions, as I said, are summary conviction offences only, with a maximum penalty of six months or a \$2,000 fine.

Hon. Larry Bagnell: Is there any change in the fines?

Ms. Karen Markham: Yes. Under the new provisions, the wilful offences carry a maximum fine of \$10,000, and the wilful neglect offences carry a maximum fine of \$5,000.

The Chair: Thank you.

Mr. Holland, do you have a quick comment to make?

Mr. Mark Holland: Yes. I don't think I was specific before. I talked generally about what it would entrench. I talked about some of the things that it did, but I didn't talk specifically about what it would entrench.

It would entrench animals as property. It would entrench the term "wilful neglect", which has been a major problem for those trying to prosecute.

It would entrench the virtually non-existent protection that exists for wild or unknown animals.

It would entrench the ability of people to kill animals brutally or viciously, whether or not they die immediately.

It would entrench not making it illegal to train animals to fight and keep things like Dracula Kennels operating, and it would provide no special protection for the law.

It would entrench all of those things. By passing this law, you're essentially entrenching every one of those things.

The Chair: Thank you, Mr. Holland.

We'll go to Mr. Dykstra for one final question.

Mr. Rick Dykstra (St. Catharines, CPC): Thank you. I'll try to be quick.

I will direct this to you, Mark. I have to tell you that I come from a municipality very similar to yours. In fact, a couple of the latest cases certainly have come from my municipality. So there is nobody who wants to see tougher legislation more than I do. I certainly don't always agree with your tactics and how you approach politics. We both have been at this for a long time, coming from city council backgrounds. But the guts of the bill and the essence of what you're trying to accomplish I don't disagree with.

I do have to say that I have amendments to this bill I would love to move forward. I don't think it's a bill that, with all due respect to the senator who is sitting here now, does what we need in this country in terms of taking it to the next level, but at the very least, it's a step in the right direction. If we move amendments here today and defeat the bill, it means we have an archaic piece of legislation from the 1800s with a few minor amendments that were made in the 1950s.

I would submit to you that, as you stated, whether or not you're here after the next election—and I'll say the same thing—I certainly don't think you intend to let this die, if this bill passes today, and I can assure you that I don't intend to let this die. So is it the end? No, it's not the end, because as long as people like you and me are in the House of Commons fighting on behalf of the people who own animals and on behalf of animals in this country, then there is no reason for anyone in this room to believe that we are not going to take this any further.

Some of your own colleagues—and I'm not trying to be partisan here—want to see this pass because at least it gets us one step closer to where we need to be.

Perhaps I would end by allowing you to comment, or getting you to comment on that specific piece.

•(1615)

The Chair: Please do so very quickly, Mr. Holland.

Mr. Mark Holland: Thank you, Mr. Dykstra, and I would say that I appreciate the opinion that you have expressed. I appreciate the legitimacy with which you and many of my own colleagues and others want to do something, and feel that this is something.

I'm just saying that I disagree. I think we are better with nothing. Obviously it's the option of every committee member to do what they feel is best on this issue. I can only offer you my own opinion, and I've tried to lay out, as best I can, why I feel this entrenches a bad situation instead of moving us forward.

My preferred option, if I could just leave you with this, would be to say no and tell the Senate we have already dealt with this, that we've already developed effective legislation, and do the same thing as the government is doing on Bill C-2, which is to say to the Senate, pass it immediately. We've already dealt with this. We have tens and hundreds of thousands of Canadians who want it dealt with now.

Mr. Rick Dykstra: I hear you on Bill C-2. I certainly wish you had stuck around to support us on that one.

The Chair: Thank you, Mr. Dykstra.

That brings to a close the questions. We will now proceed directly to clause-by-clause on this particular bill.

I will suspend for a couple of minutes, and then we will get right into clause-by-clause.

- _____ (Pause) _____
-
- (1620)

The Chair: I call the meeting to order.

Now for consideration of clause-by-clause, we'll go directly to NDP-1.

(On clause 1)

The Chair: Before you get into it, Mr. Comartin, for the benefit of the committee, this particular amendment replaces clause 1 entirely, and if it's adopted, none of the remaining amendments will be able to proceed. However, it would be possible to subamend the amendment before it carried.

Is that clear to all the committee members?

[*Translation*]

Mr. Réal Ménard: Are you saying that if we vote for the NDP amendment, we will not be able to address the others? If, however, the amendment were defeated, you would move on to BQ-1.

[*English*]

The Chair: Yes.

Mr. Petit.

[*Translation*]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): A point of order. Could you please explain that again?

[*English*]

The Chair: This amendment replaces clause 1 entirely, and if it's adopted, none of the remaining amendments will be able to proceed.

[*Translation*]

Mr. Daniel Petit: Okay.

Mr. Réal Ménard: So, it is important that you vote for it, Daniel.

[*English*]

The Chair: Mr. Comartin.

Mr. Joe Comartin: In terms of that explanation, subamendments could be made to my amendment.

The Chair: Yes, before it's adopted.

Mr. Joe Comartin: Which might include some of the other amendments—no, it probably can't, because it covers all the other ones.

The Chair: Yes.

Mr. Joe Comartin: I'm just going to use an example, Mr. Chair. There may be some wording that would be deleted from this. I guess I'm saying that because I'm almost anticipating that it may happen.

The Chair: Right.

Mr. Comartin, you have the floor on your amendment NDP-1.

Mr. Joe Comartin: Thank you, Mr. Chair.

Mr. Chair, the effect of this amendment would be to—I don't want to camouflage this in any way—incorporate what was Bill C-50 in the last Parliament into this. What we are doing is moving a piece of legislation that was—

The Chair: I'm sorry, I was asked whether it was out of order or not, Mr. Comartin. Your amendment is admissible.

Mr. Joe Comartin: Thank you, Mr. Chair.

What we are doing here is moving the legislation that was passed in 1892—so back in the 19th century—into the 21st century. In that regard it was interesting to hear the Minister of Justice, who was in front of the Senate two weeks ago, making exactly the same argument about the need to update legislation that's over 100 years old. I think the points he made at that time, and it was particularly around the age of consent, were very well taken. That part of the bill was one I strongly supported, and I still do.

By the same argument, that same sentiment applies to Bill S-203, and in particular the amendments I'm proposing here. We're moving away from an attitude we had as a society, and the way we treated animals at that period of time, to the way we want them treated and expect all of our citizens will treat them at this period of time.

Mr. Chair, I'm cognizant of the time. The amendment deals with a definition of moving animal.... The sections right now, 444 up to 447, are a treatment of animals as property. We're in effect reallocating that attitude of them as sentient beings. So the first thing we're doing is to move that "animal" be "a vertebrate, other than a human being", as the definition for animal. That gets repeated in the balance of the amendments.

Mr. Chair, in that regard we're attempting to move away completely from the concept of animal as property to animal as a sentient being. You heard again today the importance of that type of approach in terms of treating people who obviously have serious psychiatric, emotional, psychological problems, and who show clear signs of violence by mistreating, abusing, or killing animals. By shifting that definition completely away from property to one of sentience, it's part of the way we, as a society and as a legislature, are addressing that issue. I think that part needs to be said, and it needs to be emphasized. So that's proposed section 444.

With respect to proposed section 445, we heard today from WSPA in terms of not being able to charge people for abusing animals on the basis of our inability to show a clear intent—one could say an almost absolute intent. With the concept of *mens rea*, the concept of intent in our criminal law is very clear. But the way the current sections of the code are written, and more importantly, Mr. Chair, the way they've been interpreted, is that we need to introduce a broader concept. So these offences would be not only wilful ones but also reckless ones.

I think of some of the cases I handled as a defence counsel with respect to animals being allowed to starve and no one being convicted of that, even though it was obvious that the animals were abused by neglect rather than physically abused by using instruments to torture them. In proposed section 445, we're moving away from pure absolute intent to bringing in the concept of recklessness. I want to say to the committee that that concept is not simple negligence; that concept of recklessness is a higher standard, but it is less than the absolute wilfulness that is in the existing one.

Mr. Chair, we go on in that section to deal with a whole bunch of specific types of conduct that would become offences. I'm assuming members have read this. I think the expansion of the poisoning section is important. That's proposed paragraph 445(1)(d). Again, it broadens what is in the existing code.

•(1625)

I think we've all been particularly sensitized to the whole concept of using animals to engage in fighting because of the recent conviction of Mr. Vick in the United States, and 445(1)(e) broadens it to the point of encouraging, promoting, arranging, assisting, and receiving money for the fighting or baiting of animals. It covers, as best we can see, all of the possible conduct that goes on in that activity now and makes it a very clear criminal offence.

The next one, under proposed paragraph (f), is specifically dealing with the issue of the cockpit. We've got a problem in the existing part of the code because there are provisions on cockpit fighting but it's very narrow as to what is a cockpit. What we've done here is we've kept "cockpit", and then we've added "or any other arena" to the wording that's already in the code .

I'm told by a number of the animal welfare groups that one of the common areas where they carry on cock fighting is a temporary site in underground parking garages, and that clearly would not be an offence under the existing sections of the Criminal Code. That allows us to get at that kind of conduct, because right now—at least from what we're hearing from the animal welfare people—it is the most common arena. So it'll now be covered.

The next section's pretty straightforward. It's a continuation to make sure we catch all of those.

Then in subsection 445(2), which is in Bill S-203 now, so it would be replacing that, we just had some discussion on this in response to Mr. Bagnell's question about changing from simply what has traditionally been an offence treated as a summary conviction offence to a hybrid offence that'll either be a summary conviction or indictable, generally speaking, based on the seriousness of the conduct. Also, the indictable offence would be used much more often if there's a repeat offence, but at the prosecutor's discretion.

We are then moving to more of the negligence part of it in proposed section 446, which covers the negligent causing of unnecessary pain. This test is again a somewhat lower standard. It really is addressing this primarily to the owners of animals or those serving as their designate or delegate in terms of controlling an animal. So we're introducing a new test that would incorporate the concept of negligence.

I think the easiest analogy—although I'm somewhat reluctant to use it—is the type of cases that we have currently in our child abuse regime, where you've got assault by the custodial parent or other caregivers and a separate offence for neglect, and that concept has now been incorporated into 446.

In subsection 446(2), we're in effect defining "negligently". This is of concern because of the farmers, the trappers, the fishers, and the hunters. "Negligently" is being categorized, I think, quite clearly. If you go back to the negotiations we had in running up to both Bill C-50 and Bill C-22, which was the precursor of Bill C-50—that was the bill that went to the Senate and was rejected—there were a great deal of negotiations around that standard because it was, I think, a very sincere concern by the groups who raise animals or hunt or fish.

•(1630)

So "negligent" means "departing markedly from the standard of care that a reasonable person would use".

That's a standard that's well established in each one of those sectors, whether it's farming, fishing, or hunting. If you move markedly from that standard, you are eligible to be convicted for negligently causing harm to, or the death of, an animal.

Part of the scaremongering that has gone on in regard to this legislation has turned on the prospect of the stereotypical animal rights person using this proposed section 446 to bring private prosecutions against farmers, fishers, hunters, and people who do research with animals. But each one of those sectors of the economy have long-established standards. So all that has to be done is to establish that they have met that standard.

It's important to realize that this is not going to produce a tidal wave of charges. I don't want to give the fearmongers any openings on this point. Right across the country, because of amendments to the Criminal Code, private prosecution is extremely limited. It has to be approved by the local prosecutor, in the form of the Attorney General. So there are strict limitations and controls. If a private prosecution is attempted, the prosecutor will allow it only if the conduct in question falls below the established standard. If it does not, the attempt will be disallowed.

So I think we have a very tight mechanism within our criminal justice system—in the definition, the standards that have been set in the various sectors, and in the ability of our prosecutors, in the form of the Attorney General, to prevent malicious or frivolous private prosecutions from getting into the courtroom.

It's a valid concern. Over the years, I have had any number of clients who had to defend themselves from government action that had no reasonable chance of prosecution. Quite frankly, the risk of this is greater from our government agencies than from private prosecutors. But in any event, I think we've shut that door as tight as possible, and I don't think we're going to see any tidal wave of prosecutions.

In proposed subsection 446(3) it's the same thing. These offences would be treated as either summary or indictable offences, with the prosecutor deciding which one.

In proposed section 447, we're expanding the authority to impose penalties in addition to incarceration or fines. These are incorporated in part in the existing Bill S-203, but there are some additional ones here. In effect, they're giving the prosecutor, and of course the court, the authority to order that a convicted person can no longer have animals under his control. There can be an order made, which is already in existing Bill S-203, to order the convicted perpetrator to compensate the agency that took care of the animals. I think those are the two points.

In proposed section 447.1, there are defences. These are common law defences and they are not being affected at all. They would still be allowed.

•(1635)

In my criminal law course during my first year of law school, I remember being given an example of somebody being charged with shooting a deer out of season. But it turned out, when it came before the court, that the deer was actually attacking the man who shot it. The defence raised was a common law defence—it wasn't in the statute, this was a provincial statute—of self-defence, in effect. The person, of course, was acquitted. It's those kinds of defences that are in subsection 429(2). Those defences continue to be in existence. They will not be impacted by either the recklessness clauses or the negligence clauses. Those defences will still exist.

This was one of the feints we got from the Senate sending back Bill C-22, because we didn't put the non-derogation clause in.

It was interesting at that time, Mr. Chairman...and I feel like an historian telling these stories. But the reality was that we were just beginning to consistently put the non-derogation clause into legislation. There was all sorts of environmental legislation going through at that time, and I can recall that we began putting it in at that period of time, but we had not done it in Bill C-22 because when it went through the House of Commons, we had not started putting it into the legislation.

Anyway, that was one of the excuses the Senate had for sending it back. It wasn't their real opposition to the legislation. But that is now incorporated. It was in Bill C-50 and is now in this amendment as well.

In proposed section 447.3, we're simply being clear that we also want special provisions. Mr. Chair, this came from our police forces across the country, where animals were being targeted. These are animals police officers use—horses and dogs—and they were being specifically targeted. For instance, we had drug houses that were booby trapped specifically to get dogs, including poisoning, but also booby trapped generally with other types of obstructions that would

kill an animal—a dog—rather than a human being. So we heard that. We heard that in a number of demonstrations where horses were being used by police officers, the horse was being targeted by demonstrators trying to get at police officers.

So we have built in specific provisions for that. We heard from a number of police forces across the country in that regard.

The final proposed subsection 447.3(4) does, as is the case in the other sections, make specific provisions that provide for the cost of treating the animal to be taken over by the perpetrator of the conduct, who has now been convicted.

Thank you, Mr. Chair.

•(1640)

The Chair: Thank you, Mr. Comartin.

Are there any questions or debate?

An hon. member: Question.

Mr. Joe Comartin: Can we have a recorded vote?

The Chair: We will have a recorded vote on NDP-1.

(Amendment negated: nays 9; yeas 1)

The Chair: Next in line, I would ask you to turn to the last motion in your handout, amendment BQ-19 on page 28. There are 14 amendments that are consequential to the adoption of this amendment. If the member doesn't object, we could apply the vote on this amendment to the following amendments.

[*Translation*]

Mr. Réal Ménard: That would be fine.

[*English*]

The Chair: These would be Bloc amendments BQ-1, BQ-2, BQ-3, BQ-4, BQ-5, BQ-6, BQ-7, and BQ-8. I believe amendments BQ-10 and BQ-11 are in the same form, so...

You're going to choose amendment BQ-11? Okay.

So BQ-11, BQ-12, BQ-13, BQ-16, and BQ-18 will be included.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard: Thank you, Mr. Chairman.

We decided to table five types of amendment. You are absolutely right in saying that there are a dozen or so amendments that are consequential to our first amendment.

Firstly, we paid heed to the argument put forward by a number of groups that it would be useful to include a definition of the word "animal" in order to move away from the tendency to treat animals as property, and that is exactly what this amendment does. Obviously, I will not rehash all of the arguments that we all heard when the witnesses appeared before the committee.

I would add that, as today is Valentine's Day, day of love and friendship, I would hope to have the support of both members from the government side and from the official opposition.

[*English*]

The Chair: Thank you, Monsieur Ménard.

Please note that with this motion, NDP-2 has a line conflict with both BQ-1 and BQ-2. Should these amendments carry, NDP-2 cannot be proceeded with.

Also, NDP-3 has a line conflict with BQ-4. Should amendment BQ-4 carry, the NDP amendment will not be proceeded with.

Finally, amendment NDP-4 has a line conflict with amendments BQ-9, BQ-10, BQ-11, and BQ-12. Should any of these amendments carry, NDP-4 cannot be proceeded with.

Is there any discussion or debate? I'll call the question.

• (1645)

[Translation]

Mr. Réal Ménard: I would like a recorded vote.

[English]

The Chair: Okay, we'll have a recorded vote.

Mr. Joe Comartin: On a point of order, which one are you going to start with? Or are we going to vote on all of them at the same time?

The Chair: The one we're voting on right now is Bloc amendment BQ-19. And it applies to everything I had listed off earlier.

Is that clear? Okay.

(Amendment negatived: nays 8; yeas 3)

The Chair: As previously mentioned, all of the others are also defeated.

[Translation]

Mr. Réal Ménard: Point of order.

[English]

The Chair: Monsieur Ménard.

[Translation]

Mr. Réal Ménard: In order to make the best possible use of our time, and if it is the will of the committee, we could apply a single vote to the three other amendments and the consequential amendments. I think you would get a consensus to proceed in this fashion. If it is the will of the committee, and if you allow me to explain my three separate amendments, we could apply a single vote to all of the remaining Bloc Québécois amendments, which would allow us to deal with all of the amendments the Bloc has on the table. When the time comes, I will ask for a recorded vote. In the interest of moving ahead with our agenda, I do not think that there would be any point in considering each one individually.

With your agreement, we could consider the amendment with the reference number ending in 17, the one with the reference number ending in 26, and the one with the reference number ending in 40. Mr. Chairman, the amendment with the reference number ending in 17 extends the concept of cruelty to animals to stray animals. The amendment with the reference number ending in 26 extends the ban on animal ownership for recidivists to a lifelong ban. As I am sure you recall, witnesses argued that the current ban was not long enough. My last amendment, with the reference number ending in 40, amends the criteria for negligence to reflect the testimony we heard. Negligent behaviour is defined as that which is a marked

departure from the behaviour an individual would normally adopt in the same circumstances.

If it is the will of the committee, I would be happy for us to vote on all of the Bloc amendments—the three main amendments and the consequential amendments—in one go in order to get them off the table.

• (1650)

[English]

The Chair: It certainly would, Mr. Ménard. There are other amendments before those that you had mentioned. If there's unanimous consent from the rest of the committee members, we'll proceed in that fashion.

Is there unanimous consent?

Some hon. members: Agreed.

[Translation]

Mr. Réal Ménard: Other people wish to speak. I am going to request...

[English]

The Chair: Just to clarify, Mr. Ménard, BQ-9, BQ-10 and BQ-17 are on the—

[Translation]

Mr. Réal Ménard: Exactly, those three and the consequential amendments. There are three amendments.

[English]

The Chair: Okay. That's BQ-14.

[Translation]

Mr. Réal Ménard: There are three separate amendments, Mr. Chairman: the one with the reference number ending in 17, which addresses one issue; the one with the reference number ending in 26, which addresses another issue; and the one with the reference number ending in 40, which addresses a third issue. Then you have the consequential amendments. I suggest that we apply a single vote to all of these amendments. Given the voting pattern that is becoming evident, I do not think it would be worthwhile proceeding otherwise. I see that the Liberals are practising “bloc voting”, which is always a smart thing to do.

Hon. Dominic LeBlanc (Beauséjour, Lib.): Perhaps it would be more fitting to say the “Bloc acadien”.

Mr. Réal Ménard: Who knows what the future has in store, Mr. LeBlanc.

Hon. Dominic LeBlanc: We could defend the Acadian nation.

Mr. Daniel Petit: They are going to open up a satellite office in your neck of the woods.

Hon. Dominic LeBlanc: You would have the Caisses Desjardins, and we would have the Caisses populaires acadiennes.

Mr. Daniel Petit: Exactly.

Mr. Réal Ménard: Would you like the list of amendments, Mr. Chairman? These are the three main amendments.

[English]

The Chair: BQ-9, BQ-10, and amendments BQ-14, BQ-15, and BQ-17.

[Translation]

Mr. Réal Ménard: Basically, I am suggesting that we vote on all of the outstanding Bloc Québécois amendments. We could apply a single vote to all of these amendments. Then we could move on to the NDP amendments. I have explained the rationale behind our three main amendments. If the committee wants to vote, we can do so.

[English]

Hon. Dominic LeBlanc: Mr. Chairman—

The Chair: Mr. LeBlanc.

Hon. Dominic LeBlanc: Mr. Ménard is offering to have one vote apply to all of the Bloc amendments in total, every one of them, which I think is a very reasonable gesture on Valentine's Day.

The Chair: It certainly is.

[Translation]

Mr. Réal Ménard: I think I have explained the rationale behind our three separate amendments. I hope that my colleagues will support them. We all know what is at stake here.

[English]

The Chair: I think there's unanimous consent offered here to proceed in this fashion.

Those in favour of the noted—

Hon. Larry Bagnell: Can he explain them?

The Chair: He did explain them, I thought.

Mr. Ménard.

[Translation]

Mr. Réal Ménard: Would you like me to go over them again?

[English]

The Chair: M. Ménard.

[Translation]

Mr. Réal Ménard: The Bloc is proposing three types of amendments. The first redefines negligence-based offences, setting the test as that of the reasonable man in the same circumstances. The second imposes on recidivists a lifelong ban on owning animals. The third addresses not only bans, but specifies that offences can be committed against both animals that one owns and stray animals. Those are our three main amendments.

Then we have the consequential amendments, and I suggest that we apply a single vote to all of the amendments.

[English]

The Chair: Thank you, M. Ménard.

Mr. Comartin, for your information, if we were to proceed in this fashion we would not be proceeding with amendment NDP-4.

Mr. Joe Comartin: It would be disposed of by this. Yes, I understand.

The Chair: Okay. So are you still willing to move ahead?

Mr. Joe Comartin: I'm being very cooperative with Mr. Ménard, Mr. Chair.

[Translation]

Mr. Réal Ménard: The ties of friendship that bind us are strong.

[English]

The Chair: Thank you.

Okay, the question is on the Bloc amendments as noted.

[Amendments negated (See *Minutes of Proceedings*)]

[Translation]

Mr. Réal Ménard: Well, I hope you will all be able to sleep tonight.

[English]

The Chair: We are now left with amendments NDP-2, NDP-3, and NDP-4.

Mr. Joe Comartin: I thought we just disposed of NDP-4.

The Chair: Only if they were adopted.

● (1655)

Mr. Joe Comartin: I'm going to propose, Mr. Chair, that we do the same thing with NDP-2, NDP-3, and NDP-4. It's obvious from the votes that we've taken up to this point that both the Conservatives and the Liberals, in spite of protestations they've made in the past, are in fact not in favour of Bill C-50 anymore. So I would move all of those. If you want to take a quick glance, I already explained each one of them when I moved NDP-1.

I will just quickly say that one of them, NDP-2, is to take away the lawful excuse defence that's provided in that section. NDP-3 doesn't go as far as NDP-1 did but would have expanded our ability to get at fighting by animals. NDP-4 is introducing the concept of negligence in a much more limited way than NDP-1 did.

But I would ask for support on each one, as a group.

Can we have a roll call on that, Mr. Chair, if it's agreed that we're going to do them all at once?

The Chair: Yes.

Mr. Bagnell, on a point of order.

Hon. Larry Bagnell: I want to speak on the amendments.

The Chair: We'll get to them in a moment. They've been duly moved by Mr. Comartin—that's amendment NDP-2—and that vote applies to amendments NDP-3 and NDP-4.

Mr. Bagnell.

Hon. Larry Bagnell: Thank you.

I'm just speaking once today, because I didn't want to say the same thing before every amendment.

It's not really true what Mr. Comartin says about other members here, because he can't say what other members are supporting. We're not even debating that particular bill.

I'll tell you the reasons I'm not voting for any of the amendments today. There are some very good amendments, and I support them actually, in theory, in a perfect world. I mean, the things about cock fighting and dog fighting are ridiculous. With today's legislation, there are people getting off who shouldn't. There are a lot of really good amendments from previous bills that should be in. The reality of the situation is that tens of thousands of Canadians have been asking for stronger penalties and for something to happen.

In the political situation we're in, we're very close to a potential election. This bill obviously doesn't do all those things I'd like and that many members of the committee from all sides have said they would like. If this were a different time, you'd certainly have a totally different result in these debates.

This bill does do some things, and I think the Department of Justice member, one of our witnesses, outlined that there have been hundreds of convictions in Canada, but with those convictions, the options for penalties have been very small.

When the previous bills, like Bill C-50 or its precursors, were presented by Justice, they said that one of the major objectives was to increase penalties. This particular bill increases penalties tenfold in some cases. One of the witnesses provided charts showing where we stand in the world. We'd go from being one of the worst countries in the world to being one of the best in that regard.

The second benefit increase was to add hybrid offences, hybrid summary offences. The person from Justice, the expert, said that this was a major change.

Third, it has something that I've always wanted in whatever bill we had, which is restitution. Humane Societies don't have a lot of money. They have to care for these animals during this time. Whoever does this has the possibility of being paid for this by the offender.

Obviously it doesn't do a lot of the things we want it to do, but we're in a political situation in which the government is bringing forward all sorts of reasons for confidence motions that would cause an election. We will have a budget within, I think, four working days, which the NDP has already said they're voting against. There's a good possibility that we may be in an election. And as everyone knows, during an election everything dies. If we amend this bill and make some of these good amendments, then it goes back to a process in the Senate, which certainly wouldn't be done in four days. I don't know what their processes are.

For all those tens of thousands of people who want increased penalties, I couldn't possibly have a bill before me.... As I've always said to people over the years we've been debating this, anything that will reduce animal cruelty, I'll vote for. There are more things that have to be done, but I couldn't possibly vote against part of the pie when we have that possibility.

In the political scenario we're actually in, in real time, it's questionable whether we'll even get this through. If we make amendments, it'll slow it down and make it far less likely that we'll get anything done, and we'll be in the same situation as we've been in since the 1800s.

Thank you, Mr. Chair.

• (1700)

The Chair: Thank you, Mr. Bagnell.

Go ahead, Mr. Comartin.

Mr. Joe Comartin: As much respect as I have for Mr. Bagnell and the rest of the members of this committee, I just can't believe this strategy is one that you think will sell if we in fact do have an election.

Today you were given the opportunity to do two things: bring this legislation up to date and send a message to the Senate that we're not going to let an undemocratic, irresponsible group dictate to us. You're forgoing both those possibilities. I can tell you that this is the message I'm going to be giving when I'm out on the hustings if we in fact have an early election.

Let's assume that we don't have an early election. The reality is that you could pass this and could have passed my first amendment, which would have been to update the whole legislation. You both have indicated repeatedly, and I'm referring to the government side and the official opposition, that you're generally in support.

If we don't have an election, there would be time. Maybe we again could have the government and all the opposition parties saying to the Senate that we're the democratically elected body in this government, that we're the ones who make the decisions. Are they going to turn us down a third time? If they are, then maybe it's finally time we get enough backbone to abolish them.

That's the message we need to send. We're not doing that by caving in to them.

The Chair: Thank you, Mr. Comartin.

I'll call the question on NDP-2, NDP-3, and NDP-4.

I'm sorry, Mr. Comartin, did you want a recorded vote?

Mr. Joe Comartin: That's okay.

The Chair: So no recorded vote.

(Amendments negated—[See *Minutes of Proceedings*])

The Chair: That deals with all the amendments.

Shall clause 1 carry?

Mr. Joe Comartin: Can I be recorded as being opposed?

The Chair: So you want a recorded vote on clause 1.

Mr. Joe Comartin: Yes.

Hon. Larry Bagnell: Sorry, Mr. Chair, but on a point of order, can we do all the clauses that way? I imagine that every one will be the same—

The Chair: There is just one clause.

Hon. Larry Bagnell: Oh, there's just one?

Okay, sorry about that.

The Chair: So we'll have a recorded vote on clause 1.

(Clause 1 agreed to: yeas 10; nays 1)

The Chair: Shall the title carry—

Mr. Joe Comartin: I'd like to do this on division.

The Chair: On division?

Mr. Joe Comartin: Yes. I don't want be seen to be supporting this at all.

The Chair: Shall the title carry?

Some hon. members: Agreed.

● (1705)

Mr. Joe Comartin: On division.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

Mr. Joe Comartin: On division.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

Mr. Joe Comartin: On division.

The Chair: That concludes our debate on Bill S-203.

Congratulations, Senator.

We have some committee business that we have to attend to right now. Members will be doing that in camera, so I'll ask all others present to leave.

[Proceedings continue in camera]

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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