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**Official Report  
of Debates  
(Hansard)**

**Thursday 10 February 2005**

**Journal  
des débats  
(Hansard)**

**Jeudi 10 février 2005**

**Standing committee on  
the Legislative Assembly**

Public Safety Related to Dogs  
Statute Law Amendment Act,  
2005

**Comité permanent de  
l'Assemblée législative**

Loi de 2005 modifiant des lois  
en ce qui concerne la sécurité  
publique relative aux chiens

Chair: Bob Delaney  
Clerk: Douglas Arnott

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE  
L'ASSEMBLÉE LÉGISLATIVE**

Thursday 10 February 2005

Jeudi 10 février 2005

*The committee met at 1006 in room 228.*

**PUBLIC SAFETY RELATED TO DOGS  
STATUTE LAW AMENDMENT ACT, 2005**

**LOI DE 2005 MODIFIANT DES LOIS  
EN CE QUI CONCERNE LA SÉCURITÉ  
PUBLIQUE RELATIVE AUX CHIENS**

Consideration of Bill 132, An Act to amend the Dog Owners' Liability Act to increase public safety in relation to dogs, including pit bulls, and to make related amendments to the Animals for Research Act / Projet de loi 132, Loi modifiant la Loi sur la responsabilité des propriétaires de chiens pour accroître la sécurité publique relativement aux chiens, y compris les pit-bulls, et apportant des modifications connexes à la Loi sur les animaux destinés à la recherche.

**The Chair (Mr. Bob Delaney):** Good morning, ladies and gentlemen. This is the standing committee on the Legislative Assembly. This morning we are here to do clause-by-clause on Bill 132, the Public Safety Related to Dogs Statute Law Amendment Act. Pursuant to the subcommittee report, each recognized party may make an opening statement. Mr. Tascona or Mr. Miller, do you have a statement?

**Mr. Peter Kormos (Niagara Centre):** On a point of order, Chair: It's the government's bill. They're the ones pitching it. Why shouldn't they be called upon to make the first opening statement?

**The Chair:** Mr. Zimmer, would you care to make the first opening statement?

**Mr. David Zimmer (Willowdale):** Sure.

I'd like to take a couple of minutes and thank everybody who has participated in this process over the last four days with their attendance and all those who submitted a written submission. We have reflected on all of those submissions, oral and written, and I can tell you that all those presentations have convinced me that, more than ever, we need this legislation.

I was particularly impressed and particularly moved by the testimony of the victims who urged us not to forget them at the end of this exercise.

Among animal experts, opinion is not unified, but I was most impressed by the experiences of jurisdictions where a ban has in fact been put in place, places like Winnipeg and Kitchener-Waterloo, places where the ban

has proved effective. It has prevented attacks and has prevented people from becoming victims again.

For these reasons, the government will move on this legislation. We aoliferation of the most severe, the most vicious type of attack dog. The second prong, which operates beside the first, provides incentives and, yes, punishments in place to ensure that dog owners act responsibly so that their dogs will not be involved in ongoing bites and attacks.

Let me speak to the first part of our strategy. Bill 132 proposes to ban pit bulls in Ontario. Some have argued at the hearings that a pit bull can't be defined. Some have gone so far as to argue that there is no such thing as a pit bull. The truth of the matter is, a pit bull can be defined. A pit bull is a pit bull terrier, a Staffordshire bull terrier, an American Staffordshire terrier, an American pit bull terrier and a member of a class of dogs that have an appearance and physical characteristics substantially similar to any of these.

Dog registries have created breed definitions for the breeds identified by Bill 132. Breed definitions are very specific and enumerate many reference points on a dog to help determine its breed. We have confidence that these same reference points will enable identification of pit bulls under Bill 132. To help ensure that this is the case, I will be introducing amendments to the definition of "pit bull" that make specific references to these registry standards.

Furthermore, many jurisdictions within North America and around the world use substantially the same definition to describe a pit bull, and most list the same breeds. The best example is Winnipeg, with its 15-year experience of using substantially the same definition as in Bill 132.

The point is that pit bulls can be defined. Others have argued throughout the committee hearings that breeds and crossbreeds identified in Bill 132 do not pose a threat to the safety of Ontarians, or that if they do, it is a threat that is no greater than any other threat posed by any other dog. Yet we've also heard testimony that, in fact, there are qualitative differences in the manner in which dogs bite. One witness went so far as to provide an escalating classification of the method with which dog bites are classified. In fact, that piece of evidence was very helpful in understanding the nature of dog bites.

Which dogs are capable of which biting is another story. Different breeds of dogs of different sizes, differ-

ent teeth, different jaw structures, different physical strengths, different mentalities and different dispositions will produce different bites, and will attack in different ways. That's just common sense.

Pit bulls, as defined in Bill 132, are predisposed biters and attackers. They're built for it. According to the major dog registries, they are muscular, agile, courageous, tenacious and confident, and have prominent cheek muscles. They're bred for that. Just as other dogs were bred for retrieving or smelling, pit bulls were successfully bred to fight.

In a submission to the Attorney General dated September 15, 2004, Tim Zaharchuk of the OVMA, the Ontario Veterinary Medical Association, stated: "Any dog selectively bred, reared or trained for aggressiveness can pose a significant danger." That's true. This is the pit bull. It's been selectively bred this way for such a long time that it now has the innate characteristics of viciousness and attack.

Some have argued that banning pit bulls would simply transfer the problem to another breed. The truth of the matter is that this has not happened in Winnipeg or Kitchener. That has not been their experience. These other breeds that have taken the place of pit bulls have not proven to attack or cause damage like pit bulls.

All dog breeds identified as pit bulls derive from the same source. Breeders who bred dogs for fighting created the bull terrier from crosses of bull-baiting bulldogs. Unrelenting bravery, a high pain threshold and a willingness to fight to the end, to not let go, that's the lineage of the pit bull as defined by Bill 132.

As Chief Fantino and many victims have said, we have to deal with the reality, and the reality is that pit bulls are a serious threat to public safety. We've heard from many victim and witness accounts that the characteristics bred into pit bulls survive to this day. When pit bulls attack, they do so relentlessly and powerfully. They don't let go.

**The Chair:** Mr. Zimmer, you have about three minutes.

**Mr. Zimmer:** Thank you. I'm going to skip ahead here.

Bill 132 demands responsible ownership for all dog owners by raising the fines for offences from \$5,000 to \$10,000 for individuals, or \$60,000 for corporations, along with introducing the possibility of a jail sentence. Restitution can also be ordered.

In addition, it should be mentioned that in our upcoming motions we will be taking the focus on responsible dog ownership a step further is currently provided for in Bill 132 by including a provision that requires owners of dogs to exercise reasonable precautions to prevent their dog from biting or attacking a person or domestic animal, or behaving in a manner that poses a menace to the safety of persons or domestic animals. Contravention of this provision is an offence and offenders will be liable to the same punishments as just mentioned.

In summary, this is good legislation.

I want to speak to one matter, on the reverse onus. We are bringing forth a motion relating to the reverse onus provisions. Many have stated that it's unfair to require a dog owner to prove their dog is not a pit bull when they face the possibility of a prison sentence. Let me say that the government agrees, and we will be proposing an amendment to Bill 132 that will eliminate the reverse onus clause for offences under the Dog Owners' Liability Act. In its place, the government proposes to substitute a provision that clearly details the quality of evidence required for the government to prove that a dog is a pit bull.

Bill 132 will increase public safety, for children, for police, for all Ontarians. It will protect the people and prevent future attacks. It will spare the people from becoming victims. It's what the people of Ontario deserve.

**Mr. Joseph N. Tascona (Barrie-Simcoe-Bradford):** I'm very pleased to provide comments by the PC Party with respect to Bill 132. The PC Party accepts the principle that the public must be protected from dangerous or vicious dogs. That's been accepted throughout these hearings. But it does not believe that the Liberal government experiment through Bill 132 to ban pit bulls, whatever that term may be based on—we've heard from the experts in our presentations during the hearings that this is not an exact science. The Bill 132 strategy in essence is to ban pit bull breeding from this province three months after Bill 132's passage, which will provide, in the Liberals' view, protection for the public that they seek and deserve.

#### 1020

The main reasons we object to this bill are:

(1) That the criminal element will continue to use pit bulls as the dog of choice in their business. We've heard from the police associations and Chief Fantino that this will continue. Bill 132 will not change this. How can it change it? Because the pit bulls that are alive and breathing today will still be alive and breathing after Bill 132 becomes law.

(2) The Dog Owners' Liability Act, which contains provisions to protect the public from vicious dogs, is not being properly enforced. Bill 132 does not provide any improvements to enforcement, and no funding is to be provided to municipalities to improve their enforcement. That is out of the direct words from the Attorney General. We've heard from municipalities throughout the hearings that they do not support Bill 132.

The Liberals are spinning Bill 132 in a way that is disingenuous in that the public has a false sense of security. From what we've heard, the public believes that after Bill 132 is passed, there will be no more pit bulls on the street, and that is an utter falsehood; there will be.

(3) There are no measures in Bill 132 to ensure dog owners are responsible or for a dog-bite-prevention strategy. Throughout the hearings we heard about measures that could make dog owners more responsible and for a dog-bite-prevention strategy. There are no measures in Bill 132 to address that, and the Liberals did not address

that in their amendments. The PC Party has amendments to address the failings of Bill 132 in this area and we'll hear them today as we present them.

The Liberals, by their amendments to Bill 132, did not listen to the public. With the full knowledge of the dangers of litigious and court-delayed proceedings arising from the UK experience, the Liberal amendments focus on evidentiary and legal procedures to assist the court in pit bull identification. No government amendments are there to ensure responsible dog ownership or to ensure that Bill 132 will be enforced by municipalities more effectively than the Dog Owners' Liability Act. That is the core problem. That's what the government hasn't addressed: responsible dog ownership and the enforcement mechanisms to make sure that the public is protected. Going through this exercise is a complete and utter joke, because the act needs to be better enforced. It's not being enforced, the government's not addressing that, and the Attorney General says there will be no money to municipalities to help in the enforcement.

The amendments of the PC Party to Bill 132 focus on a number of areas:

(1) The removal of the pit bull breed ban. Why? It will not work to better protect the public. Irresponsible dog owners will still have pit bulls or some other dogs to harm the public.

(2) In the proceedings against dog owners, under section 4, since enforceability is already a problem where a dog bites or a dog attacks, the term "behaviour that poses a menace," which will be a new offence under the legislation, is far too vague and subjective to be credible. Plus, it will be a waste of precious court time dealing with what poses a menace through dog behaviour, because we're already dealing with dog bites and dog attacks in the legislation. The prosecution's job to try to get a conviction will be even more difficult, and the accused's rights are not sufficiently protected, because the term is far too vague. Let's be frank: What is a menace is obviously in the eye of the beholder. So that type of terminology and a new offence, we feel, is not supportable. It's not good law and, quite frankly, it's not going to result in anything to better protect the public.

(3) We've introduced proactive measures to protect the public and promote safety. What we're asking the government to do through our amendments is in a number of areas, and I'll read them.

We want them to ensure that municipalities have the resources they require to enable them to provide effective municipal dog control in the interests of public safety.

We want the government to provide for the development and implementation of a comprehensive program, including education, training and other measures, to encourage responsible dog ownership.

We want the government to provide for the development and implementation of a comprehensive dog-bite-prevention strategy, to encourage dog owners to take all reasonable steps to prevent their dogs from biting persons or domestic animals.

Finally, the government should provide for the establishment and operation of a province-wide dog-bite

registry. We've heard throughout the hearings that this is something that could be done to make sure that the public is better protected. The government has not listened. In fact, these hearings have become nothing more than basically legal chess work on how to develop mechanisms to make sure that the embarrassing provision of the reverse onus isn't as embarrassing, because of the methods that they want to put into the court system. These are strictly court amendments that the Liberals have put forth, and they have not listened to anybody during the hearings.

We feel what we're putting forth are proactive measures to protect the public and promote safety. I challenge the government not to support these measures that we're putting forth as amendments. If they don't support them, what they're really saying is that they don't really care about protecting the public, because they're not putting forth any proactive measures with respect to responsible dog ownership, with respect to municipal bylaw enforcement, and making sure that the public is better protected.

In closing, we can support Bill 132 with our amendments, which will ensure that the public is better protected from dangerous dogs. I put it to the government side that if they truly listened and in fact these hearings were more than just an exercise that they had to go through to make sure they got their bill into the Legislature after second reading, they'll take very seriously the amendments with respect to any regulatory powers that they can put forth. They'll listen very carefully, and in fact if they do support better protection of the public, they'll support these amendments as part of Bill 132. Thank you, Mr. Chair.

**The Chair:** Thank you very much. Mr. Kormos.

**Mr. Kormos:** All of us, I'm sure, express our gratitude to the staff who have worked with this committee, but exceptionally to Philip Kaye, the researcher who has been with us, who really has had an incredible workload imposed on him in this compressed period of time, and who indeed, unlike the government, has delivered. He made a commitment: He made promises to get that material requested available to us, and he kept his promises, Mr. Zimmer.

It also should be noted that I've been involved in a lot of committee work over a lot of different issues, many of them contentious, like this one was, where there was some apparent polarization amongst the committee and the participants. I've got to tell you this, and I think we've all witnessed it: If there has been any rancour, it has been directed toward the committee or the government, or members of the committee. We've seen participants in the public hearings, adamantly pro and adamantly con the legislation, sit side by side and behave in a remarkably civil manner. I want to applaud the participants for that particular behaviour. It was noteworthy.

Mr. Zimmer, I think you deserve some commendation as well. Nothing drives senior political staff crazier than a PA or a cabinet minister who doesn't stay on script, and you have blessedly, from the point of view of your handlers, stayed on script to the final moment, even the

remarks that you read into the record today. I note that you've got, let's see, I count nine in your entourage—I figure at a cumulative salary of maybe \$600,000 a year at least, when all is said and done—all here today. Not babysitting you; not monitoring. The House leader doesn't send his representative out to these committees to monitor government members, but surely to be in a position to report back that you, Mr. Zimmer, have stayed on script.

**1030**

But I want to say this: If anything, the government approach to this issue has been rife with mountebankery from the outset. Tell Mr. Bryant this, please: There is nothing commendable, ever, about simply making things up when you don't know the facts. That's never commendable. It's never worthy of praise. I regret that what we've experienced is an argument from the government, which made a political investment in this issue by virtue of the announcement of Mr. Bryant some months ago, that has been inclined, from time to time, to rest upon fabrication when facts either weren't available or simply weren't sought out. That is disappointing and regrettable.

I also want to say that I find it extremely distasteful, quite frankly, that anybody in this committee or outside this committee would link criticism or non-support for this bill with non-support for victims of dog attacks, be they vicious pit bulls or dogs of other breeds. It's simply not the case. Accuse me, if you want, of being unsympathetic and unsupportive of insurance companies, banks, bad bosses, any number of things, but don't accuse any member of this committee of not having a great deal of sympathy and concern for people who have been victims of vicious dog attacks. That's simply unbecoming.

In fact, it was the participation of victims of horrific dog attacks that has provided some of the most interesting material for this committee to digest; that is, the observation that almost to the final one, but for the victim in Toronto, wherein criminal charges were laid as a result and a significant custodial sentence imposed, as lawyers are wont to say—the guy went to jail for a year, we're told. I'm sure nobody has any sympathy for him, the guy who owned a dog that chewed its victim. But remarkably, the vast majority of victims of very vicious, very serious dog bites didn't have the comfort of having authorities in their respective communities proceed with action under the Dog Owners' Liability Act.

The amendments are to the Dog Owners' Liability Act. You're not rewriting vicious dog legislation in the province of Ontario; you're amending it. The primary thrust that has been there in the Dog Owners' Liability Act for a considerable period remains the substance of this government's vicious dog legislation, and not inappropriately. But the problem is that the Dog Owners' Liability Act hasn't been enforced. We heard, in one of our sessions, of at least one instance where, had the Dog Owners' Liability Act been utilized by local authorities, the second attack by that dog would not have taken place.

Mr. Zimmer, as parliamentary assistant, you refer to your amendment to I believe section 19 of the bill. I'm

confident that your Hansard comments will find their way into a courtroom at some point, either in support of a defence counsel's submissions or in support of a prosecutor's submissions. I suspect more so the latter. I disagree with you about the ease with which we can identify a dog as a pit bull. Whether or not a pit bull can be clearly, discriminately defined remains, in my view, uncertain.

But I have no uncertainty as to defining a vicious or dangerous dog, and that is where we're coming from. You'll see by the amendments that the New Democratic Party has put forward that we quite agree that what are colloquially known as pit bulls out there on the street—the biker-gang, street-hood, drug-dealer pit bulls—are undesirable. In fact, that's why we've introduced and will be moving an amendment. I think this is one of the critical oversights of the government. One of the consistent themes of participants in these hearings, from experts, was that dogs that aren't kept for breeding or for showing should be neutered or spayed. It prevents regrettable breeding. It prevents the backyard breeding, undeniably, of small-p, colloquial "pit bulls" that are being bred by unlicensed and rogue breeders to create a bigger and tougher and meaner pit bull, just as these same people are doing with Rottweilers and Dobermans, among others.

I can't believe that you did not respond to the call for all dogs who aren't show dogs or licensed breeding dogs to be neutered or spayed. That's why we're moving that as an amendment to this legislation. That would have the effect of eliminating these rogue, non-purebred pit bulls. The evidence was also clear—we heard it from Kitchener, as a matter of fact. Take a look at the Kitchener statute and you'll see that Kitchener very specifically—you're enamoured with Kitchener and its councillor, a former Liberal candidate who advocated the legislation for this government. You'll note that in Kitchener, they excluded purebred American Staffordshire terriers and Staffordshire terriers. There was clearly an acknowledgement that people who are licensed breeders, people who adhere to the standards of the Canadian Kennel Club, the American Kennel Club, the American Pit Bull Breeders Association, the United Kennel Club of Great Britain and who breed dogs in compliance with those standards, have no interest whatsoever in breeding a vicious dog. In fact, they go out of their way—that's their *raison d'être*: to breed dogs that conform to the standards.

I agree with your observation that none of the standards for a pit bull or an American pit bull or a Staffordshire terrier, nor the standards for so many other dogs, none of which are included in your bill, include viciousness. Surely you don't just dismiss out of hand the observations about the Staffordshire terrier, the "nanny dog." It is an incredible inherent contradiction.

Section 19 and its amendments notwithstanding, and indeed notwithstanding the warning by one solicitor, Mr. Roman—gunslinger Roman, telling Clay Ruby to watch his step because there's only room in this town for one dog litigator. He's going to whip Mr. Ruby's ass. That's

the clear impression he wanted us to have. Well, that's one pit fight I'm looking forward to. I'll be at that ring and I'll be laying down money, make no mistake about it. If you want to take my bets, let me know now.

I predict that your inclusion of the Staffordshire terrier as an indicator of what defines a pit bull is going to muddy the waters even further, because the Staffordshire terrier, by all evidence, is the exact 180-degree opposite of the small-p, colloquial pit bull that you want to deal with, that we all want to deal with.

Enforcement: Refer to the lack of enforcement of the Dog Owners' Liability Act. Mr. Kaye, legislative research, indeed came up with the data around the serious shortage of justices of the peace, the serious shortage of courtrooms, the fact that municipalities are going to be keeping dogs in custody, so to speak, as evidence, for up to six months before these things go to trial.

1040

**The Chair:** Mr. Kormos, you have about three minutes.

**Mr. Kormos:** Thank you, sir. There just ain't room at the inn for the dogs that you anticipate apprehending. You are not eliminating pit bulls of the face of Ontario geography. Indeed, by grandparenting de facto, even rogue, pit bulls—pit bulls bred to be vicious by rogue breeders, by the drug dealers, the gang members, the outlaw bikers—you're acknowledging that we're going to have pit bulls wandering Ontario for at least the next 12, 13 or 14 years, the lifespan of pit bulls that are born at the time of or reasonably soon after this legislation becomes law. So there's a significant flaw right then and there in your approach to this matter.

You've got a majority. You signalled very clearly in your opening comments this morning, the script you got today made it quite clear, that the government was forging ahead and was going to pay little heed to opposition amendments.

I'll tell you this: New Democrats are interested in a far more serious and more aggressive and tougher approach to vicious dogs and to attacks by vicious dogs than the government is. Make no mistake about it: Our amendments are to that end. We only wish that you were more interested in dealing with bona fide vicious dogs than your Attorney General is with cheap headlines.

**The Chair:** Thank you very much. Are there any comments, questions or amendments to any section of the bill, and if so, to which section?

**Mr. Tascona:** On a point of order: There were two amendments that I believe the clerk has circulated. We would request that those be included in the package. Perhaps the clerk can comment on that.

**The Chair:** I believe they are included in the package.

**Mr. Tascona:** Is that acceptable?

**The Chair:** There were two amendments, submitted this morning, included in the package: 2(a) and 12(a).

**Mr. Zimmer:** Are they set out in the package from Mr. Arnott dated February 9?

**Mr. Tascona:** I told you this morning that they weren't. They were given to be done, but they weren't done, unfortunately. There was a clerical error.

**Mr. Zimmer:** So where would they fit into that?

**Mr. Tascona:** They would fit in 2(a) and 12(a).

**The Chair:** Are there any amendments to section 1?

**Mr. Tascona:** The official opposition has an amendment. I have an amendment to subsection 1(2) of the bill, section 1 of the act, the definition of "pit bull."

I move that the definition of "pit bull," as set out in subsection 1(2) of the bill, be struck out.

**The Chair:** Is there further debate?

**Mr. Norm Miller (Parry Sound–Muskoka):** Listening to the opening comments by the parliamentary assistant, I got the feeling that I attended a different four days of public hearings. When I looked through the summary done by the researcher, Mr. Kaye, that confirmed overwhelmingly the evidence we've heard in the last four days that breed-specific bans are not effective. The parliamentary assistant has attempted to rewrite history and create his own version of the world, but he's just making things up; that's all I can tell you. Certainly, based on the evidence we've heard, it's not the real situation.

He neglected to mention the case of Calgary, which has been the most successful jurisdiction in this country in terms of reducing dog bites. You've got that information. If you've had a chance to look through the summary of information, there is information from Calgary showing the huge reduction in dog bites that they've achieved. They haven't done it through a breed-specific ban; they've done it through a comprehensive bylaw that includes licensing and strict rules to do with leashing and for the owners of dogs.

We've heard that in other jurisdictions—if you look in the research provided by Mr. Kaye, you'll see the history of breed-specific bans in the United Kingdom. The United Kingdom tried a breed-specific ban for a number of years and has repealed that. Overwhelmingly, we've heard that specific-breed-ban legislation is not effective.

Certainly, one of the most compelling testimonies we heard in the last four days—and I don't know where the government was—was when Donna Trempe was here. She had the courage to come before this committee and give testimony about the fact that her eight-year-old daughter Courtney was killed—not by a pit bull but by a bull mastiff. To my amazement, she came and testified that this breed-specific legislation did not make sense, and that was very compelling testimony.

The evidence we've heard has been overwhelming. There's page upon page upon page, if you look through the summary of the research, from those people who came before this committee, stating with various reasons that a specific breed ban does not work. We heard from the veterinarian from Kitchener, who brought information and research on the four pillars on which the breed ban was put in place in Kitchener and methodically went through and disproved three of the four pillars.

The evidence has been overwhelming. The time frame of this committee has been so tight that it doesn't allow a lot of time to make use of the good research that Mr. Kaye has done. I question why the government would want to rush this through so quickly, because certainly an extra week to absorb all the research and all the submissions that have been made before this committee would be very useful. But the fact of the matter is, we've heard overwhelmingly from experts, from veterinarians, from humane societies, from the gentleman from Sudbury who has been an animal control officer for 20 years and dealt with thousands of dogs—when he was asked about pit bulls, whether they were more dangerous than any other kind of breed, he said that no, they were not.

Overwhelmingly, this specific breed ban does not achieve the goal of making Ontario safer, of reducing the number of dog bites. In fact, it may create a false sense of security, because the general public will think that everything is fine now and that they will be safe, when in fact they will not be safer than they currently are.

So I think we've heard overwhelmingly that a specific breed ban does not make sense, and that is why we've moved this amendment.

**Mr. Kormos:** I want to respond, and if I misinterpreted, please correct me, Mr. Miller. I am a little taken aback by your suggestion that Mr. Zimmer has made stuff up. Does the actor who's playing a role and responding to the director and the script make stuff up? No. The playwright makes stuff up; the actor merely does the performance. So if that accusation is to be made, it's certainly not to be made about Mr. Zimmer.

**Mr. Tascona:** No offence intended.

**Mr. Kormos:** Right.

**The Chair:** Mr. Kormos, any comments?

**Mr. Kormos:** No. I was just coming to Mr. Zimmer's defence.

**The Chair:** The thespian digression aside, anything further?

**Mr. Zimmer:** I want to state on the record, with respect to Mr. Miller's comment, that Great Britain has not, in fact, repealed their ban.

**The Chair:** Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

### Ayes

Kormos, Miller, Tascona.

### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost. Comments, questions and amendments?

1050

**Mr. Kormos:** An amendment by the New Democrats is next, number 2. However, just to be fair, the Conservatives filed an identical amendment. What the heck? Even though theirs was filed later than the New Demo-

crats', I'll defer to the Tories and give them a little bit of—

**Mr. Tascona:** You don't have to.

**Mr. Kormos:** That's just the kind of guy I am. You know that, Mr. Tascona.

**Mr. Tascona:** I can only comment that you're ahead of us there. You're number 2. We're 2A. You proceed. Be my guest.

**Mr. Kormos:** All right, thank you kindly. I shall move that—

**The Chair:** Mr. Kormos, do you withdraw the amendment?

**Mr. Kormos:** Well, is Mr. Tascona taking up the offer?

**Mr. Miller:** I'll move that.

**Mr. Kormos:** Yes, go ahead, Mr. Miller.

**Mr. Miller:** I move that clause (b) of the definition of "pit bull," as set out in subsection 1(2) of the bill, be struck out.

**Mr. Zimmer:** On a point of order, Mr. Chair: Has Mr. Kormos withdrawn his?

**The Chair:** Yes.

**Mr. Kormos:** Well, it's not a matter of withdrawing it. It becomes moot once that motion is moved. It just disappears. It's dust in the wind.

**The Chair:** Any discussion?

**Mr. Tascona:** The definition covers a number of different dogs, if you want to say that. I use the term loosely. In the definitions:

"pit bull" includes,

"(a) a pit bull terrier,

"(b) a Staffordshire bull terrier," which is the subject of the amendment,

"(c) an American Staffordshire terrier,

"(d) an American pit bull terrier,

"(e) a member of a class of dogs that have an appearance and physical characteristics that are substantially similar to dogs referred to in any of clauses (a) to (d)."

Based on the evidence—and I think my friend Mr. Miller will comment, there was a lot of evidence given with respect to that particular dog in terms of the fact that it's one of the most popular dogs in the United Kingdom. In fact, it's a purebred dog. It is used and designed to be with children specifically. I don't have the numbers, but I don't believe there are that many dogs per se that are Staffordshire bull terriers.

That is the gist of the amendment in terms of moving that. I know my friend Mr. Kormos listened intently during the hearings too and I believe that was his intent in terms of having that exclusion. So that's what's been moved.

**Mr. Miller:** Through the process of these hearings, I certainly learned a lot about dogs. I was going to say my life has gone to the dogs, but I've learned a lot and I've learned a lot about this particular breed, the Staffordshire bull terrier. What I've learned is that purebred Staffordshire bull terriers are not a problem. If anything, they seem to be exemplary dogs. They are not the dogs that I

think the government is trying to target with this legislation.

I'd never seen a Staffordshire bull terrier before these hearings began. I had a constituent bring one into my constituency office to show it to me.

I heard a media interview being conducted and they kept referring to this big dog. Surely, if you're walking down the street and you see one of those pit bull dogs that the government is calling a pit bull, a big dog, you'd be afraid. Well, a Staffordshire bull terrier is a very small dog. It's 14 inches tall and 30 pounds. It's a tiny dog. There are not a lot of purebreds in the country and they have proven not to be a problem. In fact, one of the things we heard was that there hasn't been an unprovoked bite by a purebred Staffordshire bull terrier in the country, so why would we be banning these dogs?

We heard from owners. We heard from a couple—the helicopter pilot—talking about how, many years ago, when they were thinking about getting a dog, they went to an expert, because they wanted a dog that was good with kids, and the expert recommended a Staffordshire bull terrier. So for the last 15-odd years, they've had a Staffordshire bull terrier, and they said the recommendation was correct: The dog is wonderful with kids. In fact, if you remember, they had pictures of it dressed up in various costumes.

We heard how in England, the Staffordshire bull terrier is the most common terrier. There are 250,000 Staffordshire bull terriers in England. In fact, if you look at the research from Mr. Kaye, you'll note that the Staffordshire bull terrier is not one of the dogs banned in England. We heard how the Staffordshire bull terrier is the “nanny dog.” There were some articles supplied to do with the best dogs to have with your kids, and the Staffordshire bull terrier was listed as that kind of dog. We heard from a lady—I believe her name was Squibs—who has had a Staffordshire bull terrier most of her life and who was here defending the breed. For probably at least 60 years, she has had that particular dog. For many other owners, there is no reason this dog, particularly the purebred dogs, should be targeted with this legislation. They are not a threat to anyone. If anything, they are far less a threat than most dogs, so it makes no sense to target them. That is the purpose of this motion: to remove the Staffordshire bull terrier from the definition of “pit bull.”

**Mr. Kormos:** Let's make sure that we discuss this and a few of the subsequent amendments in the context of what the government wants to do with this legislation, especially when you take a look at government amendment number 34 in your package of amendments, which is their response to concerns around section 19. I'll speak to that amendment in due course, because, boy, is the government buying itself and its prosecutors some serious problems with that amendment. Really, gentlemen, it is.

The government clearly recognizes that there are small-p, colloquial, mongrel pit bulls, because it talks about “a pit bull terrier” without further definition. But

then it goes on to talk about dogs which are clearly other than mongrel, other than just slang-named. This means a Staffordshire bull terrier, with a capital S. That's different from just a generic terrier or bull terrier. The government talks about “American Staffordshire terrier”—capitalized “American,” capitalized “Staffordshire”—again, a very specific breed, just like the Staffordshire bull terrier is a very specific breed.

It goes further and talks about American—capital A—pit bull terrier, again, a very specific, recognized breed as compared to what we are all familiar with and what Chief Fantino and a whole lot of other people talked about. These are the illegal biker-gang dogs and the drug-dealer dogs and the street-hood dogs. So it's either a pit bull or it's a Staffordshire bull terrier; it can't be both. It seems to me that when we look at the characteristics of the Staffordshire bull terrier, the evidence being that not one of which has bitten or been reported as having bitten in Canada, the “nanny dog”—take a look at the Staffordshire bull terrier on the Web sites of the Canadian Kennel Club, the American Kennel Club and the United Kennel Club in Britain; I did. Everything we heard from the owners, the breeders and the experts is confirmed.

Take a look at your amendment to section 19. The veterinarian who is going to be called upon to define a pit bull—and the government has also amended paragraph (e): “a dog that has an appearance and physical characteristics that are substantially similar to” dogs referred to in any of the above groups. Look at what you've done: A veterinarian who identifies a dog that has the characteristics of a Staffordshire bull terrier has then made that dog a dangerous dog, and what has he or she done? When you look at the characteristics of the Staffordshire bull terrier, according to what the breed is—a child-friendly dog, a protective dog, a safe dog, a friendly dog—that's nuts, parliamentary assistant. There's an inherent and internal contradiction here. You can't have it both ways.

The physical characteristics of a Staffordshire bull terrier are of a dog that is a child-friendly dog, that rates in—what was it?—the top 10 of dogs to buy for your kid. That's not the dog we're concerned about. We're concerned about the dogs that have been attacking and mauling and killing kids and adults in Ontario.

**1100**

You have put your justice of the peace in an incredibly difficult situation. Look, you can't say, and I'm trying to find an analogy that isn't offensive, “Cattle include horses, chickens, reptiles, or beasts that include any of the characteristics of the slotted animals above.” I suppose you can legislate it; you can legislate anything you want. You can change the names of the days of the week, you can turn night into day and day into night, but there's a point at which a court is going to be called upon to examine the inherent contradiction in your very first amendment. This is the foundation of your act. This is “pit bull.” I think it's a very dangerous legislative course to take—very, very dangerous.

Quite frankly, I think this amendment is helpful to you, because people down the road are going to be compelled to look at this legislation, the amended Dog Owners' Liability Act, and say, "What was its purpose? Its purpose was to address dangerous and vicious dogs, specifically pit bulls, but then the government included Staffordshire bull terriers, purebred American Staffordshire bull terriers. That's the point, purebred, because it's capital A, capital S. What's going on here? We thought this bill was about vicious or dangerous dogs." You're creating confusion where confusion doesn't have to exist, and you're not being helpful to the common interest here in cleaning up bad dogs, vicious dogs, getting them off the street and out of the hands of inevitably bad owners.

We'll be supporting the amendment. Thank you, sir.

**The Chair:** Thank you. Questions and comments? Shall the amendment carry?

**Mr. Kormos:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost. Further amendments to section 1?

**Mr. Kormos:** Chair, I'd ask you and committee members to refer to what's identified as amendment 5 in your bundle, because it logically should precede the other amendments, for the obvious reasons.

I move that clauses (b), (c) and (d) of the definition of "pit bull", as set out in subsection 1(2) of the bill, be struck out.

**The Chair:** Comments?

**Mr. Kormos:** Once again, what I've done is eliminate the three paragraphs, the three clauses, that deal with purebred dogs. The government has thrown purebreds in here: purebred Staffordshire bull terriers, purebred American Staffordshire terriers and purebred American pit bull terriers. Nowhere along the line did anyone say to anybody that in the pursuit of better legislation controlling vicious dogs there was an interest in the pursuit of these purebred, registered dogs with their benign characteristics. The government from day one said "pit bulls." I heard Mr. Bryant himself: "Pit bulls banned. Pit bulls banned." He said "pit bull"; he didn't say "Staffordshire terrier," he didn't say "American Staffordshire terrier" and he didn't say "American pit bull terrier." If we're dealing with pit bulls, let's deal with pit bulls. If we're dealing with the ill-bred, non-pure-breed, non-registered, non-breeder-bred, non-show-dog, biker-gang, drug-dealer—illegal biker-gang. I'd better throw in that qualification. I don't want the Welland County Motorcycle Club on my back; they're friends. Illegal biker-gang, drug-dealer, street-hood pit bull: That's the one

we're told we're talking about, so let's legislate it. And if we're legislating those mongrel, dangerous, illegal biker-gang, drug-dealer, street-hood pit bulls, then let's talk about pit bulls. That means your clause (a), "a pit bull terrier." I'll concede this to you, because you say you know what a pit bull is. You use the old "walks like a duck, quacks like a duck," blah, blah, blah; remember that one? That's an old one. That's been used in so many jury addresses, Mr. Zimmer. It's been around as long as the jury system. You know it.

Look, you say we know what pit bulls are; no problem. Well, I've told you I'm not sure, but I know what a vicious and dangerous dog is, so let's meet halfway. I'll concede that if you stick with clause (a), small-p pit bull mongrel, and then carry it on to—because you've amended clause (e)—"a dog that has an appearance and physical characteristics that are substantially similar to" that pit bull, I would suggest "demeanour" might be useful too, wouldn't it, because that's what you're talking about? You and I have neither the same physical appearance nor the same demeanour, but if one or the other of those were to be altered, people would understand, right? So maybe demeanour, because that's what you're really getting at here; you're talking about the demeanour of these animals. You said you didn't want to kill any fluffy little puppies; you just wanted to eliminate vicious, ill-bred, ill-reared pit bulls, the kind of small-p, colloquial pit bulls we all know about.

This motion is as much to protect the government and its interests as anything else. It's a concession to you; it really is. This brief moment of generosity on my part is unlikely to be repeated, but it's a concession to you. It's aid offered that I hope you don't spurn.

**Mr. Miller:** I would like to support Mr. Kormos in his motion to basically remove from the definition of "pit bull" "(a) a Staffordshire bull terrier, (b) an American Staffordshire terrier, (c) an American pit bull terrier."

I would just like to use some of the research done in England that notes that in their definition of "dangerous dogs" they did include the pit bull terrier, but they did not include any of those other breeds: the Staffordshire bull terrier, the American Staffordshire terrier or the American pit bull terrier.

I think, as Mr. Kormos has pointed out, the facts are clear that it is not the purebred dogs that are hurting people. It is the dogs owned by people who want a vicious dog, owned by the criminal element, as pointed out by Mr. Fantino, dogs that are being used as a weapon, but it is not the purebred dogs. So it is completely unnecessary to include them in the definition of what a pit bull is and it won't serve to protect the people of Ontario. It may give them a false sense of security but it will not, in reality, protect the people of Ontario.

**Mr. Tascona:** The government has sort of admitted this—and I think Peter was trying to get there—in their amendment number 13, where the government deals with an evidentiary matter where it says, "In determining whether a dog is a pit bull within the meaning of this act, a court may have regard to the breed standards estab-

lished for Staffordshire bull terriers, American Staffordshire terriers or American pit bull terriers,” which is under the definition of what they have for pit bull—covers (b), (c) and (d). Very deliberately they have excluded (a), which is the pit bull terrier, from what a court can have regard to, which is what Peter was alluding to as a mongrel, because they’re not going to be able to prove what kind of dog that is.

The government is tacitly admitting that in their motion, amendment 13. So what we’re looking at here—to be consistent, I don’t know why the Liberal government wouldn’t support this, because it really deals with the crux of the issue, which is the pit bull mongrel. That’s what was defined—I think Mr. Miller was showing me that under the UK legislation—as the pit bull terrier. So the government has admitted that in terms of how they’re going to deal with court proceedings and what leeway and direction they’re giving judges in determining whether a dog is a pit bull. They specifically say you can look at the breed standards for those dogs, whereas they’re not putting that in there for the pit bull terrier. Those are my comments on that.

1110

**The Chair:** Thank you. Questions, comments? Mr. Zimmer.

**Mr. Zimmer:** I must say to you, Mr. Kormos, that I’m very pleased—in fact, I’m delighted—that on the Hansard record you’ve now expressed your happiness to be in favour of the ban on pit bulls. Of course, we will continue to disagree on the definition of the pit bull, but I am happy to see that you’ve been brave enough to go on record in support of the pit bull ban. Thank you.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**The Chair:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

Further amendments to section 1: Mr. Kormos.

**Mr. Kormos:** I move that clauses (b) and (c) of the definition of “pit bull,” as set out in subsection 1(2) of the bill, be struck out.

**The Chair:** Just as a point of clarification, amendment numbers 3 and 4—

**Mr. Kormos:** I’m sorry. This is number 6 in your bundle.

**The Chair:** Number 6. Amendment numbers 3 and 4: Are they withdrawn?

**Mr. Kormos:** We’re getting to them. We’re on number 6. The ordering is critical that it be done this

way; otherwise, the subsequent amendment would be null.

Once again, if Mr. Zimmer read his material before he came to committee, he’d see that the New Democrats have proposed an amendment that would require all dogs other than purebred dogs kept for show or breed to be neutered or spayed. That was one of the recommendations that came from expert evidence: neutering and spaying; neutering especially in the case of male dogs of all breeds.

As a matter of fact, we heard that the very first morning in briefings from the experts from the civil service who were critical in drafting the bill. I recall closing my questions to them about the interest that was being served by neutering. It was suggested that that was as much, perhaps even more so, to control or moderate aggressive behaviour—I think that’s something that all of us could identify with, in our own right—as compared to necessarily precluding the procreation.

You’ll note that I have an amendment that I want this government to seriously consider, because what we are saying is that we should be banning all dogs not properly bred, trained and reared, end of story. The inevitable impact of the compulsory neutering and spaying of all dogs other than registered, licensed purebreds for breed or show would have as its eventual but inevitable outcome the demise—not of breeds; far from it—of the wacky stuff.

Take a look at the Toronto Star. Have you, Mr. Zimmer? Want ads. Look at the back section: dogs. First of all, you’ve got to understand that we’re not talking—when we’re talking about Staffordshires or American Staffordshires or American pit bulls, we’re talking about a thousand, two thousand bucks.

If you’re having a hot flash and you’re fanning yourself, talk to your colleague. I don’t know what you’re doing with that piece of paper in front of your face, Mr. Zimmer.

We’re talking about dogs that cost \$1,000, \$2,000, even more. Do you understand what I’m saying? Take a look at the want ads in the Toronto Star, in the dog section, and you see “Purebred, Canadian Kennel Club, etc. etc., qualified dog.” Then you see the wacky stuff, some of which is, in somebody’s mind, cute. It used to be cocker spaniels and poodles. Remember? I think they were called cockapoos. I saw some wacky stuff in the Toronto Star just last week when I was reading it before coming to committee.

Then I see things like “Rottweilers, bred bigger.” This isn’t by a legitimate breeder. These aren’t purebred, show-quality Rottweilers to the Rottweiler standard. These are the very sort of people you don’t want breeding dogs. These are the backyard breeders. These are the people who are bastardizing particular breeds of dogs and creating in any number of cases some really horrible outcomes, either dogs that suffer in their own right—hip dysplasia and things like that that become genetically encoded in a particular line or lineage of poorly bred dogs—or dogs that are more dangerous than a purebred is bred to be.

In our quest for a ban on vicious dogs—and we've always conceded that for the illegal biker gang dog, the drug dealer dog, the street hood dog, the mongrel, mean dog that colloquially is spoken of as a pit bull, among other things, go to town. But what we're saying is, don't ban legitimate breeds, in this instance Staffordshire bull terrier and American Staffordshire terrier, that do not have any of the qualities or characteristics that are of concern to the people of Ontario. In fact, by including them, by insisting and insisting on including them, by God, I look forward to witnessing the first cross-examination of a veterinarian who is subpoenaed on his certificate declaring a dog to be a pit bull. I relish the first cross-examination of that veterinarian when he or she is referred to the qualities, characteristics and demeanour of Staffordshire bull terriers or American Staffordshire terriers and has to justify how those qualities, and reference to them, assists in identifying an otherwise mongrel dog as a pit bull.

Once again, this is a gift. Don't look it in the mouth. Take it. It's not a Trojan Horse. It's yours, even without the asking. We're trying to make a weak bill somewhat better, and we're doing our best.

**Mr. Miller:** I support the motion that removes "a Staffordshire bull terrier" and "an American Staffordshire terrier" from the definition of a pit bull. What's really disappointing about what we've been going through with this process is that we really could bring in a new law that would make a difference. We've heard about other jurisdictions that have been very successful, like New York state and, I believe, California. We certainly heard about Calgary. Yet we are coming up with legislation that is not going to be effective.

As Mr. Kormos has pointed out, these purebred dogs, the Staffordshire bull terrier and the American Staffordshire terrier, are not the problem. They are not the vicious dogs owned by biker gangs and the criminal element that are being used as a weapon, as was stated by Chief of Police Fantino. The Staffordshire bull terrier is the nanny dog. It's known for being the nanny dog for its love of children. It's the most popular terrier in England. There are 250,000. It's a tiny little dog. So banning that or calling that a pit bull is ridiculous and it doesn't accomplish anything. I think you should support this motion and improve the bill, and drop "a Staffordshire bull terrier" and "an American Staffordshire terrier" from your definition of what a pit bull is.

You seem intent on carrying through with banning pit bulls even though you've heard very clearly that that legislation doesn't work. Look at the research on England that was provided for us: "The act is called 'An Act of Folly.' It was drawn up in days, welcomed with acclamation and relief, hurried through its stages and emerged as something neither clear nor fair." That was 1995 in England, and that's very much what we're doing here in Ontario now. If you insist on using the government majority to force this bad legislation through, I can tell you it will change in a few years, because it will be proven to be just bad legislation.

I support Mr. Kormos in his motion to remove "Staffordshire bull terrier" and "American Staffordshire terrier" from the definition of "pit bull."

**1120**

**Interjection:** Recorded vote.

**The Chair:** Questions and comments? Recorded vote. Shall the amendment carry?

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost. Mr. Kormos.

**Mr. Kormos:** This is item number 3 in your bundle of amendments.

I move that clause (c) of the definition of "pit bull," as set out in subsection 1(2) of the bill, be struck out.

This takes us down to purebred American Staffordshire terriers, and it permits the government, if it doesn't want to eliminate both clauses (b) and (c)—well, how about just going with eliminating clause (c)? We've whittled it down to the most simplistic options here.

Once again, the argument is that nothing in the material or information received by this committee or relayed by the government suggests that there is a problem with American Staffordshire terriers—purebred, capital-A, capital-S, American Staffordshire terriers. If there's nothing wrong with them and if they aren't the target, if they aren't pit bulls—and the government says its target is rogue, outlaw biker-gang pit bulls, drug-dealer dogs, the kind of dogs that former Toronto Chief of Police Julian Fantino, now well-asseted emergency management czar of the province of Ontario and close friend of Dalton McGuinty and Greg Sorbara—intimate, I trust—told us, and I don't disbelieve him by any stretch of the imagination, are the kind of dogs that were attacking cops trying to do their duty. He didn't indicate that it was purebred American Staffordshire terriers.

Again, I understand you're going to pay a thousand or two thousand bucks for one of these, easy. I can't for the life of me think why somebody who's got to pay a thousand or two thousand bucks is going to want their dog to bite people. If I'm paying that kind of money for a dog, that dog better not bite, I'll tell you that. That dog better produce premiums.

**Mr. Miller:** I support this motion to remove "American Staffordshire terrier" from the definition of "pit bull," as being better than the definition of "pit bull" that the government is using. I note that in England they've had great difficulty identifying what a pit bull is. In the research provided by Mr. Kaye, it says, "British courts had great difficulty establishing the 'breed' of pit bulls, at least in part because the pit bull terrier is not recognized as a specific breed in the United Kingdom."

Certainly, what we've heard is that the purebred dogs are not the problem. They're not the dangerous dogs. If anything, we've heard that a big part of the problem of dog bites is irresponsible dog owners. I think the people who are investing a lot of money in their purebred dog also tend to invest a lot of time in things like education and training, and they tend to be the responsible dog owners. So to ban this purebred dog does not protect the public in Ontario. It does not achieve any goal other than punishing innocent dog owners. Because of that, I support this motion.

**The Chair:** Thank you. Further questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

**Mr. Kormos:** Item number 4 in your bundle of motions:

I move that clause (d) of the definition of "pit bull," as set out in subsection 1(2) of the bill, be struck out.

Again, my comments with respect to the last two or three amendments apply equally to this one. Clause (d) is of course the apparently purebred American pit bull terrier. The suggestion, the evidence, the irresistible conclusion was that purebred dogs, registered dogs, dogs that are bred by competent breeders, are not inherently dangerous dogs. To the contrary, they're bred to be adults within the confines of the definition of what that breed of dog is: height, colouring and so on. Similarly, with respect to temperament, a dog breeder has an interest in culling bad dogs, mean dogs, vicious dogs, unpredictable dogs from his or her breeding stock, if that's not an inappropriate word.

**The Chair:** Other questions or comments?

**Mr. Miller:** I would also like to support this motion that the American pit bull terrier not be considered to be in the definition of a pit bull terrier. As Mr. Kormos said, the breeders of purebred dogs tend to be responsible breeders. I think we heard over the last four days that backyard breeders and puppy mills are a problem, but breeders of the purebreds have a large investment. Often these dogs sell for \$1,000, and they have a lot at stake in making sure that the owners are responsible and will often go to lengths to make sure they have a responsible owner who is buying the dog. These dogs are just not the problem that this bill is trying to identify. We should be dealing with all dangerous dogs, not one specific purebred dog that is not the problem. I know we've already had the motion on doing away completely with this specific breed ban, but we heard from the evidence given by the veterinarian from Kitchener that, from the Ontario

Ministry of Health statistics from 1995-96—and we also heard that there aren't the greatest statistics province-wide—all pit bulls were actually eighth on the list of bite contact reports with the Ontario Ministry of Health, well down the list below German shepherds, Labradors, collies, huskies, Rottweilers, cocker spaniels and poodles. Removing this specific American pit bull terrier would improve this legislation, so I support Mr. Kormos.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Kormos:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

**Mr. Kormos:** If people would please go to amendment 10 in your bundle.

I move that clauses (b), (c) and (d) of the definition of "pit bull," as set out in subsection 1(2) of the bill, be struck out and the following substituted:

"(b) a Staffordshire bull terrier, except a Staffordshire bull terrier that is registered with the Canadian Kennel Club or the American Kennel Club;

"(c) an American Staffordshire terrier, except an American Staffordshire terrier that is registered with the Canadian Kennel Club or the American Kennel Club;

"(d) an American pit bull terrier, except an American pit bull terrier that is registered with the United Kennel Club or the American Dog Breeders Association."

#### 1130

**The Chair:** Discussion?

**Mr. Kormos:** This government has paraded out the Kitchener bylaw perpetually. I took guidance from the contents of that bylaw that's being held up by government members as the standard, as the model, as the template. I ask all of you, because you all have copies of that bylaw, to take a look at section 1 of the Kitchener bylaw:

"(t) 'Pit bull dog' means a dog of any age which can be identified as a dog of one or more of the following breeds or mixed breeds by the pound-keeper, namely:

"(i) pit bull terrier;

"(ii) American pit bull terrier;

"(iii) pit bull;

"(iv) Stafford bull terrier"—and I submit that that's a typo—"except a Staffordshire bull terrier which is registered with the American Kennel Club or the Canadian Kennel Club; or

"(v) American Staffordshire terrier, except an American Staffordshire terrier which is registered with the American Kennel Club or the Canadian Kennel Club."

I've taken the liberty of extending the logic of the exclusion of registered Staffordshire bull terriers and American Staffordshire terriers, and I've taken the freedom of applying that to American pit bulls as well. I appreciate that that may stick in the craw of some of the government members, so if indeed that is a deal breaker, just wait; I can take care of you in my next amendment.

Look, you can't have it both ways. You can't say that Kitchener is the way to go and then ignore the obvious logic from Kitchener councillors, to the extent that they exercised it, in excluding American Kennel Club or Canadian Kennel Club Staffordshires and American Staffordshires. The evidence was not only clear but, as I recall it, pretty darned overwhelming that these kennel club purebred dogs are not the dogs that should be included in your definition of a small-p pit bull. They're a very different thing. They're a distinctive thing. Folks down in Kitchener knew that.

I'm suggesting to you that this is a wise amendment to your bill, and that the logic that would compel Kitchener to apply the exclusion to Staffordshire bull terriers and American Staffordshire terriers should also be applied to American pit bull terriers registered with the United Kennel Club—that's in Great Britain, as you all know—and the American Dog Breeders Association—well, that's in America.

If you're going to protest, I anticipated quick-thinking minds on the other side saying, "But the United Kennel Club isn't very clearly defined." I say that's what regulations are for; aren't they, Mr. Zimmer? The American Dog Breeders Association: That's what regulations are for. In fact, you can by regulation expand or compress the list of associations or clubs that have, or that you wish to have, the authority to document and verify the purebred. We're not just talking about purebred—whatever purebred—we're talking about dogs that are not only purebred but bred to spec.

You could say "purebred," but it's another thing to say "legitimate dog breeders and show dog owners." We can dismiss show dog people as being a separate little club, except that they perform a valuable function in terms of maintaining the standards for a particular breed—they do—at great expense. Again, it's a net-net-net-cost hobby, no two ways about it. Nobody makes money at it. Most dog breeders don't even make money at what they do. They do it out of passion for a breed or breeds of dogs and for the animal. So we're not talking about people who are making big chunks of dough. Chair, you remember the suggestion that somehow, some of the folks who appeared before this committee were motivated by monetary self-interest. That was sad. What a cheap shot. It really was. I got to know a whole lot of these people because they kept coming day after day, at their own expense, mind you. I found out through them and through folks down in my community that, yes, people who breed dogs, by and large, good dog breeders, the ones we should be licensing and controlling, regulating—we'll get to that later on in the amendments I'm going to propose.

You've heard comments coming from both your own caucus in the form of Mike Colle—remember when he was in opposition, and his passion about puppy mills?—and from your colleague the Conservative member who expressed the same concern about puppy mills and the need to control them. This is what we're talking about here. Once again I've relied simply on your icon, the Kitchener bylaw, and applied the same logic to your bill as was clearly applied to the Kitchener bylaw.

**Mr. Miller:** I support this motion. As has been pointed out, the Kitchener bylaw has been talked about as having been effective, and in their specific bylaw the purebred dogs are excluded. That bylaw has been around for a while, and these dogs have not been seen to be a problem, so logically why would you ban them in the province of Ontario? All that the government would be doing would be to ban and hurt responsible dog owners who own and have these purebred dogs as members of their family. I agree that it doesn't make sense to ban these dogs from Ontario, and it will not serve the public in making them any safer, so I support this motion.

**The Chair:** Shall the amendment carry? Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

**Mr. Kormos:** I would ask people to look at amendment number 11 in their bundle of amendments.

I move that clauses (b) and (c) of the definition of "pit bull," as set out in subsection 1(2) of the bill, be struck out and the following substituted:

"(b) a Staffordshire bull terrier, except a Staffordshire bull terrier that is registered with the Canadian Kennel Club or the American Kennel Club,

"(c) an American Staffordshire terrier, except an American Staffordshire terrier that is registered with the Canadian Kennel Club or the American Kennel Club,".

Chair, I anticipated the results of the vote on the last amendment. So, rather than taking any liberties with the design of the Kitchener bylaw, I stayed true to its content. This amendment duplicates exactly what the Kitchener bylaw says. The Kitchener bylaw excludes Staffordshire bull terriers that are registered with the American Kennel Club or the Canadian Kennel Club and American Staffordshire terriers that are registered with the American Kennel Club or the Canadian Kennel Club.

This does the same. It doesn't bring the American pit bull—the capital-A American pit bull, a specific breed rather than some sort of colloquial term—into the realm of exclusions. Maybe this will be a little more palatable to the well-whipped government members.

**Mr. Miller:** I've already pointed out that I disagree with a specific-breed ban, as it's been proven to be ineffective and hasn't worked in other jurisdictions. However, this is an improvement on what the government is ramming through, and as was pointed out by the city of Kitchener when they gave testimony and is reported in the research from Mr. Kaye, Kitchener's definition of "pit bull" has worked well for approximately eight years. The province should consider using this definition, as it has proven to be clear and enforceable and has withstood the test of time. Unlike the province's definition, it excludes purebred Staffordshire bull terriers and purebred American Staffordshire terriers if they are registered with the Canadian Kennel Club or the American Kennel Club.

You can improve this legislation a little bit by passing this motion, and it makes absolutely no sense not to. I'd love to hear from the government why they wouldn't vote in favour of this motion.

**The Chair:** Questions and comments? Shall the amendment—

**Mr. Kormos:** One moment. Eight-minute recess, as per the standing orders, please.

**The Chair:** The committee will recess for eight minutes.

*The committee recessed from 1139 to 1147.*

**The Chair:** Let's come back to order. Shall the amendment put forth by Mr. Kormos, which would be number 11 in your package, carry?

**Mr. Kormos:** Recorded vote, please.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost. Mr. Kormos.

**Mr. Kormos:** If I may ask people to refer to amendment number 7 in the bundle.

**The Chair:** Number 7 in our packages. Go ahead.

**Mr. Kormos:** I move that clause (b) of the definition of "pit bull," as set out in subsection 1(2) of the bill, be amended by adding, at the end, "except a Staffordshire bull terrier that is registered with the Canadian Kennel Club or the American Kennel Club."

In view of the government's lack of appetite for the amendment immediately preceding this one, I'm offering up to them, if they don't want to put both Staffordshire bull terriers and American Staffordshire terriers belonging to Canadian kennel clubs and American kennel clubs as excluded from the pit bull definition, then I say to you, gentlemen, how about just Staffordshire bull terriers, for all the same reasons and with all the same arguments made a few moments ago with respect to the earlier amendment?

**The Chair:** Questions and comments?

**Mr. Miller:** I certainly completely support this. For the life of me, I can't understand why the government wouldn't want to support this and why they don't think it would be an improvement to the bill. There's been overwhelming evidence to show that the Staffordshire bull terrier has proven not to be a threat to anyone. It's the most popular terrier in the English-speaking world. There are 250,000 of them in England, and it's not a banned dog in England. There's a relatively small number in Canada; I believe it's fewer than 1,000. There's never been a documented unprovoked bite in Canada by CKC-registered, purebred Staffordshire bull terriers. So based on that, why are you punishing these owners?

We had the helicopter pilot and his wife come in with all the information about many, many years of experience. We had many different owners come and testify as to how good these dogs are with children, and that's why the Staffordshire bull terrier is known around the world as the nanny dog, for its love of children.

There was a study done by the University of Southampton that concluded that the Staffordshire bull terrier is one of the top 10 dogs to have in your home if you have children, and the number one terrier with children.

In the opening statement by the parliamentary assistant, he said, "It's very clear what a pit bull is," and he named as part of it a Staffordshire bull terrier. In England they don't think a pit bull is a Staffordshire bull terrier. I'm sure all the owners of Staffordshire bull terriers out there would say it is not a pit bull.

For the life of me, I don't understand how the government loses face by improving the legislation, by taking a dog out that is not a threat to anyone, a dog that is 14 inches tall and 30 pounds and has been recognized around the world as not being a threat. The German government recognizes that it acted too hastily when it included the Staffordshire bull terrier in its pit bull ban, and that has now been overturned by their supreme court. Italy has 92 breeds that are banned in the country, and the Staffordshire bull terrier is not one of those 92 breeds. I don't see what the government has to lose by improving the legislation—by actually listening to all the people who came before us for four days, many of them from a great distance, many of them who stayed the whole four days—and supporting this resolution to exclude the Staffordshire bull terrier from the definition of a pit bull terrier. It will not do anything to protect the people of this province from dangerous dogs by counting them as part of the definition of a pit bull. So I support this motion put forward by Mr. Kormos.

**The Chair:** Thank you. Other questions and comments? Shall the amendment carry?

**Mr. Kormos:** Recorded vote, please.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

**Mr. Kormos:** Page 8 in your bundle of amendments:

I move that clause (c) of the definition of “pit bull,” as set out in subsection 1(2) of the bill, be amended by adding, at the end, “except an American Staffordshire terrier that is registered with the Canadian Kennel Club or the American Kennel Club.”

Look, Chair, I appreciate that this exercise is a little tiring, perhaps, but I’ve looked for rhyme or reason to the government’s thought process around this bill and I haven’t found any, none of those classical “if, then” formulas. So in view of the fact that the government seems to be more fascinated with with throwing darts and seeing where they land, I was wondering if perhaps it was American Staffordshire terriers that were the bull’s eye.

**The Chair:** Questions and comments?

**Mr. Miller:** Yes, I would certainly support this motion to moderately improve this bill by excluding the American Staffordshire terrier from the definition of a pit bull. The purebred dogs are not the problem, and this would improve the bill. For that reason, I support the motion.

**The Chair:** Shall the amendment carry?

**Mr. Kormos:** Recorded vote, please.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

Mr. Kormos?

**Mr. Kormos:** Number 9 in your bundle of amendments: I move that clause (d) of the definition of “pit bull,” as set out in subsection 1(2) of the bill, be amended by adding, at the end, “except an American pit bull terrier that is registered with the United Kennel Club or the American Dog Breeders Association.”

Again, I’d ask that the arguments and rationale applied to the earlier and similar amendments with respect to other breeds be applied to this as well.

**The Chair:** Questions and comments?

**Mr. Miller:** I once again support it, based on all the previous comments that we have made to do with similar motions.

**The Chair:** Shall the amendment carry?

**Mr. Kormos:** Recorded vote, please.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Qaadri, Racco, Wilkinson, Zimmer.

**The Chair:** I declare the amendment lost.

A government motion, Mr. Zimmer: number 12.

**Mr. Zimmer:** I move that clause (e) of the definition of “pit bull,” as set out in subsection 1(2) of the bill, be struck out and the following substituted:

“(e) a dog that has an appearance and physical characteristics that are substantially similar to those of dogs referred to in any of clauses (a) to (d); (‘pit bull’)”.

The proposed amendment will remove the reference to “a class of dogs” and substitute it with the simple term “a dog.” It recognizes that clause (e) is an attempt to capture dogs that substantially conform to the characteristics of the pit bull breeds. This amendment and, indeed, the next one, are aimed at clarifying the definition of “pit bull” with respect to the issue of identification.

**The Chair:** Questions and comments?

**Mr. Kormos:** I’m curious about this amendment because it seems to me that, in the bill as presented, you’re talking about a dog that the prosecutor would want to be found to be a pit bull. If one is relying upon clause (e), being not just a dog, as in the amendment, but a member of a class of dogs, I’m asking the government, are you lowering the standard? Are you lightening or lessening the test for what constitutes a pit bull in this clause (e) so as to weaken or dilute the definition?

**The Chair:** Questions or comments?

**Mr. Kormos:** If I may, that was a question. It’s normal to put questions during the course of clause-by-clause and to expect answers from somebody. We had an entourage of high-priced help here just moments ago.

**Mr. Tascona:** Along those lines, I would follow up on Mr. Kormos. I would agree with Mr. Kormos, if I’m on the same wavelength. I think the parliamentary assistant or someone who can assist him has made a major change with respect to the definition by changing “a member of a class of dogs” to just “a dog.” That’s a significant change, and I’d like to know why the deletion. I don’t really think I’ve got an answer from Mr. Zimmer. Are you going to answer?

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**The Chair:** Questions and comments?

**Mr. Kormos:** Chair, is the government going to stand mute? We’re entitled to put questions and comments; I submit we’re entitled to have them answered. We need your direction. I’ve asked the government, is the purpose of this amendment to dilute the definition so as to embrace a broader number of dogs so as to make it easier to make a dog a pit bull? We had over half a million dollars a year worth of high-priced help in this room just moments ago. Surely they weren’t here on their coffee break; they were here as resources, amongst other things, for Mr. Zimmer and/or the committee. I don’t expect his political staff to be made available to us, but I do expect civil servants to be made available to us to answer the questions that we’re putting during the course of clause-by-clause.

**Mr. Zimmer:** Just let me repeat what I said when I spoke to the motion: The purpose of the amendment and indeed the next one will have the effect of clarifying the

definition of “pit bull” with respect to the issue of identification.

**Mr. John Wilkinson (Perth–Middlesex):** On a point of order, Mr. Chair: There was a select committee agreement that we would be breaking at 12 so we could stay on time, and that we would resume at 1 o'clock. Is that your understanding, Chair?

**The Chair:** That is correct. Is it the will of the committee to dispose of this amendment before recessing?

**Mr. Kormos:** No, sir.

**Mr. Tascona:** No.

**Mr. Kormos:** This is a very important little bit of material here; it's critical.

**The Chair:** Questions and comments on this particular amendment?

**Mr. Tascona:** Well, I don't know how to comment on this. The parliamentary assistant says it assists in the identification of a pit bull and, to be fair to the parliamentary assistant, there is no doubt that all the Liberal amendments that have been put forth are aimed at dealing with the issue of identifying and making it easier—or, if one could put it another way, making it more difficult—for the person in charge to deal with this particular issue.

Government motion 13 deals with determining whether a dog is a pit bull. It goes into specific breed standards. In their other motion, it has also moved into dealing with the findings of fact. Number 17 says, “Findings of fact in a proceeding ... shall be made on the balance of probabilities,” which is a civil standard. Then it goes on in their amendment 21 to insert onus of proof on pit bulls. They've moved it from 19 and tried to hide it under section 4, that the onus is still on the owner with respect to whether a dog is a pit bull. Then it goes on under section 19, which I believe is government motion number 34, to come up with documentation from veterinarians to deal with the identification of a pit bull.

So everything is directed toward making sure that the standard—and I think I share the view of Mr. Kormos—is lowered with respect to what could be determined to be a pit bull. Now, this bill was drafted specifically to deal with this issue. I would have thought that it was drafted initially to deal with the issue that's before us today. But they've made a fairly fundamental change because they've defined it as a class of dogs, and they have identified specific dogs. I guess in legal terminology, when you're dealing with a judge, he says, “I'm trying to cover all the bases.” That's what this is; they're covering all the bases, so if you don't fall within “pit bull terrier,” because we don't know what that is and they don't know either, then they have three specific dogs, and then they go in with clause (e): “We're going to cover all the bases, so if we get anything that has the appearance and physical characteristics of the dogs referred to above”—and we really don't know what a pit bull terrier is—“then, basically, it's a pit bull.” Then you have the reverse-onus provision.

That's really what this is dealing with. I think that if it assists in the identification of what a pit bull is, to be fair, that's really a stretch in terms of what we're dealing with

here. They've really put it in the hands of a judge to make a lot of subjective decisions by the way they've changed a lot of the evidentiary and fact-finding procedures in their amendments.

**Mr. Kormos:** I want to point out that perhaps the wise observation was the one made by Mr. Wilkinson as to the time and his effort as a government member to effect a lunchtime recess, perhaps with a view to resolving what is very soon going to become a serious impasse.

In 17 years, almost 18, of participating in committees, this is the first time during the course of clause-by-clause that I've ever witnessed the failure of the government to put forward a civil servant, a legislative drafter, to assist the committee in its understanding of legislation that's before it or an amendment. During the course of years of committees sitting in this Parliament, the parliamentary assistant has made himself available, understanding that the parliamentary assistant can't be expected always to understand all the minutiae, but that's why staff are here.

Before the eight-minute recess, before the government started introducing its amendments, this room was just crawling with high-priced civil servants who, in the normal course of committees' functioning, would be sitting at this table responding to questions like the questions that are being put now.

Mr. Zimmer, this has been, notwithstanding an adversarial process, one which has moved along, in my view, within a reasonable period of time today. I want to know whether the government is going to put people at the table who can answer our questions about this, and perhaps other amendments that you're putting forward, or not. Quite frankly, if I can't have that resource available to me, I'll be damned if I will be forced into voting for legislation or amendments to legislation about which this committee doesn't have adequate information.

Clearly, the parliamentary assistant doesn't know the answers, and that's fine. His script was rather limited on this one, and that's fine. I have no quarrel with that, but I expect those same civil servants who were keeping seats warm here 20 minutes ago to be made available now. Quite frankly, I am concerned about what I presume to be the parliamentary assistant's interference with the clear line between the civil servants and political staff.

I'll ask Mr. Zimmer, are there any civil servants from the ministry in this room currently?

**The Chair:** Please direct your comments to the Chair.

**Mr. Kormos:** Go ahead.

**The Chair:** As the committee appears to—

**Mr. Kormos:** Oh, no, wait a minute, Chair. Either Mr. Zimmer wants to answer that or he doesn't, but it behooves him to speak up and say, “I don't want to answer that” or “I will answer it and here's the answer.”

**Mr. Zimmer:** I'm a member of the committee, not a witness.

**Mr. Kormos:** You're a parliamentary assistant. You're paid the big bucks, Mr. Zimmer. If you can't stand the heat, get out of the kitchen.

**The Chair:** As the Chair cannot speak for any member of the committee, it does note that we are past the

scheduled time for recess and this matter will remain in discussion when we resume. This committee stands in recess until 1 o'clock.

**Mr. Kormos:** Thank you, Chair.

*The committee recessed from 1208 to 1300.*

**The Chair:** Let's come back to order, please. Thank you for returning from our lunch recess. We're still considering page 12 in our package, the government motion put forth by Mr. Zimmer regarding clause (1)(2)(e).

**Mr. Zimmer:** Mr. Kormos has some questions to ask counsel. I have Mr. John Twohig. Abi Lewis, you will recall, gave the technical presentation at the front end of this, and I also of course remind you that legislative counsel is with us today too.

**Mr. Kormos:** I will not call upon legislative counsel to do the job that these people do; nor will we call upon them to do the job that she does. Right, legislative counsel?

**Ms. Mariam Leitman:** That's right.

**The Chair:** Be that as it may, Mr Kormos.

**Mr. Kormos:** OK. We're looking at the government amendment identified as number 12.

**The Chair:** Number 12 in your package, referring to subsection 1(2) of the bill.

**Mr. Kormos:** That's clause (e). We know what words are being deleted. You're deleting, and please correct me if I'm wrong, "that belongs to a class of" before "and." The specific question is, what does this amendment do that the existing clause (e) doesn't do in the bill?

**Mr. Abi Lewis:** To answer Mr. Kormos, clause (e), as we know, is a basket clause that is really aimed at capturing crossbreeds. What we are striving to do is simply to strive for simplicity, which is in consonance with well-established principles of statutory interpretation.

If we read that particular subsection 1(2) and clauses (a), (b), (c), (d) and (e), it's obvious that we are referring to a dog, and the issue about a class is a reference to the physical characteristics that are essentially similar to the enumerated clauses (a) to (d). Obviously, the proposed motion does make it simpler in terms of the fact that we are talking about a dog and not any artificial class of dogs. It does clarify what the legislative intent is all about, which is a reference to a dog in consonance with clauses (a), (b), (c) and (d).

**Mr. Kormos:** If I heard you correctly, I believe the operative word is "simpler."

**Mr. Lewis:** Yes.

**Mr. Kormos:** So this amendment creates a lower hurdle, if you will, to overcome in the course of defining a dog as a pit bull.

**Mr. Lewis:** I wouldn't say that it creates a lower hurdle, because the issue of whether or not, to use your own words, the proposed motion will weaken or strengthen the definition I think is a matter of conjecture. It's a matter of how you try to describe what the legislative intent is. What we have striven to do, as a result of the hearing, is to make sure that clause (e) is clarified

to the extent of making meaning when you read it in consonance with the second motion that Mr. Zimmer is about to propose.

**Mr. Kormos:** Gotcha. But really smart and experienced people drafted the bill. This isn't a casual phrase, "a member of a class of dogs," and I think I understand what that means as a test for a dog to be defined as a pit bull. I said you reduced the height of the hurdle. You eliminated one of the tests, didn't you, by eliminating the requirement that it be a member of a class of dogs?

**Mr. John Twohig:** It depends on what you think is a class. A class could be populated by one dog. The words are superfluous.

**Mr. Kormos:** OK. Was there anything that came up in the course of the committee hearings that prompted the amendment? Is this amendment a response to anything in the committee hearings?

**Mr. Twohig:** Nothing specifically that I recall.

**Mr. Kormos:** It was just a reflection on clause (e)?

**Mr. Lewis:** Nothing specific, but at the same time during the hearings we've had deputations from various people about the fact that when you talk about a pit bull—I mean "pit bull" is a generic term. In essence, the proposed motion is simply meant to capture the reality that we are talking about a dog that conforms to the characteristics listed in (a) to (d).

**Mr. Kormos:** One other question, and I'm hoping it's my last to you folks on this issue: You talk about appearance and physical characteristics, and at least to me those overlap, because physical characteristics are both external and internal. So at least the external physical characteristics are part and parcel of appearance. Why was the characteristic of temperament or demeanour not included?

Again, I appreciate that in the original bill you didn't include it, but so much of everything we heard from everybody on both sides, if I can put it that way, of this issue talked very much about temperament and demeanour of an animal in addition to the physical characteristics and appearance. So why as legislative drafters, either in the first instance, but certainly after hearing everything you heard and read during the course of these committee hearings, would you not as an amendment have said, "Hey, we should also be amending that to include temperament and/or demeanour?"

**Mr. Twohig:** Maybe I'll take a crack at this first, Mr. Kormos, and then Abi can add anything he wants.

I just don't think we've ever seen those words used in any of the other legislation that we've looked at. Other bylaws, other state laws etc. always use this type of terminology, and that was the terminology we borrowed.

**Mr. Kormos:** So it's not a matter, then, of not being aware of the temperament or demeanour issue, but you regarded it as superfluous?

**Mr. Twohig:** I guess we've just never seen it, and the cases we found never really examine that issue. It tended to concentrate on these types of words.

**Mr. Kormos:** Now that we're speaking of other legislation, clearly one of the reference points for the ministry was the Kitchener bylaw. Is that fair?

**Mr. Twohig:** One of them, yes.

**Mr. Kormos:** Just in this area of reference to other legislation, it excluded Staffordshire bull terriers that are registered with the American or Canadian Kennel Clubs and American Staffordshire terriers that are registered with the American or Canadian Kennel Clubs. In other words, it said, “Staffordshire bull terriers except ones that are registered.” This being the reference point that it was, why did you not contain in your legislation, around this whole section of definition, that exception as well?

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**Mr. Lewis:** The simple answer to that is that Bill 132 builds upon and improves on the Kitchener bylaw. In this sense, while it may be the starting point in terms of looking at what the regulatory framework should be in terms of a ban, we were not limited only to Kitchener. At the same time, we looked at what was taking place in other places, such as Winnipeg.

**Mr. Kormos:** You looked at Kitchener and saw those two exceptions, those two exclusions, right? Of course you did, didn't you?

**Mr. Lewis:** Oh, yes.

**Mr. Kormos:** Do you consider them flaws in the Kitchener legislation, in the Kitchener bylaw?

**Mr. Lewis:** Well, I believe that in any legislative framework, usually there are policy objectives and considerations that go into play. All I can say is that we, as policy advisers, consider all the issues at play before the government made a decision.

**Mr. Kormos:** This is helpful, because I have to know—and I appreciate that you're legislative drafters. You're many other things than that, but in the context of what we're doing right now, you're the drafters of the legislation?

**Mr. Lewis:** Well, the legislative counsel usually drafts.

**Mr. Kormos:** OK, you're the legal designers? Granted, the office of legislative counsel does the final draft, but you design that legislation, and you designed this legislation.

**Mr. Twohig:** That's fair.

**Mr. Lewis:** Yes.

**Mr. Kormos:** Specifically, then, in your design of this legislation, you omitted the Kitchener exceptions of those two breeds: Staffordshire bull terrier and American Staffordshire terrier, registered?

**Mr. Lewis:** I wouldn't use the word “omission.” I would say that, definitely, the decision-makers considered all options for the present Bill 132.

**Mr. Kormos:** I understand. I by no means want to be unfair and I don't want to overly belabour the point, but for me, this is important. I hope I'm on the right track, because you're saying this legislation, Bill 132, is regarded by you as an improvement on all of the other models that are out there. In other words, you took all the models, including the Kitchener bylaw, and you didn't have to necessarily follow the Kitchener bylaw to the letter, because you wanted to improve on it. Am I correct in understanding that?

**Mr. Lewis:** And improving on it, considering the policy objectives of the government.

**Mr. Kormos:** OK. Let's still, then, get to the exceptions in the Kitchener bylaw for these two purebred breeds. They aren't included in Bill 132. I understand that. In the design that you submitted to legislative counsel, it's obvious that you very specifically did not include—if I can call them—the Kitchener exceptions.

**Mr. Twohig:** Mr. Kormos, it's not us who are giving the instructions. We put the options to government and government made the decision.

**Mr. Kormos:** OK. Quite right. So what you're telling me, then, is this was a policy decision and not a legal decision?

**Mr. Lewis:** Well, not to belabour the point, any legal decision does have a sort of policy underpinning, and sometimes it's not that you can really compartmentalize them in terms of—I see the point you're trying to make in terms of analysis, but, really, our role is simply to provide the government with the information necessary to make an informed decision, and I think that's what we've done.

**Mr. Kormos:** Yes, of course. Just like you give the government advice as lawyers, you give them advice as lawyers based on the effectiveness of the legislation, the enforceability of it, the legality of it, the constitutionality of it. Is that the sort of thing you do? You do that as a part of your job, don't you?

**Mr. Twohig:** Yes, we do.

**Mr. Kormos:** Of course. It would be improper for you to tell me what advice you gave the government or the ministry, wouldn't it?

**Mr. Twohig:** Yes.

**Mr. Kormos:** But did you give them advice about the inclusion or non-inclusion of the Kitchener exception clauses? Did you give them advice about that?

**Mr. Twohig:** Even the fact of giving advice I think may be disclosing solicitor-client privilege.

**Mr. Kormos:** OK. As a lawyer, do you see the exceptions contained in the Kitchener bylaw making that bylaw, with respect to those two very restricted areas, inferior to Bill 132? Do they detract from the goal? Because the goal is the same: to ban pit bulls.

**Mr. Lewis:** Mr. Kormos, I think what you are trying to ask us to do is to pronounce a judgment on what we have done in relation to the government. We have provided the information that has enabled the government to make an informed decision on Bill 132, and then Bill 132, in my own humble opinion, should stand on its record.

**Mr. Kormos:** All right. When talking very specifically about the Kitchener exceptions, it's you who told me about Bill 132 being an improvement on the existing legislation. I guess that's all I was asking. Does the omission or the non-inclusion of exception clauses for these two breeds of dogs that Kitchener has—does that make Bill 132 an improvement on the—

**Mr. Zimmer:** Mr. Kormos—

**Mr. Kormos:** No, let me finish the question first. I don't interrupt you.

**Mr. Zimmer:** You're going too far. They've said that they've provided advice to the government, they've provided options. It was the government's political decision to choose among a variety of options. It's not up to legal counsel to ask you further—

**Mr. Kormos:** Chair, if I may, I'm not quarrelling with the fact that these two gentlemen, in the context of what we're talking about now, merely give advice, and I'm not asking for the advice that they give. But these are two very experienced lawyers who are smart and capable, who have been around legislation and watched it grow and sometimes crash, but watched it grow, watched it soar, watched it crash—

**The Chair:** Can you clarify for the Chair what point you're discussing?

**Mr. Kormos:** I want to know from them—because they're civil servants, available to this committee. I can't ask legislative counsel the questions I'm asking these people, because it's not her job, in a sense, to give me advice around the legal implications etc. of this particular bill. It is, however, within the role of these gentlemen. We went through this, remember, Mr. Zimmer? It is within their role.

They're the ones who said this Bill 132 was an improvement on the legislation that was out there floating around. They made the general observation, so let's break it down. Let's focus in on this definition section. They expressed an opinion saying this was an improvement. Far be it for me to dispute that. I want to know whether they are arguing, whether they are putting forward the position that the omission of the two exceptions is an improvement.

**Mr. Zimmer:** Mr. Kormos, it was the government that put forward the legislation, and we did that after considering evidence, including legal advice from our counsel. The decision about what to put forward is a political decision, and I don't think it's proper for you to ask them to comment on what they think of the political decision that was made. They provided legal advice and options. We did the choosing and we brought the legislation forward.

**Mr. Kormos:** Well, gentlemen, I think the parliamentary assistant has just told you to scratch that one. Sometimes you've just got to take a pass, and that's what he is saying. So there I am, left frustrated, left without the benefit of the wise counsel of these two counsel. But I suspect the parliamentary assistant's interventions speak far louder and more eloquently than anything these gentlemen would have said were it not for his intervention.

1320

**The Chair:** Thank you. Are there further questions and comments?

**Mr. Kormos:** No, sir. Mr. Tascona may have some.

**Mr. Tascona:** I appreciate your being here. I just want to follow up, if I could. In the drafting of this, I guess

there was some difficulty with the terminology, "a member of a class of dogs." Is that correct?

**Mr. Twohig:** I don't know that it's a problem. It's just that it's superfluous. It's not necessary.

**Mr. Tascona:** Why was it drafted that way in the first place if it was not necessary?

**Mr. Twohig:** We're not perfect.

**Mr. Tascona:** You're not perfect? Oh, OK.

**The Chair:** Further questions and comments?

**Mr. Tascona:** Mr. Chairman, I'm just dealing with the situation here. So you say it's superfluous in the sense of a dog—how is it superfluous? The language is totally different. To me, it's not superfluous. I think there's an intent there in terms of how they were trying to deal with a particular class of dog because they categorize, in the definition, certain types of dogs. If you're saying a class of dog is meant to cover all dogs—is that what you're saying to me now? That was the original intent, to cover all dogs, "a class of dogs"? Because that's what will happen now: All dogs will be covered.

**Mr. Twohig:** I don't think it was ever meant to cover all dogs. It was meant to cover crossbreeds that had the characteristics of the dogs listed in (a) through (d).

**Mr. Tascona:** That was the intent, but it was never drafted that way. It was drafted as "a class of dogs."

**Mr. Twohig:** I don't have the words in front of me, but I think perhaps the Winnipeg bylaw used that expression. On reflection, it doesn't—

**Mr. Tascona:** You may have taken it from the Winnipeg bylaw—"a class of dogs"?

**Mr. Twohig:** Yes, I think we saw it somewhere. But I don't know that it adds anything.

**Mr. Tascona:** Obviously, there was a source for it and that's what I'm trying to get at. If it was the Winnipeg bylaw—we had the Kitchener bylaw. I'm very curious where that language was taken from.

**Mr. Twohig:** Unfortunately, I don't have the Winnipeg bylaw here in front of me but I think that's where the words may have come from.

**Mr. Lewis:** If I may add, this particular motion simply demonstrates what we talked about: an improvement, whether it's a Kitchener bylaw or a Winnipeg bylaw, to clarify that what we are really referring to is a dog that has those characteristics and appearance in reference to clauses (a) through (d). It's really meant to be a clarification. It doesn't have, in my opinion, the kind of substantive connotation that one may link to it.

**Mr. Tascona:** I understand that and I can accept that, but it's just the source I'm interested in. If you're saying it may have come out of the Winnipeg bylaw, is it possible for you to provide to us where that particular drafting language came from initially?

**Mr. Twohig:** We can try and get it for you, sure.

**Mr. Tascona:** I would appreciate that, because that would be helpful. I have no further questions or comments at this point.

**The Chair:** Further questions and comments?

**Mr. Kormos:** Thank you, gentlemen.

**The Chair:** Shall the amendment carry?

**Mr. Kormos:** Recorded vote, please.

### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare this amendment carried.  
Further amendments?

**Mr. Miller:** Are we at 12A now?

**The Chair:** I think we are at 12A. Would that be yours, Mr. Miller?

**Mr. Miller:** I move that the definition of “pit bull,” as set out in subsection 1(2) of the bill, be amended by adding the following closing flush after clause (e):

“but, despite clauses (a) to (e), does not include any dog that is registered as a purebred dog by the Canadian Kennel Club.”

In explanation, the Canadian Kennel Club is the organization that defines breeds in Canada. As we’ve already heard in these proceedings, a pit bull is not a breed, but it makes sense to exclude the purebred dogs that are registered by the Canadian Kennel Club. As I said, the Canadian Kennel Club is the organization that determines what a breed is in the country.

The government has already voted down the motions to drop the breed-specific part of the legislation that we were trying to get passed, but I ask the government members to not make a sham of the four days of public hearings we’ve had, all the experts and individuals who have come before this committee and given testimony. You just have to refer back to the research done by the research department to see all the points that have been made. Why don’t we make the best law possible?

This is very much along the lines of what Kitchener has done as well, excluding purebred dogs. Purebred dog owners are not the problem. This motion would improve the bill. My feeling is we should not penalize responsible owners of purebred dogs, and this motion would use the authority that determines what a purebred dog is in Canada—the Canadian Kennel Club—and exclude those purebred dogs from this definition of pit bull.

**The Chair:** Questions and comments?

**Mr. Kormos:** I support this amendment. The goal here, surely everybody’s, is to focus as many resources in as efficient a way as possible on dealing with vicious and dangerous dogs. I’ve said it before and I’ll say it again: The breed-specific ban will result in inappropriate expenditure of those resources and exhausting of those resources focusing on the breed, to the detriment of identifying and dealing with vicious dogs that may not be of that breed.

The committee heard and read frequent references to what it means for a dog to be a purebred dog in accordance with the Canadian Kennel Club or the American Kennel Club or the United Kennel Club.

We also heard of no attacks by purebred anything. If anything, what we heard was of attacks by dogs that were misidentified as pit bulls or that were difficult to clearly identify as pit bulls. That’s not to say, whatever these pit bulls are, that some of them weren’t involved—I’m confident that some were involved—in some of these vicious attacks.

I’m concerned. I said this in our submissions to the committee when the Attorney General was here last week. I’m concerned because we’ve learned that there is virtually no enforcement of the Dog Owners’ Liability Act as it now stands—victim after victim after victim mauled by dog after dog, vicious and dangerous dog after dog of any number of breeds, and no court proceedings being initiated. That implies that there are scarce resources. Mr. Kaye gave us a two-page piece on the shortage of justices of the peace—it is a notorious situation here in the province of Ontario—and about increasing waits for court time.

We heard from animal control people, amongst others, about the burden of impounding any number of dogs for periods as long as six to seven months, those pounds inevitably being maintained by municipalities, which are going through their well-publicized budget exercises right now.

I suggest to the committee that the screening and vetting process of the Canadian Kennel Club and its counterparts, the American Kennel Club and the United Kennel Club, and the legislated role they perform, is precisely the sort of thing this government, this Parliament, should be relying upon to assist it in focusing resources where they belong: on those vicious and dangerous dogs.

1330

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Kormos:** Recorded vote, please.

### Ayes

Kormos, Miller, Tascona.

### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.  
Mr. Zimmer?

**Mr. Zimmer:** Number 13: I move that section 1 of the bill be amended by adding the following subsection:

“(2.1) Section 1 of the act is amended by adding the following subsection:

“Same

“(2) In determining whether a dog is a pit bull within the meaning of this act, a court may have regard to the breed standards established for Staffordshire bull terriers, American Staffordshire terriers or American pit bull terriers by the Canadian Kennel Club, the United Kennel

Club, the American Kennel Club or the American Dog Breeders Association.”

This proposed amendment would clarify the objective standards that are to be used in identifying pit bulls. The organizations named in the amendment all keep breed specifications for the breeds identified in the definition of pit bull. Reference to the standards of these organizations will help to ensure that only those dogs that fit into the pit bull class will be caught.

**The Chair:** Questions and comments?

**Mr. Kormos:** Yes, a question: Does this amendment do anything? That is to say, why wouldn't a court be able to refer to the breed standards created by those organizations? You're suggesting that this amendment somehow opens a new door for a court and I'm saying to you that I don't think so. This amendment does nothing because, heck, the court can consider any evidence it considers relevant, I think. Have I got that right? The court can consider any evidence it considers relevant. So I put to the parliamentary assistant or to the ministry counsel the question: How does this amendment create any new authority, power etc. that the court wouldn't already have?

**Mr. Lewis:** If we consider the language of the proposed section, there is no doubt that it's inviting the court to make a determination based on the breed standards of the four organizations. In my own opinion, it's an interpretive guide to the court in determining what constitutes a pit bull.

**Mr. Kormos:** The word, interestingly, is “may,” and I appreciate that. By this legislation, is the government endorsing as credible evidence, as gospel, the standards that are published by these various organizations? Is the government branding them as authoritative?

**Mr. Lewis:** If we consider the Canadian Kennel Club, under the federal legislation, the Canadian Kennel Club is recognized as a dog registry, and the same thing with the other three American dog registries. The proposed motion is simply to reflect what has been said about the fact that the breed standards of these organizations are relevant to what determines what constitutes a pit bull.

**Mr. Kormos:** Does this amendment still leave the door open for a court to decline to consider or receive as evidence the standards for these breeds established by the respective organizations in the amendment?

**Mr. Lewis:** The key word used is “may,” and “may” is really permissive. So it's left to the discretion of the court to decide whether or not in a particular case—in other words, the court will have to make its own determination as to whether or not to consider the breed standards of those organizations in determining a particular case before it.

**Mr. Kormos:** So a cranky JP, or an incompetent one whose political patronage appointment reeks and reels, could say, “I don't care what the Canadian Kennel Club says. I think this is a pit bull?”

**Mr. Lewis:** In my own opinion, the statutory provision is based on the court doing what is considered to be objective. So I really don't have any comment

about the behaviour of JPs, other than the fact that they are supposed to be the guardians of the administration of justice in this province.

**Mr. Kormos:** Fair enough, sir. I suspect I have more experience with cranky JPs who are political appointments than you probably do.

**Mr. Tascona:** The way this is drafted, it says “a court may have regard,” so it's giving the court discretion to have regard; do you agree?

**Mr. Lewis:** Yes. “May” simply denotes discretion.

**Mr. Tascona:** OK. Why is this particular provision silent on a pit bull terrier, which is clause (a) of the definition? It doesn't deal with pit bull terrier. Why have you left that out?

**Mr. Lewis:** The breed standards that we know of recognize the dogs that have been listed in the proposed section.

**Mr. Tascona:** So there are no breed standards for (a) that you're aware of?

**Mr. Lewis:** We have only dealt with the four known dog registries that have been determined to be the policy reference in terms of analyzing whether a particular dog will constitute a pit bull.

**Mr. Tascona:** No, no, you've only dealt with three. You're dealing with (b), (c) and (d) in this amendment. You're not dealing with (a), which is the pit bull terrier.

**Mr. Lewis:** Correct. You're right. But what I'm saying is that—

**Mr. Tascona:** My question is, why? Why have you excluded it?

**Mr. Lewis:** It's been excluded because, to the best of my knowledge, those organizations don't have a breed standard that we can reference.

**Mr. Tascona:** So in other words, you don't have any evidence or any information as to what a pit bull terrier is; that's what you're saying.

**Mr. Lewis:** No. I think we need to consider what is the objective of this particular statutory provision. As I've said, it's supposed to be an interpretive guide for the court to come to a conclusion as to what constitutes a pit bull. Again, the key point is that it's an interpretive guide.

**Mr. Tascona:** I recognize that, but there are four particular classes of dogs that are mentioned in this particular definition. One of them is a pit bull terrier, and you've excluded that from what the court can consider in its discretion in determining and identifying what a pit bull is. I've asked you why, but I put to you that the reason why you've excluded pit bull terriers is because you don't really know what they are.

**Mr. Lewis:** Based on the literature that we have, we do know that a pit bull is what we have defined it to be in Bill 132.

**Mr. Tascona:** Yes, I know, but what is “(a) a pit bull terrier”? What is a pit bull terrier?

**Mr. Lewis:** The basket clause does indicate that a pit bull terrier—

**Mr. Tascona:** That's not the basket clause; (e) is the basket clause; (a) is identified as a pit bull terrier, which

you've excluded from the court's discretion for considering standards. You don't have a standard for a pit bull terrier because you don't know what it is. Why don't you just agree? Do you know what it is? Do you know what a pit bull terrier is?

1340

**Mr. Lewis:** A pit bull terrier, in my own opinion, is what is in the legislation—

*Interjection.*

**Mr. Zimmer:** I think, in fairness, one ought to let the witness answer the question when he launches into an answer.

**Mr. Kormos:** Gosh, why didn't you let them answer my questions?

**Mr. Tascona:** Continue. I'm dealing with clause (a). I'm not dealing with the basket (e). I'm dealing with (a), which is a pit bull terrier, which is an identified class of dog like (b), (c) and (d). You've put (b), (c) and (d) under this amendment as saying you can consider the breed standards for those dogs. I'm saying to you, you don't have any breed standards for (a) because you don't know what it is.

**Mr. Lewis:** Those standards were put in there, in my own opinion, based on the depositions before this committee.

**Mr. Tascona:** So you don't have any data whatsoever in terms of what a breed is for clause (a), do you? That's why it's exempted; correct? I'm not trying to trick you. That's the obvious answer.

**Mr. Lewis:** I'm not a dog expert. Based on the information we have, we have crafted legislation that has captured all the essential elements of the statutory framework that we have relating to enforcement—

**Mr. Tascona:** But then you've gone ahead and put a guidance directive in your legislation for judges, saying, "You may consider for the (b), (c) and (d) type of dogs the standards." But you don't have that for (a) and I'm just putting to you that's because you don't have any evidence on that, do you?

**Mr. Lewis:** It's obvious that we don't have it for (a), but in terms of whether we have evidence—

**Mr. Tascona:** You've answered the question; I accept that.

My next point is, under section 19, your amended one, you've got a provision in there to be able to receive veterinary evidence—OK, receivable as evidence—without proof of signature and without proof that the signature is a member of the college, which I'll deal with later.

You've got a specific procedure in there that you can get evidence in to help you identify what a pit bull is, but here you don't have that type of procedure. I'm asking you, how are you going to be able to get this evidence in on breed standards? Is it going to be in the evidence part of the case or is it going to be in the argument part of the case? How are you going to get this evidence in? Have you thought about that?

**Mr. Lewis:** Before the motion was made, we gave thought to what it is supposed to achieve. In my own

opinion as a lawyer, the word "evidence" is a loaded term. I think it's very difficult to know what you mean by "evidence." If you are saying that these three organizations don't have standards, then—

**Mr. Tascona:** Come on, come on. You addressed it under section 19 very clearly. You've put in a specific provision. You put your mind to it: "Here's how we're going to put in veterinary medicine evidence to identify a pit bull." You addressed that issue. All I'm saying to you is, and to assist us here—because this is going to probably be a very contentious issue with respect to the courts. People are going to say, "OK, here I have the breed standards for this particular type of dog. I got it off the Internet." It may not be signed. It may just be the breed standards for this type of dog. I'm asking you, how come you didn't address your mind in terms of trying to allow that in as evidence like you did for veterinary evidence?

**Mr. Lewis:** The simple answer, in my own respectful opinion, is that it is an interpretive guide and the language we have used is similar to interpretive provisions in other pieces of legislation in terms of inviting the court to determine what to do in a particular circumstance.

**Mr. Tascona:** I think what you've done is, you've put in a major hurdle with respect to trying to get that type of evidence in. You've given a court the discretion, but you haven't put in a method for the parties to be able to get that in, because that is a key piece of evidence in terms of identifying what a pit bull is, as it is for section 19, your changes.

I'm just putting to you that I think you could have put a little bit more thought into it. I think you've been playing to the hearings in a little bit of a way, to give them some discretion, which they can use or not use, with respect to the breed standards. You've put a lot more thought into it in terms of how you can make sure you get that evidence in for a vet as opposed to the breed standards for these particular dogs.

Those are all the comments I have.

**The Chair:** Mr Kormos?

**Mr. Kormos:** I have no questions.

Chair, I move that government amendment number 13, amending subsection 1(2.1), be amended by deleting the word "may" and replacing it with the word "shall."

**The Chair:** Mr. Kormos, do you want to speak to that motion?

**Mr. Kormos:** Mr. Tascona, of course, has hit the nail on the head. As far as the Canadian Kennel Club, the United Kennel Club, the American Kennel Club and the American Dog Breeders Association are concerned, there's no such breed of dog as a pit bull, which of course makes it impossible for them to be called upon to be referred to in terms of a standard.

But what concerns me here is the word "may," because with the word "may," this is nothing more than window dressing. Of course, a court may consider what authoritative and legislative bodies like the Canadian Kennel Club, the American Kennel Club, the United Kennel Club and—I can't speak for the American Dog

Breeders Association. I don't know whether it's legislated. But of course a court can receive evidence from these bodies.

My concern is that with this amendment, it's clear, because the government very specifically chose "may," that a court can also decline to receive and consider evidence from these bodies. Come on, let's make sure that the law is applied fairly and with a modicum of predictability. If we are being told by the government—and I'm with them on this—that these bodies, the Canadian Kennel Club etc., are authoritative bodies, that their expertise speaks for itself, that they can be counted upon, that they are the authority for determining what constitutes a particular breed or not a breed, I'm with them.

You heard my references to these organizations in amendments that I put to the committee before. But don't play games, I say to the government, by making it discretionary. What this means is that a court—should a party to litigation around this legislation, whether in the pursuit of provincial offences or otherwise—may receive and consider as evidence the breed standard by the Canadian Kennel Club or it may not. You're either endorsing these breed standards or you're not.

I put it to the government that they're trying to have it both ways. This is the ultimate in sucking and blowing at the same time. You want to say, "Oh, yeah," because you want to appear to be benign to any number of dog people, if I can call them that, "we're recognizing the Canadian Kennel Club, but maybe we're not." I say what's good for the goose is good for the gander. Let's say that in proceedings a court "shall"—in other words, we're accepting as authority the breed standards by these organizations because that's all there is.

Mr. Tascona made reference to the veterinarian, and we're going to talk about that, I think, with some intensity when we get to that amendment, section 19, but surely the veterinarian has no other standards to use in determining whether a dog is a member of a particular breed than the breed standards prepared by these organizations.

I'm asking the government members to very seriously and knowing full well—and the government members can consult with any number of counsel or take a look at Black's Law Dictionary, the Canadian equivalent. There's the discretionary "shall" and there's the mandatory "shall." I appreciate that. It's not been a clean-cut path, but I'm suggesting here the word "shall," meaning that yes, the court has to give effect to the breed standards because that's all there is, assuming that they're relevant. It doesn't undermine the relevancy test. I'm assuming it's relevant and I'm sure in most cases it would probably be.

**1350**

I think the government had better think about references that are not appropriate. I think the government should perhaps even have a huddle and consider the "shall" on this one.

**The Chair:** Questions and comments?

**Mr. Kormos:** Recorded vote.

**The Chair:** Recorded vote. Shall the amendment to the amendment carry?

**Ayes**

Kormos, Miller, Tascona.

**Nays**

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment to the amendment lost.

**Mr. Kormos:** I haven't spoken to the actual amendment.

Look, it's clear what the government is acknowledging, and that is that the Canadian Kennel Club, the United Kennel Club, the American Kennel Club and the American Dog Breeders Association are the authoritative bodies in terms of what constitutes a particular breed of dog. You heard that from any number of submissions during the course of this committee considering Bill 132. Similarly, you can't ask a court to consider these organization standards for your clause (a) small-p pit bull, because from these authorities' point of view there is no such breed as a small-p pit bull, which is why you haven't included that.

That's the answer to Mr. Tascona's question. He worked hard, he was drilling, but he missed the motherlode, through no fault of his own. You needed a dynamite man on that one, because these authorities will say, "There is no such thing as a pit bull as far as we, as authorities, are concerned," and in the cases of at least some of them, legislated authorities; in other words, having the power by law, as I understand it—and if I'm wrong, somebody should jump up right now and say, "You're wrong," but having the legislated authority to determine what constitutes a breed of dog. That's federal legislation. That's Jean Chrétien and Paul Martin kind of legislation, I presume.

The government throws this into the hopper, knowing full well that the breed definitions may be of little comfort in their pursuit of pit bulls; leaves it as purely discretionary and opens the barn door for clever counsel to persuade a court not to consider the breed standards because, after all, the legislation only says "may."

I've got to tell you, Chair, I am not supporting this amendment, because clearly, unless the government says "shall" and gives the appropriate seal of authority to these organizations—if it only leaves it up in the air as discretionary, the courts can consider this evidence anyway. Counsel will have no problem, using the federal agriculture act and the powers it gives the Canadian Kennel Club, arguing, "Your Worship, you've got to listen to what they say because the agriculture act federally says they're the organization that determines breeds of dogs and defines those breeds." So the amendment, without making it mandatory—"shall"—

does zip, nada, zero, and I will not, for one, be supporting this amendment. This is a ruse.

**The Chair:** Further questions and comments on the original amendment?

**Mr. Tascona:** Recorded vote.

**The Chair:** Recorded vote.

Shall the original amendment, number 13 in your package, carry?

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare the amendment carried. Number 14; Mr. Zimmer.

**Mr. Zimmer:** I move that the heading immediately before section 4 of the act, as set out in subsection 1(4) of the bill, be struck out and the following substituted:

“Proceedings—Part IX of the Provincial Offences Act”.

The proposed amendment is a technical amendment and meant to more properly reflect the nature of the proceedings under subsection 1(4) of Bill 132. Currently, subsection 1(4) of Bill 132 specifies that the heading immediately before section 4 of the act be “Offence proceedings.” However, these proceedings under section 4 of the act are not offences, but are order applications that cannot result in fines or a jail term being imposed on a dog owner, and the section heading should reflect that.

**Mr. Kormos:** The act currently says “Proceeding against owner of dog.” I appreciate that your amendment, offence proceedings, in view of the fact that this isn’t the quasi-criminal aspect of the provincial offences proceeding—but you weren’t happy with “Proceeding against owner of dog” that’s in the current act?

**Mr. Zimmer:** I’ve covered that in my remarks.

**Mr. Kormos:** You made no reference to the current act, “Proceeding against owner of dog,” did you? I guess you think you did.

If I may, Chair, I’m going to support this amendment, because to have left it as “offence” would have been misleading. They changed my mind.

*Interjection.*

**Mr. Zimmer:** They’re deleted in the current bill.

**Mr. Kormos:** They’re deleting—?

**Mr. Zimmer:** They’re deleted.

**Mr. Kormos:** What’s deleted?

**Mr. Zimmer:** Mr. Twohig.

**Mr. Twohig:** I think your question was proceedings against owner. That entire section is deleted in the bill, so the heading goes too. There is no heading; it’s gone.

**Mr. Kormos:** OK. But you don’t like “Proceeding against owner of dog,” because that’s what you’re talking about in any event, right?

**Mr. Twohig:** It’s not what I like or don’t like. What you have—

**Mr. Kormos:** Well, you know what I mean.

**Mr. Twohig:** What you have in the bill is “Offence proceeding” and it’s not accurate.

**Mr. Kormos:** And that’s not correct. That’s right. It’s the non-prosecutorial proceedings.

**Mr. Twohig:** Right.

**Mr. Kormos:** OK. It’s proceedings against the owner of a dog.

**Mr. Twohig:** Right.

**Mr. Kormos:** This isn’t the biggest deal in the world, this particular amendment.

**Mr. Zimmer:** I understood it. Did you?

**Mr. Kormos:** We should have struck a deal on this amendment a long time ago. We could have speeded things up. This was an easy one.

**The Chair:** Mr. Tascona?

**Mr. Tascona:** Part IX of the Provincial Offences Act reads as follows—it’s under section 161. It says,

“Where, by any other act, a proceeding is authorized to be taken before the Ontario Court of Justice or a justice for an order, including an order for the payment of money, and no other procedure is provided, this act applies with necessary modifications to the proceeding in the same manner as to a proceeding commenced under part III, and for the purpose,

“(a) in place of an information, the applicant shall complete a statement in the prescribed form under oath attesting, on reasonable and probable grounds, to the existence of facts that would justify the order sought; and

“(b) in place of a plea, the defendant shall be asked whether or not the defendant wishes to dispute the making of the order.”

Part III is “Commencement of proceeding by information.” What you can do is, you can either ticket the person you want to charge or you can lay an information before the justice of the peace and have that information sworn before you charge that person. So that’s the procedure that you’re going with.

#### 1400

The people who have the information laid or charge people are provincial offences officers. “Provincial offences officer,” as defined under the Provincial Offences Act, “means a police officer”—so you’re giving powers to police officers to do this—“or a person designated under subsection 1(3).” Now subsection 3 is titled “Designation of provincial offences officers: (3) A minister of the Crown may designate in writing any person or class of persons as a provincial offences officer for the purposes of all or any class of offences.”

I think we heard evidence about this, I don’t think from police officers, about the job that they’re going to have to do on this. Who have you designated, or who are you thinking of designating, to do the work of charging, either by ticket or through information?

**Mr. Twohig:** My understanding is that the system already exists and there is no authority, at least in the

DOLA, to designate anyone else. There are people out there who are already designated.

**Mr. Tascona:** Well, who are they?

**Mr. Twohig:** Frankly, I don't know the full breadth and scope of who they are. They probably are police officers.

**Mr. Tascona:** Well, wouldn't you think you'd know? With respect to you, wouldn't you think the government would know? Part IX proceedings are very specific proceedings with respect to enforcement, charging people, because you're going under part III. You're going to ticket or you're going to go to an information. So I'm asking you, because this is a big issue we're doing here—the enforceability. It's the biggest issue, because the DOLA is not being enforced. Now you've gone to part III proceedings—even though you call it part IX, but it's really part III that you're going to be using.

I'm asking you, who's going to be used, other than police officers, because they're specifically said? Who are you thinking of using? Don't tell me the situation is already in place, because it's not in place. This is a brand new procedure with respect to the enforcement of dog owner liability. It's a brand new procedure which hasn't been used before. If it has been used before—I don't know how you could have used it before, because it wasn't specified. You've specifically gone to part IX, which gives you the rights under part III. So who are these other people who are going to enforce the law? You should know, because you put this amendment in.

**Mr. Lewis:** Mr. Chair, if I may speak to that, our own understanding of part IX application is slightly different from that of the honourable member. Part IX applications: That particular procedure is currently being used under the Dog Owners' Liability Act. Actually, it's specified under subsection 4(1): "If it is alleged that a dog has bitten or attacked a person or domestic animal, a proceeding may be commenced against its owner and the proceeding is one to which part IX of the Provincial Offences Act applies." What that really means—

**Mr. Tascona:** I know that. I'm asking you, who are you using to do this work? Because that's the problem on this.

**Mr. Lewis:** Currently, it's possible for a police officer, it's possible for an OSPCA officer, and it's possible for an individual to initiate part IX proceedings under the POA. That, from the information I do have, has always accorded.

**Mr. Tascona:** That's not very good. People should know how this thing is going to be enforced.

**Mr. Lewis:** That is the reason why the amendment is being proposed, to clearly indicate that part IX of the POA proceedings—

**Mr. Tascona:** I accept that.

**Mr. Lewis:** —are really different from—I mean in the part III proceedings, which is that of the offence provision.

**Mr. Tascona:** Yes. All I asked was, who have you got designated—because it's a designation order by the province. Who have you got designated to enforce this act?

**Mr. Lewis:** The designation, in my own respectful opinion, does not really apply with respect to part IX POA proceedings.

**Mr. Tascona:** I disagree with you. You ought to read the act, because you're wrong.

**Mr. Lewis:** Well, that's what the people who are currently doing it in the field tell us.

**Mr. Tascona:** It says specifically that provincial offences officers are interpreted as a police officer or a designated person by the minister of the Crown, which is the Attorney General. All is asking you is, who have you got designated?

**Mr. Zimmer:** I think you've asked him three times, and he's answered three times.

**Mr. Tascona:** Yes, he doesn't know three times, and you should know. You don't know, so what else can I say?

**The Chair:** Further questions and comments?

**Mr. Tascona:** Recorded vote.

**The Chair:** Shall the amendment carry? Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Miller, Tascona.

**The Chair:** I declare the amendment carried.

Page 15 in your package: Mr. Miller.

**Mr. Miller:** I move that clause 4(1)(b) of the act, as set out in the bill, be struck out.

Clause 4(1)(b) is "the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals." The reason we're proposing this amendment is because of the vagueness of the statement "poses a menace." I can see situations, with the vagueness of this description, whereby you may have neighbours who are having disagreements or not getting along with each other suggesting that the neighbour's dog is posing a menace.

What I would ask the government is, what exactly does that mean? It is a very vague description, and I think there'd be all kinds of problems in court just proving that. I can see all sorts of problems with that terminology. It is because of that that we want to remove that description from the bill.

**The Chair:** Questions and comments?

**Mr. Kormos:** With respect to the mover—and I'm not about to disagree with him about the vagueness of it—I do want to indicate that I'm prepared to let the court determine whether it passes the test with respect to certainty.

I say this: In contrast to clause 4(1)(a), which talks about a dog that "has bitten or attacked," if our interest in dangerous dogs, vicious dogs and dog bites is to prevent the bite, we surely need a way to identify vicious and

dangerous dogs without referring to breed. This is the government's weakness, this is the government's downfall: that it's thrown all its eggs into the breed basket.

So I, with respect, disagree with my colleague Mr. Miller on this one. I will not participate in voting against clause (b) in this particular subsection. It may not be the best—who knows?—but the courts will deal with it if it's overly vague. Don't forget, New Democrats' proposals would have made this bill more effective, tougher and better. We may end up having to paint this government, at the end of the day, as being soft on mean and vicious dogs. They may have to wear that. But I'm not going to support this.

As I say, I respect Mr. Miller's opinion on this one. I understand his position, but I cannot join in rejecting clause (b) in what I'll call the civil proceeding section of the bill, as compared to the offence section.

**Mr. Miller:** Just to respond to that, this legislation has all sorts of problems, and they've been illustrated, especially the definition of "pit bull." The fact that the pit bull terrier is not even a recognized breed has recently been pointed out. This is another situation where it's just bad legislation, and it's going to create all kinds of problems. It's going to create fights between neighbours; it's going to be used as a tool against neighbours who aren't getting along.

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I would love to hear from the government about what they think "poses a menace" means. If a neighbour's dog barks at another neighbour's, is that posing a menace? We've probably all walked down the street with dogs and had them growl the odd time. Is that posing a menace? Is the owner of a dog going to be in court because of that? That's something I would like to have some clarification on.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Miller:** Recorded vote.

#### Ayes

Miller.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.

Page 16: Mr. Miller.

**Mr. Miller:** I'd like to move that subclause 4(1)(c)(ii) of the act, as set out in the bill, be struck out; and that is, "behaving in a manner that poses a menace to the safety of persons or domestic animals."

Once again, the vagueness of this description, I believe, will just create all kinds of problems. I haven't had the government explain to me yet what "poses a menace" means, and that would be helpful because, not being the lawyer that Mr. Zimmer or Mr. Kormos are, I consider it to be quite a vague term and I can see all

kinds of problems with that use of terminology. We're here trying to make laws for the province of Ontario. We might as well make ones that work and don't just end up in significant court costs.

If you look at the research done on the case in England, you'll note that from September 1995, the English law to do with breed-specific was passed in 1991 and "in September 1995, the Daily Mail (London) reported that an estimated £10 million of public money had been spent since the act came into force in 1991." I can see we're heading down that same road. We're going to be creating an unworkable law that is going to be very expensive for the province of Ontario, very expensive and troublesome for the people of Ontario, and it's not going to accomplish the goal it was set out to do, which was to protect the people of Ontario from dangerous dogs. So I'm trying to improve the bill a little bit by removing a vague term that will be very difficult and problematic in the courts.

**The Chair:** Further questions and comments?

**Mr. Kormos:** Again, this amendment is a logical one. It's a parallel of Mr. Miller's previous amendment. I again respect his arguments about it and understand his reasoning, but New Democrats will not join in deleting this section from the amendment from the bill.

**Mr. Tascona:** I apologize. I had a class photo I had to attend to with St. Michael the Archangel from Barrie. So I apologize.

**The Chair:** You never have to apologize for going to see a school.

**Mr. Tascona:** The reason why we put this in here is it's categorically different from what's historically been in the DOLA, which is biting or attack. As I said earlier in our opening statements, language such as "poses a menace to the safety of persons" or "domestic by its behaviour" certainly are vague terms. The question is whether it'd be a subjective test that would be used or an objective test, because it may be that the judge says it's in the mind of the person who feels they are going to be harmed. That's really the definition of "menace."

The other question is whether, if it's an objective test, when you look at all the circumstances, would it be viewed as imminent danger?

My concern is—and I think probably my colleagues have stated this—based on the Liberal amendments, we're turning this into a tremendous situation of a court backlog and evidentiary problems. You can see in situations where they're going to be laying an information or ticketing somebody—and Mr. Kormos would know this because he did criminal work—they're going to have alternative charges or different counts. Whether there was a bite or an actual attack, I guess those would be the basket clauses, as our ministry advisers like to call them, in terms of getting someone convicted.

I think in terms of fairness, "a menace to the safety of persons or domestic animals" by its behaviour is far too vague and they're going to make this far too litigious in terms of what we're trying to deal with here. I think we're trying to protect people from being bitten or

attacked, as opposed to bringing in another level of test, which quite frankly is going to be very difficult. I really don't know how the judges will look at this in terms of how they want to apply it. It may come from tort experience in terms of how people get injured, and they look at it and say, "Do you use the thin skull case in terms of how a person was affected, or do you look at the overall situation?" So it's going to be very litigious. It's going to tie up the courts and I don't think it's going to serve the purpose in terms of what we really want to do in terms of trying to protect the public and make sure that we have a fair process for the people who are being charged, and also not making the situation even more difficult for crown prosecutors who are going to have to litigate this. Those are my comments on this.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**The Chair:** I thought so.

### Ayes

Miller, Tascona.

### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.  
Page 17 in your package: Mr. Zimmer.

**Mr. Zimmer:** I move that section 4 of the act, as amended by subsection 1(5) of the bill, be amended by adding the following subsection:

"Standard of proof

"(1.3) Findings of fact in a proceeding under this section shall be made on the balance of probabilities."

The proposed amendment addresses the issue of the standard of proof in order applications under part IX of the Provincial Offences Act. Currently, part IX of the Provincial Offences Act does not state the standard of proof required to substantiate an order application under this part. This leaves open the potential for confusion and inconsistency in part IX proceedings. The Ontario government would like to be sure that the standard of proof utilized by the courts under Bill 132 for part IX order proceedings is clear and consistently applied. The balance of probabilities standard is consistent with the fact that proceedings under this part of the Provincial Offences Act are not offences.

**The Chair:** Comment?

**Mr. Kormos:** I really do want to know what—part IX of the Provincial Offences Act does not codify the standard of proof. Surely this has been an issue. What is the law around the standard of proof in part IX proceedings?

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**Mr. Twohig:** Mr. Kormos, to answer your question, again, notwithstanding your earlier accolades, we are not in fact experts on every area of the law. We did consult

people who work in the ministry in this area and we asked the question, "What is the standard of proof?" We are told it's the "balance of probabilities"; it's not "beyond a reasonable doubt." Although the suggestion was made—and this is used for a host of acts: the Line Fences Act, the Dog Owners' Liability Act. The suggestion was made to make it abundantly clear and to assist those who may not ordinarily be familiar with the statute with help to state, quite frankly, what the standard is.

**Mr. Kormos:** Help us, then, because I think I'm familiar with "beyond a reasonable doubt." "Balance of probabilities" is a classic civil standard. I know I've been involved in debate around legislation where there has been, on the part of any number of governments, contemplation of yet a third standard, somewhere in between "balance of probabilities" and "beyond a reasonable doubt." Are you familiar with that?

**Mr. Twohig:** "Clear and convincing," is that it?

**Mr. Kormos:** Yes, that type of—the perception and the argument is that it's one up from "balance of probabilities." I'm prepared to concede that in the part IX proceedings, which do not have quasi-criminal consequences—to wit, fines, jail—in my limited knowledge, I'm prepared to concede that "beyond a reasonable doubt" would be an onerous standard. Others may say otherwise, others may disagree—who knows?—but "balance of probabilities" is a very low standard—I mean, not very low. It's high enough for resolving multi-million dollar lawsuits, I suppose. Was there any contemplation given to tinkering with "balance of probabilities" and any alternatives to "balance of probabilities"?

**Mr. Twohig:** I think the contemplation here was simply to reflect the law as stated. Whether the law is to be changed statutorily, that's an issue for government and for this committee.

**Mr. Kormos:** So you're telling us that the standard applied currently in provincial offences court by primarily justices of the peace is the "balance of probability" standard.

**Mr. Twohig:** We're told if they apply the law correctly, that's the standard that should be applied.

**Mr. Kormos:** Forgive me for being obtuse on this one, but do we have a handle on that? Do we have a reference point? I know JPs get directives, for instance. What I want to be clear on before we vote on this amendment is that there's no doubt about the fact that "balance of probabilities" is the standard that's applied, that it has been determined authoritatively. That's what I'm asking: Has it been determined authoritatively? Has there been litigation around what is the appropriate standard?

**Mr. Twohig:** I'm told that there has been. I don't have my fingers on the cases, but I asked the criminal law experts, the people who deal with provincial offences, more about part IX proceedings, and I was told this is the correct standard.

**Mr. Kormos:** I'm not being critical of anybody on this one. I mean, heck, this committee is codifying the

standard, and that's not done in most places, is it, or in most of our statutes? We have these various standards and there's law. So my concern is, why are we codifying it if it's already law? If it's not already the law, that could be an explanation for why we're codifying it, or if the law is unclear. So, help me. Are we to understand that there are differences of opinion, that this is unresolved? I personally am not familiar with it at all, from the Provincial Offences Act and the provincial offences court. Are there two streams of judicial authority on this? That's what I want to know. Is it still a matter that's a contest out there in the judicial world?

**Mr. Lewis:** Again, all I can say is that we did consult with the criminal law division. When we consider the fact that we have three types of proceedings under DOLA—and the whole point of bringing in Bill 132, apart from the ban component, is also to more or less improve on the legislation. All these are designed to make sure that a particular provision is intended to do exactly what it has to do.

**Mr. Kormos:** I'm not quarrelling with that. I'm not being adversarial around this one. All I'm saying is that, yes, I hear what you're saying, the civil standard balance of probabilities, that these are not the quasi-criminal types of proceedings in the Provincial Offences Act. All I'm concerned about is that we're being asked to consider this amendment and vote on it, and I'm not being assured that there is a contest out there. It seems to be that the proper place, if that amendment is going to take place, should be in the Provincial Offences Act, identifying that part IX proceedings use this standard so that there is uniformity. It bothers me a great deal. What are we saying, what is the Legislature saying, what does the act say if one provincial offences act, to wit, the Dog Owners' Liability Act, says proceedings under this portion of it shall be proceeded with using the balance of probabilities test, yet other parallel statutes—this bill's sister and brother statutes, similar provincial offences statutes—don't have that provision? Does that say something?

**Mr. Twohig:** Your question is, is there some debate, is there some controversy. I'm not aware of any. Does that mean there isn't any? I don't know.

**Mr. Kormos:** Yes, I know. I appreciate that.

Mr. Zimmer, I have concerns about being asked to vote on this and put into this Dog Owners' Liability Act the standard of proof when, as I say, it seems to me that if it's going to be codified, it should be codified in the Provincial Offences Act. I can't read minds very well, but I suspect a little bit of you might agree with that—maybe the part that's not going to be speaking right now—that it should be codified in the Provincial Offences Act, not in this particular statute. I don't know if it has ramifications or not. Smarter people than I will think about that. But to have one Provincial Offences Act codify the standard as being balance of probabilities when dozens of other provincial offences acts don't codify it, are we creating a problem here? That's all I'm asking: Are we creating a problem? If that's the law already, there's no need for the codification.

So I will not be voting for this amendment.

**Mr. Tascona:** I have problems with this because the findings of fact in a proceeding are going to be on a balance of probabilities, which is a civil standard, but then you go on to section 19:

“Onus of proof

“(3) For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt.”

So you've moved to a criminal standard with respect to the crown's obligation to prove its case beyond a reasonable doubt, but for evidentiary findings of fact, you've gone to a civil standard. Peter's point, where there's a third element—to be able to ticket somebody and to be able to lay an information, you need reasonable and probable grounds, which is different from a balance of probabilities. You need to have reasonable and probable grounds to lay an information or ticket somebody, yet when you get to court, in terms of trying to prove the case against somebody, you get to go to a lower standard, which is the balance of probabilities, and yet you go to a criminal standard in terms of the crown's obligations to prove the case. That gets completely confusing. So your answer to Mr. Kormos was not correct when you said about the reasonable doubt provision not being there. It is there. You put it in there. That's part of your amendments.

I don't even want to ask you, but I think I have to: What are we doing here? Why would you put findings of fact at a lower level than what you need to get an information or a ticket? If you talked to somebody in the criminal division, I really am amazed that they would try to make their job even more difficult than it already is. So take a run at it.

**1430**

**Mr. Lewis:** As I understand Bill 132, there are three types of proceedings contemplated. There is a civil proceeding whereby a victim can file for civil damages. The second type of proceeding has to do with part IX of the POA, and that is, in essence, seeking compliance orders. They are really compliance orders that go to the heart of responsible dog ownership. In other words, anyone can initiate a proceeding under part IX. It has been specified that in these particular proceedings, the standard of proof is really on the balance of probabilities, because such proceedings will not result in a fine being imposed, nor will they result in the dog owner being jailed.

Section 19, which the honourable member has referred to, has to deal with the offence proceeding, to which part III of the POA would apply. That is the part where a dog owner can be fined by the courts and where a dog owner can lose his or her liberty. To make sure that it's in consonance with the general principles of criminal law, that's why it's stated there that the prosecution has to prove its case beyond a reasonable doubt.

**Mr. Tascona:** I have to disagree with you because, from what I can see here, you're wrong. Section 2 of the Dog Owners' Liability Act deals with civil cases against

the liability of an owner. Section 4, which is being amended, deals with the proceedings under the Provincial Offences Act. That's what we're dealing with. We're dealing with proceedings under the Provincial Offences Act. What they're doing is—

**Mr. Lewis:** Four goes with the POA, part IX.

**Mr. Tascona:** No. We're adding (1.3) to section 4, which is the proceedings under the Provincial Offences Act. What you have done—and you may not have drafted this properly—is lowered the standard of evidentiary findings of fact from reasonable and probable grounds to the balance of probabilities. Then you've gone on later—because you've got this catch-all of the reverse-onus provision to make sure you get yourself a conviction—to a reasonable doubt. So I have to correct you: We're dealing with section 4, which is proceedings against the dog owner under the Provincial Offences Act.

I can't support this, because you've got to be fair. If you can't get an information or a ticket against somebody unless you have reasonable and probable grounds, why should you lower the standard in a trial?

**Mr. Lewis:** Again, I'll only make reference to the Dog Owners' Liability Act, of which I have a copy. I will read into the record again subsection (1) of section 4. It says, "If it is alleged that a dog has bitten or attacked a person or domestic animal, a proceeding may be commenced against its owner and the proceeding is one to which part IX of the Provincial Offences Act applies."

Part IX, in my own humble submission, is not a replication of part III. It simply says a proceeding akin to part III of the POA.

**Mr. Tascona:** No. With respect, I read part IX to you in terms of the Provincial Offences Act. It specifically says that where there are no proceedings that would apply, "This act applies with necessary modifications to the proceeding in the same manner as to a proceeding commenced under part III, and for the purpose"—to make it even clearer, in place of an information, you have to have reasonable and probable grounds. Whether I accept that it's under part IX or under part III, it still has to be reasonable and probable grounds. I'm reading it.

I can't support this. I think you're creating a mess and I think you're doing a disservice to the hard-working prosecutors in this province who work for the Attorney General and to the people who are being charged in this, in terms of lowering the standard of what they would be charged under. That's just a fact.

Why then do you later go on and say to the crown, "You've got to prove your case beyond a reasonable doubt"? We're either going to have a civil standard, a quasi-civil standard or a criminal standard. You guys have picked all three and you haven't decided which one you want. That's all I can say. Quite frankly, you're going to have to read the Provincial Offences Act, because I'm just reading what it says.

I think you've got a mess here and I think you're causing even more problems in the court proceedings than was ever intended. Of course they were going under part IX, but they go to part III to get the meat of how they're

going to proceed, but it's still reasonable and probable grounds. We'll deal with section 19 later, because you've gone to a criminal standard at the end of the case, anyway.

**The Chair:** Further comments?

**Mr. Kormos:** I have no questions for these gentlemen, just comments. My concern is still this: I have no quarrel with—if that's the law, and you say it is the law—reasonable and probable grounds being the standard of proof used under part IX of provincial offences proceedings. But if it is the law, then I say we have no need to codify and incorporate it into the Dog Owners' Liability Act. I ask this, and perhaps very naively: By inference, does it then cast some concern about the standard of proof to be utilized in any other number of provincial offences legislation that have not codified that the standard of proof is to be reasonable and probable grounds? We surely—just a quick review of some of those other acts that are dealt with, and you made reference to them just a few moments ago when you were talking about part IX—don't want to give somebody an argument to bring a criminal standard of proof into those, or else they'll become totally irrelevant in terms of the goals that they have. I think you understand this, Mr. Zimmer, and I'd appreciate your comments on it as well, if you're inclined.

So I'm just concerned. At the end of the day, don't pass an amendment if you don't need the amendment. That's one of those maxims. I'm not trying to be helpful to the government. I'm expressing concern about the chaos, or risk of chaos, with respect to other good Ontarians who then have doubt cast on the standard of proof to be utilized in their part IX proceedings, if it doesn't happen to be the Dog Owners' Liability Act.

**Mr. Zimmer:** Just by way of reply, I want to reinforce the point made, particularly by Mr. Lewis, that Mr. Lewis and his team took advice from the criminal law section at the Attorney General's office on this issue. I wanted to note that, particularly to Mr. Tascona's comments that this was going to cause grief on the prosecutorial side of things in the province.

**The Chair:** Further comments? Shall the—

**Mr. Tascona:** Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Miller, Tascona.

**The Chair:** I declare the amendment carried.

Prior to commencing page 18, would it be the committee's pleasure for a five-minute recess?

**Mr. Kormos:** Or six.

**The Chair:** How about six? We'll reconvene at 14 minutes before 3.

*The committee recessed from 1438 to 1448.*

**The Chair:** Thank you for returning expeditiously to your seats. The Chair has granted a generous six minutes. We are now considering page 18 in your package.

**Mr. Tascona:** I move that subsection 1(7) of the bill be struck out.

That deals with dog behaviour posing a menace to the safety of persons or domestic animals.

I want to ask a question, if I can, if I can get an explanation. What's the difference between an attack and a person or domestic animal being menaced? Bearing in mind an attack doesn't mean that you're bitten, what's the difference between an attack and being menaced?

**The Chair:** For clarification, are you asking that of the parliamentary assistant or the staff?

**Mr. Tascona:** The parliamentary assistant, if he wants to give it a go.

**Mr. Zimmer:** My first answer is, the language speaks for itself.

**Mr. Tascona:** Not good enough. Could legislative staff assist me?

**Mr. Kormos:** Did you used to get beat up a lot in high school?

**The Chair:** Let's keep our comments, please, directed to the Chair.

**Mr. Tascona:** Can I ask legislative staff if they can join us for a moment here? I'll be brief, but hopefully not as brief as the parliamentary assistant.

**Mr. Zimmer:** Yes, I know, but now you've opened the door for Mr. Kormos.

**Mr. Tascona:** What is the difference between an attack versus menacing?

**Mr. Twohig:** I think that's something that'll be decided on a fact-by-fact, case-by-case basis by courts.

**Mr. Tascona:** What do you think? Do you have a personal opinion on it?

**Mr. Twohig:** I think it's a broader test to be used by the courts.

**Mr. Tascona:** "Menace?"

**Mr. Twohig:** Yes. For a dog that attacks, you have some sense of what that is, but a dog that menaces may add a new dimension to what the courts—

**Mr. Tascona:** Can you give me an example of what you think menacing is?

**Mr. Twohig:** The dog next door continually shows up at your door, growls, tries to jump up, tries to get into your house, hasn't attacked you, hasn't bitten you. Sure is menacing.

**The Chair:** Further questions and comments?

**Mr. Kormos:** I'm just trying to be very careful here. This amends subsection 4(3) of the existing act, so that it is the parallel of the new subsection (1)?

**Mr. Twohig:** It's not the government's motion.

**Mr. Kormos:** I'm asking about the section they're asking to be deleted. They're asking that subsection 1(7) of the bill be struck out—this is why I'm asking you—because it is subsection 4(3) of the act. I'm asking you. I just want to make sure that I know what's happening here: You're amending subsection 4(3) so that it is the parallel or the complement of subsection 4(1)?

**Mr. Lewis:** Yes.

**Mr. Kormos:** OK. So 4(1) are the part IX proceedings, but it says "under this section," so 4(3) is still part IX proceedings. OK. So it's just making sure that the findings are the findings that you initiate the process for. OK.

**Mr. Lewis:** It's just for consistency's sake.

**Mr. Kormos:** Gotcha.

**The Chair:** Further questions and comments?

**Mr. Tascona:** Recorded vote.

**Mr. Kormos:** If I may, Chair—

**The Chair:** Shall—sorry?

**Mr. Kormos:** You said questions or comments. Mr. Tascona commented by saying, "Recorded vote." I wanted to make yet a further comment.

Again, with respect to the mover of the motion—and I understand the argument made behind it, but we have subsection (1), which is the grounds upon which a process can be initiated, which of course, when it comes down to the clause-by-clause voting, may or may not be supported by the committee, although I suspect it will. What I'm saying is that I'm clear now that subsection (7) amends 4(3) so that it's consistent with 4(1). In that respect, I will not support striking out 1(7) of the bill.

**Mr. Tascona:** We're dealing with it on a principle throughout. We do not see that there is a categorical difference between an attack and menacing. I think the counsel for the government has indicated—as I said earlier, it's to cover all the bases. That's basically what they're trying to do here. So we don't support it.

**The Chair:** Further comments? Shall the amendment carry?

#### Ayes

Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.  
Page 19: Mr. Tascona.

**Mr. Tascona:** I move that subsection 1(11) of the bill be struck out.

It deals with pit bulls and the breed ban, and we don't support that.

**The Chair:** Questions and comments?

**Mr. Kormos:** Look at subsection 1(11), amending subsection 4(6). Subsection 4(6) is the considerations that the court may utilize in the existing bill, the Dog Owners' Liability Act. I want to understand clearly at the beginning, "Except as provided by subsections (8) and (9)," and (8) and (9) are new subsections that are in the government bill amendment. Explain, please, what subsections (8) and (9) do to the bill: "or for the purposes of public safety" and "posting warning signs." I'm trying to understand this section that the motion would strike out.

**Mr. Twohig:** (8) and (9) require that a court—if they decide to make an order under a part IX proceeding, (8) says that a mandatory order must be made—

**Mr. Kormos:** Does it?

**Mr. Twohig:** Yes. If a dog is a pit bull, it must be destroyed.

**Mr. Kormos:** Hold on. I'm looking at paragraphs 8 and 9, as compared to subsections (8) and (9). OK. Help me, then, because what this does is restrict the court's discretion—as a matter of fact, it eliminates the court's discretion. If it's a pit bull, the court doesn't have the power to pick and choose, to go down the checklist of conditions. The dog is destroyed. Is that correct?

**Mr. Lewis:** Correct, yes.

**Mr. Kormos:** So for the pit bull that bites, there's no option for the court. There is one resolution. There is one disposition that can be made, and one only, and that's destroying the dog.

**Mr. Lewis:** Oh yes, the court is directed under those two clauses. They are mandatory orders that a court will have to impose if the dog is found to be a pit bull.

**Mr. Kormos:** Thank you. In other words, the section that this Conservative motion would strike out says, in my understanding, that if a dog had, in my example, the misfortune to be identified as a pit bull, because of course it may not really be a pit bull, and even if it engaged in a level 2 bite, a bite that we were told is the bite that exonerates dog breeds other than pit bulls—we were told that, “Yeah, but when the X, Y or Z bites you, it just bites and then retreats.” I'm working in my own mind now. I'm being very careful with this, Mr. Zimmer.

So the dog that bites and retreats is not to be subject to the same standards as a dog that doesn't just bite and retreat—the level 2 bite or the level 3 bite, even. I share the concern—I know what vicious dogs are, but since we don't know what pit bulls are, the pit bull that merely does the snap bite, like those little fox terriers are inclined to do, as I recall them on people's doorsteps, is going to be destroyed. The court doesn't have the same discretion.

**1500**

I fear that this section merely underscores the government's obsession with breed-specific bans as compared to a real, enthusiastic, aggressive and broad-reaching regulation of dogs such that we avoid vicious dog bites. I'm going to support the Conservative amendment.

**The Chair:** Questions and comments?

**Mr. Tascona:** Just to comment on that a little further for my friend Mr. Kormos: Subsection 4(8) applies to where a pit bull has bitten or attacked or has behaved in a manner that poses a menace; that's where the mandatory order applies. Subsection 4(9) goes on with respect to a pit bull owner, in terms of the mandatory order for destruction. It is specifically designed for a pit bull as opposed to any dog in particular. That's why we've opposed it and that's why we're proposing the amendment.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**Ayes**

Kormos, Miller, Tascona.

**Nays**

Kular, Peterson, Qadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 20.

**Mr. Tascona:** I move that subsections 4(8) and (9) of the act, as set out in subsection 1(12) of the bill, be struck out.

My comments are the same that we used with respect to the previous amendment, because we're dealing with mandatory orders with respect to pit bull destruction for those three categories: biting, attacking and being a menace. What we said before still applies.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**Ayes**

Kormos, Miller, Tascona.

**Nays**

Kular, Peterson, Qadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 21.

**Mr. Zimmer:** I move that section 4 of the act, as amended by subsection 1(12) of the bill, be amended by adding the following subsection:

“Onus of proof, pit bulls

“(10) If it is alleged in any proceeding under this section that a dog is a pit bull, the onus of proving that the dog is not a pit bull lies on the owner of the dog.”

This proposed amendment would confirm that in compliance order applications that cannot result in fines or a jail term, the onus of proving that a dog is not a pit bull lies on the owner. This proposed amendment should be taken in context with the government's forthcoming motion to amend section 19 of Bill 132, which proposes to repeal the reverse-onus requirement in provincial offence proceedings and replace it with another method of proving dog classification.

**The Chair:** Discussion?

**Mr. Kormos:** I've got my little package of amendments open to page 34 right now, your section 19 amendment. As I understand what's happening here, the government acknowledges that the mere allegation of constituting proof, subject to being disproven by presumably the owner of the dog, is considered unacceptable for the quasi-criminal proceedings but will be retained for the non-quasi-criminal proceedings, the so-called civil proceedings.

I think, once again, we've got the government sucking and blowing. You haven't created much of a standard of proof in your section 19 amendment. I'm going to have a

few things to say about that when we get to it. But I, for the life of me—if a process for identifying a dog as a pit bull is a fair process in one part of the act yet too onerous a process in another part of the act, then I say all this does is confirms, corroborates, like Mr. Bryant demonstrated so clearly on that wonderful television clip, that it ain't as easy as you think to pick the pit bull out of the lineup. This is unfortunate and regrettable and I will not be supporting this amendment.

**The Chair:** Questions and comments?

**Mr. Tascona:** This was commented on by Clayton Ruby, I believe, with respect to the court proceedings that may occur after the passage of this Liberal act, Bill 132, that putting on a reverse-onus provision is against the Charter of Rights and Freedoms. But apart from that, the government sure is making its job easy in terms of the identification of a pit bull and in terms of the veterinarian certificate.

If a veterinarian certificate says that this particular dog is a pit bull—it says, “absence of evidence to the contrary ... without proof of the signature and without proof that the signatory is a member of the college.” I can understand without proof of the signature, but wouldn't you think you'd have to have proof that the person is a member of the college to really have some basis for this to happen? I know you're trying to make it easy to get that evidence in, but do you know what you're really opening up? You're opening it up for expert evidence. How are you going to be able to deal with a veterinarian certificate? Of course, you're going to have to call that vet because you're going to want to know why they made that particular decision. It's totally unfair to the accused to not be able to cross-examine the veterinarian on a conclusion—it's not a finding of fact, it's a conclusion—with respect to whether the dog is a pit bull. You've got the reverse-onus provision in there saying that the onus that a pit bull is not a pit bull is on the owner of the dog. So if you come out with that certificate saying it's a pit bull, of course you're going to open it up to have to challenge that certificate and you're going to have to get that veterinarian there. So who are you going to call? You don't know who signed it and you don't know whether the person's a member of the college, so you're going to have to call your own expert to challenge the certificate.

To me, it's just totally ridiculous because it's not fair. If you're going to have your own expert, fair, bring him in, and then you can challenge what the basis of their decision is. But where it's putting the accused—they've got to call their own expert in. So how's the judge going to deal with this? He's got a certificate in front of him by a person and he doesn't know who it is, and he doesn't even know whether the person is a member of the college. Then he's going to hear evidence with respect to the only thing you could put forth, which would be an expert witness.

**Mr. Miller:** For a breed that doesn't exist.

**Mr. Tascona:** That's right. As Mr. Miller points out, a breed that doesn't exist, which is the pit bull terrier.

You've got standards for the other three categories, but you don't for this one.

I don't know whether you can call this putting the hammer down, but the bottom line is if we're trying to deal with due process here and being fair, you're not being fair by the reverse-onus provision. We already dealt with that. But the fact of the matter is, now you come in with a vet certificate and you're not even going to allow someone to challenge their evidence because you're saying it's conclusive. So of course you're going to have to call your own vet. What is that going to accomplish? I wouldn't want to be a judge hearing these particular cases, because it's just going to end up being a very lengthy procedure, very expensive for all sides around, and what will you have accomplished at the end of the day? Each case is going to stand on its own because each dog that's going to be in front of you is different. So I don't think you've accomplished anything.

To legislative counsel, is there anything wrong in terms of what I've said there? Do you disagree with me at all? Do you disagree that you've got to call your own expert to challenge this?

**1510**

**Mr. Zimmer:** I think you've got to be a little more specific, because there are a lot of governmental policy issues wrapped up in your comments, and I understand and respect those. But I think the questions to the lawyers from the AG's office should be on the legal matters that they've dealt with specifically.

**Mr. Tascona:** I don't know what you were listening to, but there are two issues here: reverses onus on the owner and, second, the evidentiary basis to identify a pit bull.

I've said my piece on it. I think the government has not thought this through. They are so paranoid that they're not going to be able to identify a pit bull, which is the pit bull terrier in their basket clause, that they have gone to extraordinary lengths to deal with the procedure and also the evidence in terms of the identification of a pit bull because they really don't know what a pit bull is. That's all I have to say.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare the amendment carried.

Page number 22: Mr. Tascona.

**Mr. Tascona:** I move that clause 1(13)(b) of the bill be struck out. Once again, it's dealing with dog behaviour posing a menace to the safety of persons. I've stated

my case for that before in terms of that type of test and charge, so I've nothing else to add.

**Mr. Kormos:** I understand this amendment by the Conservatives is consistent with the position they held. It's a position that I don't agree with.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Miller:** Recorded vote.

### Ayes

Miller, Tascona.

### Nays

Kormos, Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.

On page 23: Mr. Kormos.

**Mr. Kormos:** If I may, motion number 23 by the NDP amending the act was in response to the incredible oversight on the part of the government. In their obsession with cheap publicity stunts and their rush to get this thing passed, they actually deleted an important section from the Dog Owners' Liability Act. This amendment would have restored that section.

I note, however, that the next amendment in the bundle of amendments, number 24, is consistent with the position of the NDP amendment, so that it in fact amends the act so that the language is consistent with other parts of the act. I will, therefore, with the government's undertaking that it will indeed move amendment number 24, withdraw amendment number 23, because I've got a feeling that it'll get defeated.

**The Chair:** So amendment number 23 is then withdrawn.

Number 24: Mr. Zimmer.

**Mr. Zimmer:** I move that section 1 of the bill be amended by adding the following subsection:

"(13.1) The act is amended by adding the following section:

"Precautions by dog owners

"Owner to prevent dog from attacking

"5.1 The owner of a dog shall exercise reasonable precautions to prevent it from,

"(a) biting or attacking a person or domestic animal; or

"(b) behaving in a manner that poses a menace to the safety of persons or domestic animals."

**The Chair:** Questions and comments?

**Mr. Tascona:** Certainly the government has made a mistake. This section, with the exception of clause (b), which is "posing a menace," is the old section 6 of the Dog Owners' Liability Act, and the government missed it.

Apart from that, we can support 5.1(a), but we can't support 5.1(b) because we're dealing with this "posing a menace," which in essence is no different than attacking. I think it's going to be a mess, but the government

continues to want to deal with this. Certainly, if you attack somebody, you're threatening or putting them in apparent danger. That's really what attacking is; it's no different than menacing. But we could only support it if it were just 5.1(a).

**Mr. Zimmer:** This deals with the offence proceedings under part III of the Provincial Offences Act, rather than the earlier government motions dealing with the order applications under part IX of the POA. The proposed amendment requires that dog owners exercise precautions to prevent their dogs from biting, attacking or behaving in a menacing manner. Failure to do so would constitute an offence.

The proposed amendment is consistent with other provisions of Bill 132 that promote responsible dog ownership for all dog owners. Offences under this section will be prosecuted under part III of the POA and would be punishable by fines up to \$10,000 for individuals, or \$60,000 for corporations, and up to six months imprisonment. There's also a provision that the court could order that restitution be paid, and I want to acknowledge Mr. Kormos's support for this.

**Mr. Tascona:** I just want to comment. Let's not be ridiculous. The fact of the matter is, that is exactly the same section as section 6 of the current Dog Owners' Liability Act, and I'll read it: "The owner of a dog shall exercise reasonable precautions to prevent it from biting or attacking a person or domestic animal." You missed it.

The fact of the matter is, you're not putting anything new in here. You're basically just covering yourself because you left it out. But again, I say that we oppose clause (b) of that part. We can support 5.1(a), which is the current law anyway. You're not changing anything; you just missed it.

**Mr. Kormos:** I want to underscore what Mr. Tascona said, because it isn't a matter of the NDP endorsing the government's position. The NDP deplored the government's slovenly exclusion of this section from the Dog Owners' Liability Act. Here's a government that says it's serious and tough about vicious dogs, and it repeals one of the operative sections of the Dog Owners' Liability Act. What a stupid thing to do.

We're just glad that somebody on the government side, probably an underpaid staff person, was cognizant of the fact that there had been a screw-up and that there had to be some catch-up. That's why the government tabled its motion, presumably after I tabled mine, because it wouldn't have appeared as number 25 instead of 24.

**Mr. Zimmer:** You did, just for the record, withdraw your motion in anticipation of your support for ours, number 24.

**Mr. Kormos:** You guys screwed up, and I want to congratulate the staff person—

**The Chair:** A reminder to direct your comments to the Chair, please.

**Mr. Kormos:** I want to congratulate the staff person who caught the screw-up and who saved Mr. Zimmer's

bacon, if porcine references aren't inappropriate in a canine context.

**The Chair:** Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Miller, Tascona.

**The Chair:** I declare the amendment carried.

Page 25: Mr. Kormos.

**Mr. Kormos:** I move that section 1 of the bill be amended by adding the following subsection:

“(13.1) The act is amended by adding the following sections:

“Duty of dog owner

“Spaying, neutering

“5.2 (1) The owner of a dog shall ensure that the dog is spayed or neutered.

“Exception

“(2) Subsection (1) does not apply in respect of a dog licensed or registered as a show dog or as a breed dog.”

**The Chair:** Questions and comments?

1520

**Mr. Kormos:** Chair, if I may. For this not to have been a government amendment just boggles the mind. If there was one consistent thing that was said to this committee across the board from experts at home and far afield, it is (1) the need to control indiscriminate breeding by dogs; (2) to recognize, as I understand it, especially in the case of male dogs, the impact of neutering, and the observation that all pet dogs should be neutered or spayed, that backyard breeders should be discouraged and in fact not in operation, and that if there was one single thing that could be done to address the issue of dangerous and vicious dogs of all breeds, including so-called whatever-they-are pit bulls, it would be to require the spaying and neutering of all dogs that aren't licensed or registered as show dogs or breed dogs.

Mr. Zimmer has used language, of course, the language of responsible ownership. There wasn't a member of the public who appeared before this committee who didn't speak to that in one form or another. Responsible ownership surely should, as part of those responsibilities, include spaying or neutering the dog.

Now, there may be some knee-jerk criticism of this amendment by saying, “Oh, Kormos, you didn't specify at what age.” Well, that's what regulations are for. The fact is, the regulations can set out clearly what constitutes the point in a dog's life—clearly there's veterinary and expert evidence of the point at which a dog becomes capable of breeding. Before that point is the point at which you want to neuter or spay. There may well be—and I'm sure there is—expertise about when the neutering has the least painful impact on the dog. Well, think

about it, Chair. I'm sure that expertise is available, but that's what regulations are for, to set those standards as to what age it must be done by. As I say, clearly you want it done before the dog becomes fertile, either a male or female dog.

This also addresses the government's purported desire to ban so-called pit bulls, because if there's a province-wide requirement that all dogs other than dogs registered or licensed for breeding or show are neutered, why, there's a universal, understandable, logical, reasonable standard being applied to all dogs, to wit, all dog owners. In the course of time, effective enforcement of this spaying or neutering requirement would address a whole lot of things. It would address the issue, quite frankly, of unwanted puppies. There isn't one of us who hasn't lived in the real world who isn't familiar with a dog in heat, our own or our neighbour's, and the phenomenon of unwanted puppies and then having to dispose of those puppies, sometimes disposing of them in a way that seems harsh and cruel or ending up with those puppies being placed with families that probably shouldn't own a dog because they can't accept the responsibility.

At the end of the day, the issue is public safety. This section will do more to achieve public safety in the short and long term than any other part of this bill. It is something about which the veterinary community has expressed a real passion, and I daresay that you would find SPCAs and veterinarians across the province that would participate. I'm thinking here of families that don't have huge financial resources. I'm confident that there would be veterinarians and SPCAs across the province that would participate in community programs to spay and neuter dogs of families in compliance with this type of law, because I know there are veterinarians now that do it without there being any legislative requirement. I know that for a fact, both dogs and cats. They do it as a community service and their understanding of the importance.

I am so disappointed that this wasn't a government motion. It seems as if the government didn't hear a single word that was said or as if they only heard what they wanted to hear during the course of these hearings.

This is meaningful, effective and, at the end of the day, a heck of a lot less expensive than locking dogs up for six months at a time at the taxpayers' expense until the court gets around to adjudicating on that dog. As I say, this will do more to reduce vicious dog bites and attacks than any other measure that's been considered. I believe that. I don't take any credit for the authorship of it. It came clearly and directly from any number of submissions before this committee. Thank you.

**The Chair:** Questions and comments?

**Mr. Tascona:** I have to comment on this. We heard direct evidence from experts that the spaying or neutering of a dog has a significant effect on their conduct in terms of biting behaviour. For the government not to have heard that, they're really not interested in the behaviour of a dog—they're really not. They heard evidence throughout in terms of dog behaviour, but they continue

to treat dogs as objects, as we categorize what the Attorney General called—he described pit bulls as a killing machine. That’s basically his language.

We heard throughout the hearings about dog behaviour; not just about pit bulls, but also from experts in terms of how they train dogs, how they educate dogs in terms of what they can do to minimize and protect the public from dog conduct that is just not acceptable, yet nothing goes into this act other than ways to ensure that you get a conviction. That’s all the government’s amendments have dealt with: ensuring and easing the way to get a conviction. I don’t know why we went through this exercise in terms of trying to protect the public from vicious dogs per se, because nothing has been learned.

**The Chair:** Questions and comments?

**Mr. Kormos:** Recorded vote, please. Oh, before that vote, I seek unanimous consent for this to be a free vote.

**The Chair:** Shall the amendment carry?

**Mr. Kormos:** Recorded vote.

**The Chair:** The vote shall be recorded.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.

Page 26: Mr. Tascona.

**Mr. Tascona:** I move that sections 6 to 11 of the act, as set out in subsection 1(14) of the bill, be struck out.

Each one of those provisions specifically deals with the pit bull ban and, to be concise, it’s entitled “Pit bulls—ban and related controls.” It deals with ownership and strictly deals with pit bulls in terms of municipalities. We’ve indicated we don’t support the pit bull ban as it has currently been drafted and designed by the government. Our statements are on the record.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Kormos:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment defeated.

Page 27: Mr. Tascona.

**Mr. Tascona:** I move that clause 13(3)(b) of the act, as set out in subsection 1(14) of the bill, be struck out.

This deals with the warrant provisions, specifically dealing with a dog that’s behaved in a manner on more than one occasion that is menacing conduct. As indicated before, we are not in support of that particular test that’s been forced by the government because we don’t see it

being qualitatively different from what’s already there, being the attack. Those are our comments.

1530

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 28.

**Mr. Tascona:** I move that subclause 13(3)(c)(ii) of the act, as set out in subsection 1(14) of the bill, be struck out.

It’s dealing with the warrant provisions again and the dog behaving in a manner that is posing a menace. Our comments are as recorded.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 29.

**Mr. Tascona:** I move that clauses 13(3)(d) and (e) of the act, as set out in subsection 1(14) of the bill, be struck out.

That’s dealing with the warrant provisions again, and specifically dealing with the pit bull breed ban.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 30.

**Mr. Tascona:** I move that clause 15(1)(b) of the act, as set out in subsection 1(14) of the bill, be struck out.

This deals with the seizure of a dog in a public place and deals specifically with the dog’s behaviour posing a menace to a person or a domestic animal. Our comments are on the record for this particular test.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**Ayes**

Miller, Tascona.

**Nays**

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 31.

**Mr. Tascona:** I move that subclause 15(1)(c)(ii) of the act, as set out in subsection 1(14) of the bill, be struck out.

This deals with seizure in a public place and the conduct of a dog behaving in a manner that poses a menace. Our record stands accordingly.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**Ayes**

Miller, Tascona.

**Nays**

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 32.

**Mr. Tascona:** I move that clauses 15(1)(d) and (e) of the act, as set out in subsection 1(14) of the bill, be struck out.

It deals with seizure in a public place, dealing specifically with the pit bull breed ban.

**The Chair:** Questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**Ayes**

Kormos, Miller, Tascona.

**Nays**

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Page 33.

**Mr. Kormos:** I move that subsection 18(3) of the act, as set out in subsection 1(14) of the bill, be struck out and the following substituted:

“Offence of absolute liability

“(3) An individual owner of a dog that bites or attacks a person or domestic animal is guilty of an offence and liable, on conviction, to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or both.

“Same

“(4) A corporation that owns a dog that bites or attacks a person or domestic animal is guilty of an offence and liable, on conviction, to a fine of not more than \$60,000.

“Order for compensation or restitution

“(5) If a person is convicted of an offence under this act, the court making the conviction may, in addition to

any other penalty, order the person convicted to make compensation or restitution in relation to the offence.”

Subsection (5) is, of course, subsection (3) in the existing bill. What this amendment does is what has been put to the committee as an effective deterrent, and if neutering and spaying would be the single most effective way of reducing and eliminating, to the extent possible, vicious and bad dog bites, this provision, which was responded to with interest by the Police Association of Ontario—you’ll recall that when they were here, they contemplated this proposition and saw it as something that could well be taken up with their membership. What we’re talking about is something that people talked about from day one of these hearings, and that is, you don’t just put dog owners whose vicious or bad dogs attack and maim or kill in a position where they can be sued, you also put them in a position where they can be prosecuted to the extent that provincial offences allows quasi-criminal prosecution.

We heard from then Chief Fantino, now the emergency management czar, recipient of a chief-of-police pension and a golden handshake that I’m incredibly envious of and a new job with a salary that’s so high that it’s probably the reason why the government doesn’t want to disclose it and probably a job contract with its own golden handshake provisions. Not bad for an Italian kid, is it? Not bad at all. I envy Chief Fantino. I’ve had cause to reflect on the fact that I thought I was so smart, I wanted to become a lawyer. I should have become a cop.

**Mr. Mario G. Racco (Thornhill):** He wants to be a cop.

**Mr. Kormos:** I would have done far better.

**The Chair:** The Chair asks you to address the topic under discussion.

**Mr. Kormos:** So now we’ve got then Chief Fantino, now provincial emergency measures czar, talking about how criminal types—hoods—are using dogs to intimidate people. He made reference to Caribana as a venue where this is being done. The fact is, people can do it now and their dogs can even bite or attack without fear of any personal repercussions, because the person who is inexigible—is that the word, Mr. Zimmer, inexigible?—has no fear of litigation. Mr. Zimmer will tell you, because he’s a lawyer—he probably wishes he’d become a cop now too—that if a person is inexigible, they don’t care if they’re sued because they haven’t got the money and you can’t get blood out of a stone. You can sue them till you’re blue in the face, you can spend a fortune on lawyers and get judgements left and right. The Dog Owners’ Liability Act can be of as much assistance to you as you want in suing the people, but if they don’t have the proverbial pot, never mind to throw it out the window, those judgments are a waste of time, energy and money. We heard from victims who were in that position. We heard from victims who were in a position where the owner of the dog that attacked them didn’t have even household insurance that would permit them to access compensation through a claim that way.

So if we’re talking about a deterrent, a way of deterring people—because I’m prepared to acknowledge

there are some players and actors out there who want mean, vicious dogs. They take a bizarre pleasure, I suppose, any number of things, in owning them and displaying them. Drug dealers use them for protection. If we make sure those people know that they're going to get whacked personally with a quasi-criminal prosecution, with a fine and the prospect of jail, then I say that's a deterrent to people who would otherwise want to own mean or vicious dogs. It's a deterrent to people who would train their dog to be vicious. It is a deterrent to people who would otherwise not exercise adequate precautions around a dog about which they had concerns. It would be a deterrent to people to not spay or neuter their dogs, especially neutering male dogs. It would be a deterrent to people to not engage in some minimal level of dog training—I guess dog obedience school types of things—when the dog is young and newly in the home.

**1540**

If, as I say, neutering and spaying is number one—and I believe it is—this is surely number two. This is what the people of Ontario want from this government in terms of vicious dog legislation. If you'd listened, this is what you were being told: Neutering and spaying of non-breed and non-show dogs, and criminalization—and I use that word guardedly, because of course the province doesn't have the power to criminalize anything—or the prospect of provincial offences prosecution and fines or jail sentences as a deterrent to people who don't do the right thing by their dogs.

You may counter that and say, "Well, what about Fluffy the puppy?" Al Leach, a former minister in the Tory government, had a dog that we made great fun of in the chamber. I can't remember the dog's name. I know we took great pleasure in naming it on frequent occasions. People are going to say, "What about the little puppy that just takes a nip at you? What if a charge is laid there?" I say that peace officers clearly have discretion about whether or not to lay charges. In all likelihood there would not be a charge. Come on, in any number of minor incidents, criminal charges aren't laid. The system simply can't endure every trivial—let's say people stealing a garbage item from in front of your house. You can call the police, but it's unlikely that they're going to lay a charge. The police in Toronto are too busy doing other things.

Quite frankly, with the little dog that nips—but, having said that, if we're interested in bringing people who own these dogs into the system, maybe a charge is a good thing. It doesn't mean that person has to go to jail. It doesn't mean they have to be fined \$1,000, never mind \$10,000, but it permits the authorities to intervene and to say: "Look, ma'am or sir, we appreciate this wasn't the worst dog bite in the world"—these folks understand—"and nobody wants you to do jail time for this, but here's a list of approved dog trainers or obedience schools in this municipality. Go and put that dog through obedience school," like a diversion program. It's not at all absurd.

Think about it. Think about what we heard from Ontarians and what they want. They want not to be attacked

and mauled by dogs. They want to be able to walk down the street and not have to be in fear of having a vicious dog attack them or their pet. I'm saying that this is a way to achieve that end. It can be as creative as the parties involved want it to be. It can be as novel and productive as the combined resources of things like local SPCAs, humane societies, animal control departments, veterinarians, dog clubs, dog breeders and dog kennels. This is the sort of stuff these people were saying they needed and wanted. All of those dog advocates—and I'll describe them just generally and generically as dog advocates—came before this committee saying, "We want to do stuff, real stuff, to prevent and eliminate vicious dog attacks and bites." End of story.

This gives them the tools. For the life of me, I cannot understand why the government would not adopt this provision. And I'll tell you what I'll do: If you're embarrassed about the fact that it's not your own amendment, if you're embarrassed about that because you want the cheap political stunt type of avenue to follow, give me your undertaking that you'll prepare an identical or similar amendment. If you give me that undertaking, Mr. Zimmer, I'll withdraw this. I'll let it be a government amendment. I'll let you have the press conference downstairs in the press gallery room, talking about how you criminalized dog bites. Because all we're interested in on this side is making this bill work.

You turned down the opportunity to have a provision for mandatory spaying and neutering—for the life of me, I can't understand why; explain that one—and I don't want to see you turn down a provision that would criminalize it. That's what you heard from so many people, that it would create specific deterrence. Again, I use "criminalize" in a very guarded way, knowing full well the province can't draft criminal legislation, but the province can make it an offence on the owner of the dog to bite. You don't need muzzle laws then. You don't need leash laws. You don't need that checkerboard of municipal legislation that does those things, because people, well aware of the fact that they could be whacked individually, will muzzle, leash, exercise control, train, spay and neuter and a whole bunch of other things.

You heard from some of the most tragic victims of dog bites. Just think for a minute. There were a couple of occasions of dogs that jumped out of a car or a truck. One was out of the back of a truck and one was out of a car. If people knew that if their dog was out there attacking people, they were going to be in trouble in the provincial offences court, you can bet your boots—you see, a whole lot of these people don't have any monetary exposure. If you don't have a whole lot of assets, if you're not at least middle-class, the prospect of being sued is no deterrent at all—zip. "Sue me until you're blue in the face." If in fact everybody had assets that they knew they would be putting at risk should their dog bite, it would be a different world, a different story.

Did you want to interrupt me?

**Mr. Zimmer:** Well, I wanted to a few minutes ago.

**Mr. Kormos:** I'm concerned that the government is not going to support this amendment. And, by God, I'm

confident this is the first and last opportunity I'm going to have to put this to the committee for it to be passed so it can be part of the bill that's reported back to the House. So don't think for a minute that I'm going to give it short shrift.

Now, others may want to talk about corporations and corporate liability, both with respect to this amendment and with respect to the bill as it stands. I know Mr. Miller has expressed concern to me—and I trust he will be speaking in due course—about what these fine provisions do. We didn't hear from very many of the non-profit dog utilizing groups. I know down where I come from, St. John Ambulance has a strong dog program. They go to seniors' homes and they work with patients in places like the Woolcott wing, the chronic wings of the hospitals. I'm sure there are other similar groups that train and breed or care for and promote seeing-eye dogs, for instance, or guide dogs, that might have similar concerns about the onerous liabilities they are having imposed on them with these corporate fines. I say this: Surely prosecutors and courts will be cognizant of the fact that the party in the proceedings is a non-profit corporation.

Similarly, I believe the government, with this bill, has set new standards that will generate new liabilities and will encourage litigation. I suspect this government is going to have to respond to the issue, because we never—at least, I'm not aware of our getting to hear about, and I haven't seen the research material yet, the insurance companies and how they're dealing with dogs, dog bites and claims that are made. It may well still be in the package. I haven't seen all of it yet.

So here you go, government members. As I said, Mr. Zimmer, if you don't want this amendment in my name, just say that you'll introduce a similar amendment. Make that commitment either now or, on unanimous consent, we'll go into committee of the whole for, let's see, 30 minutes—I'll agree to restrict it—and you can bring an amendment. Give me your word that you will bring an amendment like this, and we can go forward. Then you guys will have done something really meaningful about addressing vicious and bad dog bites—as compared to cheap publicity stunts.

1550

**The Chair:** Questions and comments?

**Mr. Racco:** Mr. Chairman, on a point of clarification: I didn't want to interrupt Mr. Kormos in his comments because I thought there was time to clarify the issue, but unfortunately I think Mr. Kormos may have made a statement before thinking. When he made reference to Chief Fantino, he also used the word "Italian." I happen to believe that the intent was negative. I don't believe it's proper, and I ask him to clarify his statement or remove the word.

Chief Fantino is an individual who lives in the same city as I do in Ontario. I believe he is a very capable individual, a man who is certainly admired by many people because of his qualities, not because of his ethnic origin. I believe it's wrong to make those types of statements, in particular when we read in the national newspaper state-

ments by Mr. Kormos to his colleagues which are not, in my opinion, a proper description of the individual.

I would ask that he clarify that statement or that he remove the word "Italian" before Chief Fantino, please.

**Mr. Kormos:** I would be pleased to clarify it. With all due respect, I was being complimentary to Chief Fantino, similarly being the child of immigrants and having expressed his pride at his accomplishments as this child of immigrants. I apologize to Mr. Racco for any offence, but I assure you that my comments were made as a result of my having known Chief Fantino for a good number of years now, knowing his pride in being the child of Italian immigrants—you're quite right—and having done so well and my pride as well in seeing immigrant Canadians and their children pursue and achieve elevated goals. Again, as a child who grew up in an immigrant family, I say God bless an Italian kid who does well, a Slovak kid who does well, a South Asian kid who does well, coming to this country and pursuing goals and achieving goals that may not have been available to him or her in the place where they came from.

**The Chair:** Is this satisfactory, Mr. Racco?

**Mr. Racco:** To some degree. I suspect that Chief Fantino got where he got based on his abilities, not necessarily because he is from an immigrant family or from whichever nationality. That is why I felt that was important to clarify. I'm happy, though, to note that Mr. Kormos thinks very highly of Chief Fantino, and if that is what he is saying, I am satisfied. Thank you.

**Mr. Kormos:** What would make you think I didn't think highly of him?

**The Chair:** Thank you.

**Mr. Tascona:** I'm not going to dwell on this too much, because I think there's some merit in the order for compensation or restitution. We heard in Barrie—and I'll mention the person's name—from George Scott, and I think we heard from other people, in terms of the costs they had to incur because they were not going to get involved in civil proceedings, though it's provided for under the Dog Owners' Liability Act because of the cost and whether the person would have the ability to pay at that particular time.

I think that where a person is convicted under the Dog Owners' Liability Act, the court, in addition to any other penalty—and we know that there are powers to levy a fine—can order the person convicted to make compensation or restitution in relation to the offence. I think that's a good move in terms of trying to make it victim-friendly, and I support that. I can't believe the government wouldn't support that provision from what they've heard because, quite frankly, it makes a lot of sense—

**The Chair:** Thank you.

**Mr. Tascona:** I'm still speaking, Mr. Chair.

**The Chair:** Oh, I'm sorry. Please continue.

**Mr. Tascona:** I think it makes a lot of sense, because the fact of the matter is, we have to deter irresponsible dog owners as best we can.

Quite frankly, if the criminal element is doing this and a police officer, for example, is harmed, a fine isn't going

to be enough and the extinction of the dog isn't going to be enough to the officer who is affected. There should be some compensation or restitution to the victim.

We heard from Chief Fantino and we heard from the police about the use of these dogs as weapons. They're obviously the most improper of dog owners, the criminal element, but by the same token you can have a situation such as George Scott and the people who were in Barrie mentioned with respect to where they're put to great expense, not only with respect to medical costs but also their own dog and the costs they had to pay to a vet, and yet there's no recourse other than launching a civil action. I think this is an appropriate time and place for this to happen.

I would think that the government, if they're really serious about deterrents, and I think that's what the intent of this is, would consider that particular amendment. If they want to add it to their current drafting of that section, which is in the bill under "Offences," if they want to add that as a subsection (4), I'd certainly support that.

I'd urge the parliamentary assistant, if he knows his way through the bill, that that's the spot where he could add it, under subsection (4) of section 18. That would be something that we could support, if in effect the government doesn't want to support the rest of this particular amendment.

**The Chair:** Mr. Kormos.

**Mr. Kormos:** I'll tell you what, Mr. Zimmer. We can just set this amendment aside, and now that Chief Fantino is working for you at a salary that is so embarrassing that the government won't disclose it, now that Chief Fantino is in your employ, I'll bet you dollars to doughnuts, Mr. Zimmer, that if you go to former Chief Fantino—now collecting his pension from the city of Toronto and concerning himself with attendances with financial advisers with that incredible, I still say not bad, golden handshake—Chief Fantino will say, "Darned right."

Let's set this aside. Tell me that we can, on unanimous consent, set this aside. You can consult with Julian Fantino because, dollars to doughnuts, he'll say, "Do it." How about that? Through you, Chair, can the parliamentary assistant agree to that proposition?

**Mr. Zimmer:** Let's just get on with the work of the committee and work our way through these clauses.

**Mr. Kormos:** You know, I cannot believe, Chair—

**Mr. Zimmer:** It's late in the afternoon.

**Mr. Kormos:** Well, it's going to be early in the evening soon. The days are getting longer and longer—

**The Chair:** Mr. Tascona.

**Mr. Tascona:** You're finished with him, but I am not finished with him.

**Mr. Kormos:** Go ahead. Neither am I, but you take your turn. We're like a tag team.

**Mr. Tascona:** I'm telling you right now, Parliamentary Assistant, that is something that you should be looking at if you really want some deterrents. You heard from people who basically have incurred major expense not

only in terms of their medical bills but also with respect to the damage that's been caused to their property and caused to their own animals. This is a provision that is already found in the victims' compensation act in terms of individuals who are hurt, but this is not under the Criminal Code. This is dealing with the Dog Owners' Liability Act.

Take it seriously. You should be looking at this. It isn't a major amendment. All you've got to do is add it to your section 18. You've got provisions in there: you increase the fine for an individual dog owner up to \$10,000; you increase the fine for a corporation up to \$60,000. Why don't you do something for the victim? You can exterminate the dog. You can put a penalty on the corporation or the person. Why don't you do something for the victim in this situation? You're doing nothing for the victim.

I'm going to urge you again: Why don't you do something for the victim by agreeing to the order for compensation or restitution in a proceeding where a person is convicted? Get serious about this. This is not a joke.

**The Chair:** Mr. Zimmer.

**Mr. Zimmer:** Let me then draw your attention to subsection 18(3) of the bill, "If a person is convicted of an offence under this act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation to the offence." It seems to me, Mr. Tascona and Mr. Kormos, with the greatest of respect, that captures your point.

**1600**

**Mr. Kormos:** Why are you talking to me? I'm talking about the criminalization—quasi-criminalization—of owners whose dogs bite. Now, if you disagree with that proposition, and you don't want to use the resources available to you—through you, Chair, to Mr. Zimmer—to confirm whether or not you want to incorporate this provision into this bill, then say so. But don't somehow suggest that you already have similar provisions.

I made it quite clear when I began my comments that we had to move your subsection (3) down to subsection (5), because I introduced two new subsections. So don't get off track, Mr. Zimmer. You're either going to listen to people who have made presentations, or you're going to pretend to have listened.

Chair, unfortunately the government won't go with neutering or spaying. That's what the experts told them across the board. It won't go with penalties for the owners of dogs that bite. That's what the public told them across the board. I can't for the life of me understand what this is, other than a rather increasingly feckless publicity stunt, not on the part of Mr. Zimmer but on the part of his boss, Mr. Bryant.

**The Chair:** Questions and comments?

**Mr. Miller:** I want to make a comment about the section that deals with corporations and the fact that the fine for corporations is very much higher than for individuals. Perhaps the government has overlooked the

non-profit organizations that deal with rescuing dogs. I just received an e-mail yesterday with the concern of a rescue organization, stating that they're a federal, non-profit organization "dedicated to act as a shepherd for unwanted, abandoned, neglected or abused Saint Bernards and Newfoundlands and other canines in need of help."

What bothers them is the difference in the fines for corporations and individuals. In their case, they're working to get dogs ready to be family companions, and they actively euthanize dogs that do not have a suitable temperament. But the dogs stay in the name of the non-profit organization. The way the bill is written, if one of their dogs was charged with a menacing behaviour while in foster care, their non-profit corporation, as the owner of the dog, could be fined, and fined an amount that they could not afford as a non-profit organization, even though they weren't the ones actually physically in charge of the dog.

The point they make is that the person at the end of the leash should be the one responsible for handling the dog, not the rescue organization. I hope the government will take this into consideration, because it seems to be a valid concern. I hope the government is listening, although I note that they haven't been listening to many of the presenters who have come before this committee.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Kormos:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Peterson, Qadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost. Can we skip one ahead to number 35? Mr. Tascona.

**Mr. Tascona:** And I'll be brief. I appreciate that.

We move that section 19 of the act, as set out in subsection 1(14) of the bill, be struck out. This is dealing with the reverse-onus provision. As we've said before, there are legal opinions out there—Clayton Ruby is of the view that this is against the charter. Even though the government's looking to move it to another section of the bill, it's still a reverse-onus provision, and our opinions are on the record for this particular provision.

**The Chair:** Questions and comments?

**Mr. Kormos:** I remind Mr. Tascona that there is one solicitor, Mr. Roman, who is going to whip Ruby's ass in any courtroom that he tries to see the government's section 19 defeated in. I'm sure Clay Ruby is shaking, as they say. Ruby's shaking at being challenged by that formidable legal opponent.

This goes right back to the very beginning of these committee hearings. I recall, during the opening comments, expressing serious concerns about section 19. I continue to have these concerns, and we'll get a chance

to speak to this at length, I'm sure, on the next amendment to be considered.

Section 19 and the efforts to clean it up illustrate the fundamental flaw in this government's breed-specific-ban approach to vicious dog bites. If it were as clear-cut as government spokespeople would have the people of Ontario believe, and if it was as simple as, "Well, a pit bull is a pit bull; everybody knows that," then you wouldn't need any of section 19. It would be a simple matter to demonstrate that a dog is a pit bull. If it was as simple as spokespeople for the government would have us believe, you'd have justices of the peace taking judicial notice of the fact that a dog is a pit bull. If it was so obvious, and if it was like identifying a Chevrolet versus a Honda—perhaps assembled in Ontario, but not manufactured in this province—or a Chrysler, then you wouldn't need section 19 or any of its variants. If it were as simple as saying, "Well, look, clearly this is made of glass, and this is made of paper," then you wouldn't need any of the whoops sections. Really, this is a whoops section; you put the cart before the horse.

#### *Interjection.*

**Mr. Kormos:** Yes. You put the cart before the horse. You said, "Oh, yes, set up this press conference for Mr. Bryant, and we're going to"—what was the line? "Pit bulls banned, pit bulls banned." Then, all of a sudden, somebody said, "Whoops, this pit bull thing is a little bit of a hurdle. We've got to go to our best legal minds to overcome this little obstacle here in this pursuit of pit bulls." I've witnessed whoops sections in bills from governments of all political stripes here. Again, it's just so apparent when all of a sudden somebody says, "Gosh, it sounded like a good idea at the time, but, gosh darn, we're going to need this presumption section to even have pit bulls deemed."

We know that references to the United Kennel Club or the American Kennel Club or the Canadian Kennel Club or the American pit bull breeders association don't give the government much comfort, because those groups don't recognize pit bulls as a breed.

Michael Bryant is certainly not going to make much of a career as an expert witness identifying pit bulls. He won't be out there signing the certificates, even if he should become a veterinarian. He blew that line-up, and it was documented—the horrors of videotape.

So section 19 is a revelation of the government's ill-designed response to some very serious events in the province; to wit, attacks by vicious and bad dogs and, correspondingly, undoubtedly bad owners, and I will be joining with the movers of this motion.

I look forward, I tell you, to discussion of the next amendment. This will be the source of almost as much embarrassment for the Ministry of the Attorney General as Mr. Bryant's line-up and his ID of a—what was it? I don't know if it was a cocker spaniel or a little poodle that he called a pit bull. I can't remember.

**The Chair:** Further questions and comments? Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

**Ayes**

Kormos, Miller, Tascona.

**Nays**

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.  
Let us move back to page 34.

1610

**Mr. Zimmer:** I move that the heading preceding section 19 of the act, as set out in subsection 1(14) of the bill, be struck out and the following substituted:

“Identification of pit bull

“19(1) A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that a dog is a pit bull within the meaning of this act is receivable in evidence in a prosecution for an offence under this act as proof, in the absence of evidence to the contrary, that the dog is a pit bull for the purposes of this act, without proof of the signature and without proof that the signatory is a member of the college.

“Immunity

“(2) No action or other proceeding may be instituted against a member of the College of Veterinarians of Ontario for providing, in good faith, a document described in subsection (1).

“Onus of proof

“(3) For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt.”

**The Chair:** Questions and comments, if any?

**Mr. Kormos:** You know, Mr. Zimmer, this just gets worse and worse, don't it? Most of us are familiar with similar kinds of sections in provincial and, quite frankly, federal legislation. I believe under the provincial offences statute that people are prosecuted for not having motor vehicle insurance. There, again, is permitted, as evidence of the fact, I believe, a sealed form indicating there's nobody on file. However, look what you've done here, look carefully: “is a pit bull within the meaning of this act.” It's one thing to create this short form, this abbreviated process for providing evidence as to a hard fact, but you are purporting to provide this shortcut of a veterinarian. What are you calling upon him to do? You're calling upon him or her to interpret the law.

Do you see what I'm saying? It's one thing for a veterinarian to be called upon to say, “This is a dog.” That's within the veterinarian's field of expertise: “This is a male dog”; “This is a female dog”; “This is a spayed dog or neutered dog”; “This is not a spayed dog or neutered dog.” But when you call upon the veterinarian to state that a dog is a pit bull within the meaning of the act, you're calling upon him or her to exercise a role that, unless they're—I was going to say a lawyer—a good lawyer, a trained lawyer in this area, they have no business doing. It's like asking me to give a conclusion

that involves applying engineering principles. I am not qualified; I'm not an engineer. You're asking a veterinarian to reach a legal conclusion. You are usurping the function of the court. This section is even weaker than the section 19 that it replaces, because there you're making it clear that the fact of alleging then triggers a presumption, probably not too solid a ground to operate from. But here you're going one further: You're asking a veterinarian—the reason you're asking veterinarians, of course, is because they are professionals—to determine whether or not, and then declare, a dog is a pit bull within the meaning of this act. You have created, in your definition section, a labyrinth that judges will have to tour before they can make that finding. This is a finding that the judge has to make.

Let me put it this way. You know, Mr. Zimmer, because you're a lawyer—it was your choice—that people are called upon to give expert evidence, and you know that the courts have ruled that lay people are entitled to give some opinion evidence. Again, that's well-known. But most opinion evidence requires that that person be qualified as an expert in the field of the opinion that they're asked to give. You're asking a veterinarian to give a legal opinion, because you're specifically saying that that veterinarian is giving written evidence, not just that the dog is a dog, or, if it were possible, that the dog is a pit bull, but that the dog is a pit bull within the meaning of the act. You have created a set of standards in the act—because the pit bull is an artificial thing, so you need that definition section. The pit bull is an artificiality.

I almost want to vote for this to make sure it passes. I do. But I think that's pushing it a little far.

You've supersized your old section 19. I haven't talked to Clay Ruby, the well-known criminal lawyer, lately. I don't know whether he's aware of this amendment. But if affluent, aggressive and talented criminal lawyers are capable of being ecstatic about the prospect of chewing up and spitting out bad legislation, Mr. Ruby is bouncing off the walls right now.

I want to address one other aspect of this.

**Mr. Zimmer:** Were you here for Mr. Roman's testimony?

**Mr. Kormos:** I've made reference to Mr. Roman. Yeah, he's going to kick Ruby's ass. You know that. Gunslinger Roman is going to whup Ruby; no two ways about it. He's going to make him cry. That's what Mr. Roman is going to do.

**Mr. Zimmer:** A battle of the giants.

**Mr. Kormos:** The other issue here is the College of Veterinarians of Ontario. I presume that's what makes a vet a vet: you belong to the College of Veterinarians.

This seems to be last-minute sort of work. I don't want to cause him to have a swollen head, but I suspect that Ruby's announcements about the bill may have prompted your new section 19. But did you consult with the College of Veterinarians of Ontario? We certainly didn't hear from them during the course of these committee hearings and their willingness to participate in such a way. I quite frankly wish that we could reopen the hear-

ings, because I don't know what the ethical standards are, for instance, for veterinarians. We had some suggestion that a vet was loath—and whether this was because of an ethical responsibility or because of that individual vet's personal view—to put down a healthy dog, loath to euthanize an otherwise healthy dog. Are you going to be able to get ethical vets?

Again, nobody is quarrelling with the fact that there's a point at which a bad dog has to be put down. I don't care what the breed is. None of the people who appeared before you disputed that. That's one of the tragic consequences of bad breeding and bad ownership. But if an ethical vet—because I don't know the answer to this—cannot put down an otherwise healthy dog, I don't know where you're going to find the vets who are going to do this.

**1620**

It seems to me that you should have some collaboration with the College of Veterinarians of Ontario, because I can tell you this: Down where I come from, the veterinarians are pretty busy people. When they're not treating animals for fees, they're treating them free. Down where I come from, where vets do domestic animals as well as farm animals, because we've got farmland, there isn't a defence lawyer worth his or her salt who isn't going to call the vet to cross-examine him or her, and Mike Martin will be the expert witness. Do you remember Mike Martin, who's had six different vets? You weren't there, Mr. Racco. You should have been. It was a humorous indictment of the government's breed-specific ban plan.

Where are these vets? Think about it: Charge laid; vet signs a certificate. There isn't a defence lawyer worth his or her salt who isn't going to subpoena the vet. I think Mr. Tascona may be able to shed some light on this. I don't know whether he agrees or not. I suspect he does. That vet's going to spend a day in court. In criminal court, as you know, there are no provisions for witness fees like there are in civil court when you're subpoenaed by the defence. I don't know if crown attorneys' subpoenas pay people.

These vets, then, are going to have to be vets who work for the province, who have an inherent conflict of interest. What are you going to do, put vets on the road and have them travelling around from town to town? Are you going to have the dogcatcher—my poor, beleaguered animal control folks down where I come from—picking up somebody's little cockapoo there, and the vet's going to drive from wherever that vet is down to Pelham or Welland or Thorold or Port Robinson? Because he or she is going to have to look at the dog. I'll bet you dollars to doughnuts it won't take six months before it's discovered, after cross-examining some of these vets, that the vet may not have actually seen the dog. What does that do to his or her evidence? This is a weird, wacky, woolly, bizarre response to the problems you have with section 19.

Do you understand what I'm saying, Chair? The logistics of the vet attending to the animal, and then, oh,

what a delicious cross-examination, with all of the usual tools and tactics to discredit that vet and with the vet having to admit at the end of the day, if he or she is a vet—we've heard from a whole whack of them—that, well, in the total scheme of things there is no such thing as a pit bull.

**Mr. Zimmer:** You're repeating yourself ad infinitum.

**Mr. Kormos:** That's OK. I've got 20 minutes to do it, Mr. Zimmer.

You see, the problem is, people were repeating over and over again the need for legislation that would penalize dog owners if their dogs bit. People were repeating over and over again the need for legislation that would require the spaying and neutering of pet dogs, and they repeated it over and over again for a lot longer than I'm going to repeat this, and you still didn't seem to get it.

I'm looking forward to Mr. Tascona's evisceration of this amendment. I'm looking forward to Mr. Tascona deconstructing this amendment and giving it the treatment that it deserves. I've addressed two particular areas. He may well provoke observations on my part. This is incredible, this is really incredible—

**The Chair:** I'm giving you your three-minute warning.

**Mr. Kormos:** Thank you, Chair.

For the life of me, I've never seen anything like it.

**Mr. Tascona:** I just want to comment on this. It's been on the record earlier in terms of this particular amendment. I have to admit that when I saw this, I was initially just totally surprised, and then that moved toward a sort of amusement, and then I started looking at how you deal with this from a practical point of view, in terms of this identification of the pit bull issue. Aside from presenters talking about responsible dog ownership and how you should do it, and the measures we have and the problem of the enforcement of the Dog Owners' Liability Act, the identification of what a pit bull is was sort of the thrust of the hearings. So you come up with this provision.

It's really quite amazing, because all you're going to do is delay the court proceedings, and you're denying a right, a statutory right, to call a particular expert. This is what it is: You've got an expert that the crown has; they're going to hand in their document and say, "This is our document. This proves that this is a pit bull." In terms of due process, this is almost offensive, if not laughable.

In any criminal proceeding, you're going to have the crown's expert witnesses and you're going to have the defence's expert witnesses. What you've done here is that the crown's expert witness is a piece of paper that, on its face, is conclusive evidence of the issue that you're trying to deal with—apart from the fact that you'll be dealing with whether there was a bite or an attack or a menacing behaviour—the conclusive issue, because you knew that this is where your Achilles heel was.

The dog owner has no statutory right to call the vet whatsoever; it's not in there. You normally have a provision, when you're dealing with medical reports under the Evidence Act, that you do have a right to call

that individual who prepared the medical report. You haven't even done that here. What you're going to deal with here is that you're going to have this piece of paper. If I were dealing with this as a defence attorney, I'd be saying to the court, "I want to examine this individual." The court is going to have to grant me an adjournment so that I can have this individual attend court, probably at my client's own expense.

So you're going to have a delay for who knows how long, because the court time is so precious that you may not be looking at it for many months. Where is that dog going to be in the meantime? It's going to be in a dog pound just waiting for this, because you have a right of due process to examine any witness, especially an expert witness who is dealing with the essential issue that's before you in terms of identifying a pit bull. You have a right to cross-examine. Why? Because you want to make sure the opinion is valid, and you want to make sure the person has some expertise in the area that they're commenting on, and you want to make sure that the expertise they're offering is valid.

What you're doing is you're technically trying to deny this, but a smart lawyer is going to basically say, "Listen, I want an adjournment. I want to examine this individual. Call this individual." There's your court delay time. We told you about this earlier, the court delay time, which my friend Mr. Miller—in the first five years of the Dangerous Dogs Act, the court delay time and the kennel time was I think in excess of £10 million, in terms of costs.

I don't know why you brought this provision through. On its face, it is really a denial of due process. At the same time, if the judge says, "No, I'm not going to let you call this individual"—though I think that would be highly improbable—you'd be calling your own expert witness, if this person comes in and says, "Listen, I want to have my own expert here to testify. I need another court delay because I didn't know what this individual was going to say. Now that I know what this individual is going to say, I need another court delay so that I can bring in my own expert witness so I can deal with the evidence of this situation." So you're going to be able to bring in your own witness. You've got the battling of expert witnesses. That's how it works in a criminal proceeding and that's how it's going to work here.

It's not going to be something that is going to make the process any simpler. It's going to delay the process, and I don't think it's going to result in your achieving anything more than court delay time and a very litigious situation. It's going to be a haven for lawyers who want to get into this particular field. Why wouldn't you want to? It's going to basically be totally litigious and a lot of court time.

#### 1630

The other part of it is that you go back—and we talked about the standards of proof. Now you come in with, "For greater certainty, this section does not remove the onus on the prosecution to prove its case beyond a reasonable doubt," which totally conflicts with the previ-

ous amendments you had with respect to the trier of fact being put to a civil standard of proof.

To me, it's just totally confusing, because I don't know when the judge is going to have to make that decision of whether they want to deal with this case beyond a reasonable doubt. Is that dealing with the expert evidence? Is the expert evidence put to the test of a reasonable doubt in terms of this identification issue? If that's what you're talking about, the identification issue is a test of reasonable doubt.

The other findings of fact with respect to whether there was a bite, whether there was an attack, whether there was a menacing gesture is going to be put to a civil test. So you're going to be dealing with the proceedings in terms of the findings of fact on the dog's behaviour being subject to a civil standard, and the identification of whether it's a pit bull is at the criminal standard.

It really poses the question, in terms of the end of the case, what does the crown have to prove? Reasonable doubt in terms of getting their conviction? I don't know. That's sort of an unanswered question in terms of what they have to prove at the end of the day. I guess a good crown will figure that out, but I can tell you, it's going to be sending mixed signals to the legal community and to the public as to what will really happen once you get into that courtroom in terms of what has to be proved.

So this is a very strange amendment. I would have thought that the government—and I think Mr. Kormos is right with respect to their being a little bit fearful of the charter challenge and dealing with the identification of a pit bull and the reverse onus. You're still going to face it, but what you're trying to do here is something that you would not normally see in any situation, whether it's a civil or a criminal procedure, where the expert witness decides the issue which is before the court. You deny them the right, without court approval, of getting the expert witness that is rendering the opinion before the court.

This is something that I can't support, and I think you're just causing a lot of problems in the expense and waste of court time that we were worried about. You've basically nailed it on the head here. You really are going to cause a problem of court delay and make this more litigious than it ever was anticipated, all because you can't prove what a pit bull is. What you've tried to come up with here is an expert opinion that will put you in a position where it really does support your reverse-onus provision, because you really have to go out and get your own expert before you're even going to go to trial. That's without question.

I think my friend wants to make some comments.

**Mr. Miller:** I'd just like some clarification on what is supposed to be achieved with this: "A document purporting to be signed by a member of the College of Veterinarians of Ontario stating that the dog is a pit bull..." Is this a document that's signed or not signed? I'd like a little explanation on the language there, and also the part to do with "without proof of the signature and without proof that the signatory is a member of the

college". Could you explain those points to me a bit, please, staff? Is it signed or is it not signed?

**Mr. Twohig:** It's signed, and it's fairly standard kind of language we find from the Criminal Code, other provincial offences. The document's signed. The person who signs it indicates they're a member of the college, and no further proof of the fact that they signed it or that they're a member of the college is necessary if that is the only document received in evidence in a prosecution.

**Mr. Miller:** So with this, what would stop me from going out and getting a good photocopier and signing something and—

**Mr. Twohig:** Well, then, you're assuming that the prosecutor is about to tender in evidence a fraudulent document, which I don't think most prosecutors in the province are going to do.

**Mr. Miller:** OK. It sounds like, based on the testimony of Mr. Tascona, that it is going to be a very litigious procedure. That was the experience in England, as our researcher showed that in England there was kennelling of apprehended dogs, hiring of expert witnesses, legal aid and court expenses, which were all huge expenses, so they did have £10 million of public money spent in just the first four years of the act. That sounds like the road we're going down with this bill. The people who are really going to like this bill are lawyers, but it's not going to actually achieve the goal of protecting the public.

**Mr. Kormos:** Mr. Zimmer is one lawyer who likes the bill, so there you are. It's proof of Mr. Miller's admonition.

I'm trying to get my head around this. You talked about the Criminal Code and other provincial provisions. Let's say, for example, the Breathalyzer technician's certificate in an over-80 prosecution, because that's kind of similar: There, if it's signed by a Breathalyzer technician, it's deemed to be proof of those Breathalyzer readings, subject to overcoming that. But you see, in that case, it's hard, empirical data; it's not an opinion. In the case of the impaired driving charge, which is an opinion, and quite frankly one that can be expressed by the police officer although the actual finding is done by the court, a police officer is entitled to give his opinion as to whether or not Person A, B or C was impaired, but nobody would ever contemplate allowing that to happen by certificate.

In the case of the registrar of motor vehicles—I'm just trying to think of illustrations—the registrar can, under signature, seal, whatever, produce someone's driving record. But that isn't somebody's opinion as to whether or not you went through that stop sign. That's hard data: "This is what we have on record by way of convictions under the Highway Traffic Act for Person A or B."

You surely can't use a certificate from anybody to say, "In my opinion, this guy was driving dangerously." That requires real, live evidence because it's opinion evidence. The dilemma is this: It's in and of itself difficult for an expert, because you have to be an expert before you can give an opinion, to say this dog is a pit bull, so the government needs the definition section. But then you

take the opinion beyond just the opinion as to whether or not this dog is a pit bull or a cocker spaniel or a poodle, whatever, but whether or not within the meaning of this act the dog is a pit bull. So there you have an opinion once again, and I went through this.

I recall the examples you make reference to in both provincial and criminal statute where certificate evidence is permitted, but I'm not aware of any of them. I could be wrong and if I'm wrong, please say so, because if you don't, the people over there will. They've been chomping at the bit for an opportunity to say I was wrong. But unless I'm wrong, certificate evidence, this abbreviated provision of evidence, is always with respect to hard data, to empirical data, not to opinions. In the case of the person who is charged with driving without insurance, I don't remember the specific details but it's a letter saying, "We do not have this person registered with our company as an insured." So it's hard data. It's not, "Well, in our opinion, he doesn't have insurance." They're saying, "No, we do not have any records of him having insurance with our company."

So you have a bit of a difference here. You have a bit of a gap. Far be it for me to tell the government how to write its legislation, but you know what this illustrates, Mr. Zimmer?

**Mr. Zimmer:** No.

**Mr. Kormos:** It illustrates exactly what's been said about the breed-specific ban and the inherent problems. Joe Tascona is right: court time, prosecutors, justices of the peace, defence lawyers, all sorts of other people—there will be experts for hire all over the place, on one side or the other—are going to be consuming incredible amounts of court time dealing with what is or is not a pit bull when the resources should be spent, because we may or may not know what a—you don't have to write definition sections to know what a vicious dog is, or to know what a dog that has bitten is. You don't need elaborate definition sections with all sorts of machinations and opinion evidence.

**1640**

If you're serious about getting out there and getting the dangerous dogs off the street, you don't waste time like this in courts that are already exhausted. You know this full well, as the parliamentary assistant to the Attorney General. There's been a long-time cusp of crisis in courts, in terms of time before trial, because of court backlogs.

This is exactly what people have been saying about the breed-specific ban, especially in the instance of pit bulls. Because if there were such a clear-cut thing as a pit bull, like there is a Dalmatian, you wouldn't need the elaborate definition section, and you wouldn't need these wacky presumption sections.

So I hear you, counsel, in terms of saying, yes, there are other examples. But I'm not aware of an example that allows opinion evidence to be given by certificate. I used the over-80 impaired driving as an illustration. I used the driving without insurance as an illustration. I used the driving record—or the criminal record, for that matter—

from CPIC or whoever it is who provides the criminal record.

But God bless. Don't heed the concerns expressed by people on this side. Please, forge ahead and disappoint the interests of a whole lot of Ontarians. All they want is vicious dogs off the street. Once again, it's clear you're having trouble defining a pit bull. I'm having no trouble defining a vicious dog.

**The Chair:** Further questions and comments?

Shall the amendment—

**Mr. Kormos:** Recorded vote.

**The Chair:** I can't imagine why. Shall the amendment carry?

### Ayes

Kular, Qaadri, Racco, Zimmer.

### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare the amendment carried.

Page 36: Mr. Tascona.

**Mr. Tascona:** I move that section 20 of the act, as set out in subsection 1(14) of the bill, be struck out and the following substituted:

“Regulations

“20(1) The Lieutenant Governor in Council may make such regulations as the Lieutenant Governor in Council considers necessary or advisable for the purpose of effectively carrying out the intent and purposes of this act.

“Same

“(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

“(a) ensuring that municipalities have the resources they require to enable them to provide effective municipal dog control in the interests of public safety;

“(b) providing for the development and implementation of a comprehensive program, including education, training and other measures, to encourage responsible dog ownership;

“(c) providing for the development and implementation of a comprehensive dog bite prevention strategy to encourage dog owners to take all reasonable steps to prevent their dogs from biting persons or domestic animals;

“(d) providing for the establishment and operation of a province-wide dog bite registry.”

**The Chair:** Comments?

**Mr. Miller:** I think a big part of this motion looks to Calgary and the success they've had in Calgary. Calgary, as we heard and saw from the submissions that have come before this committee, is the most successful jurisdiction in Canada in terms of dealing with dangerous dogs.

Part of this motion is ensuring that municipalities have the resources they require to enable them to provide effective municipal dog control in the interests of public safety. In Calgary, they've had great success, with a very comprehensive bylaw, in reducing dog bites from all types of dogs, not just the pit bull-type dog. Pit bulls, as we've seen from some other evidence, are not at the top of the biting list; they are something like eighth in most statistics that have been kept. Calgary's bylaw has been around for a long time, and it has been very successful. It has been very successful with a number of controls, especially their licensing regime, where they've been able to require licensing of just about all dogs. I believe the fee is about \$50 per year per dog; less if the dog is neutered or spayed. Through that licensing fee, they've been able to fund a lot of their activities in terms of the enforcement of their bylaw, and their bylaw is quite comprehensive.

Through their bylaw, they've been able, over a number of years, to greatly reduce the number of dog bites. We heard that in 1984 there were 1,842 reported incidents of aggressive dogs and 639 bites. In 2004 the numbers had dropped to 638 reported incidents of aggressive dogs and 279 bites. That was happening at the same time that the population of Calgary has gone from half a million to a million. So the population doubled, and yet the number of bites and incidents dropped significantly. If we're really trying to improve safety for the people of Ontario, we should be learning from Calgary.

We also had information submitted to this committee comparing Winnipeg, which has brought in a breed-specific ban and has had some success, but not nearly as much success as Calgary. This motion will, in part, help support municipalities as well as do a few other things.

I'll let Mr. Tascona elaborate on the other parts.

**Mr. Tascona:** That's something that was lacking from Bill 132, and I thought, having gone through the hearings and the comments made by experts in terms of dealing with responsible dog ownership, the problems that are being faced by municipalities, the steps that should be taken, that the government would take seriously their approach to dealing with dangerous dogs. As Mr. Kormos said, and I agree, you don't need a definition to define what a dangerous dog is. We also heard of measures about spaying and neutering, in terms of aggressive dog behaviour, and how it is affected by that type of procedure.

Yet, with all the hearings we've gone through, there wasn't anything done other than what the Liberal government wants to do here. In describing what a pit bull is, they want to basically attack. They want to basically deal with a litigation-approach system that is not going to have any new information to assist us in terms of how to deal with specific types of breeds, by having a bite prevention strategy or establishing a province-wide dog bite registry, which was taken out of a coroner's inquest. They don't want to look at the basic information you would want to have to make sure you understand the problem you're trying to address

They also know that there are municipalities not enforcing the Dog Owners' Liability Act. So what do they do? They put together a system that's going to make it even more unattractive for municipalities to want to enforce the Dog Owners' Liability Act by the approach they're taking.

In a court system that is already challenged with respect to court time and people to hear cases, whether they're JPs or judges, what they are also doing is putting in a system that is going to make sure that the courts are brought to a standstill and our dog pounds are going to be full. The basic human measures, in terms of trying to address a problem of protecting the public—they're putting forth a pit bull ban that is not going to deal with current pit bulls but is going to deal with future breeding patterns, three months from when the bill is going to become law.

So what we've gone through here is an exercise in futility. It's almost what we'd call a public relations stunt that the Attorney General has been going through ever since he decided that he wanted to experiment with pit bulls. I thought we would want to try to do something constructive here, yet we're not doing anything constructive here. We're not addressing responsible dog ownership.

**1650**

My friend Mr. Miller talks about licensing. You could put in a process, in terms of working with municipalities, saying, "Listen, this is a process that we can put forth with licensing; this is how we can help you; this is how we can make sure that we deal with responsible dog ownership through proper licensing," rather than saying, "OK, we're going to put together a process that will deal with enforcement of this pit bull ban."

Once you pass this legislation, and I know you're going to do it, then there's going to be a pit bull attack out on the street, and the public's going to say, "What the heck is going on here? I thought that Bill 132 was going to deal with the issue." The false sense of security, the misrepresentation of what this bill is going to do, is not going to change anything. We may be dealing with the same issue with respect to pit bulls for the next 10 to 14 years.

So what did we accomplish by this exercise? You're refusing to deal with anything that is proactive, refusing to address the problem that we have in front of us. I didn't think anyone was coming forth and saying to you, "Let's change the Dog Owners' Liability Act to make it more difficult to deal with in terms of enforcement." No one ever came to you for that.

What you're doing here is, you've got an Attorney General who has backed himself into a corner and doesn't know how to get out of it. He's trapped. He thinks this is going to change things and he's losing; he's balancing his whole reputation, his credibility as an individual. The Attorney General's role is supposed to be to enforce the law, respect the law, protect the rule of law, and he's putting in provisions to support his experiment of identifying a pit bull that are against the

Charter of Rights and Freedoms. Where is the credibility in terms of misleading the public, putting in provisions that are against the Charter of Rights and Freedoms and continuing with something that is not going to deal with the problem of vicious dogs?

There's been no attempt to listen to the experts and the presenters about what you could do in a constructive way. I have never seen such an outpouring of people, who are concerned about public safety and concerned about animals, offering their opinions. You couldn't have gotten a better forum. Yet you basically have said on the last day of these hearings, because you're dealing with your amendments, "Let's see how we can address the problem, because we're afraid that we're really going to get hammered if this bill passes and it won't stand up to a charter challenge." That's all this is about. You're afraid that it's not going to stand up to a charter challenge.

We're here on the other side, and we're afraid that it's not going to protect the public from the problem they've been led to believe will be solved by Bill 132. That's why we're here: because we wanted to have a better bill to protect the public from vicious dogs. Yet you haven't listened to the presenters and you haven't listened to us. In fact, there hasn't been one amendment that we've put forward today that you've accepted or even looked at. You haven't brought forth any amendments that deal with the issues that were presented to you in terms of how to deal with this problem realistically and proactively. I'm really disappointed.

I was on the city council in Barrie. We dealt with this. When I first read this, and I read our bylaw back in the early 1990s, when I was there, I looked at the act and it was a joke in terms of trying to enforce, in terms of trying to get some meaningful justice for victims. I thought, when we were going into this exercise, that we were trying to get some meaningful justice for victims, yet we're not going to get that.

When Joan Smith came forth in 1987 and said to George McCague, the MPP for the Alliston area at that time, that pit bull bans wouldn't work, that it was going to cause a delay in court time, that it was going to be a waste of court time because you wouldn't be able to identify it, nobody listened to her. What she said was that she was going to try to change the act to make it better, but that never happened. She said the way to deal with it was to go after vicious dogs. We're all in agreement here that we should be dealing with vicious dogs. But we're not dealing with vicious dogs; we're not dealing with irresponsible owners; we're not dealing with the mechanisms that are impeding proper enforcement. We're not listening to the public. You may be listening to your polls and saying, "Oh, the public supports us." The public believes you're going to solve the pit bull problem now. When that first attack happens to that poor victim, people are going to know that you didn't do anything and that this exercise was a charade. The experiment is not going to work.

I hold the Attorney General to his word that he's not going to add another dog to the banned breed list, but we'll just have to see.

**Mr. Kormos:** I want to tell the parliamentary assistant that the word is very much out there on the street that cats are your next target—tagging, leashing, muzzling. If you thought dog people were adamant, wait till the cat lovers come here to Queen’s Park. You’ve never seen anything like cat lovers at Queen’s Park.

As I’ve had occasion to tell this committee, I come from a small to mid-size Ontario town that went through its budget process like other communities are right now. Annually there’s an incredible pressure and tension in terms of funding the animal control operation. Once again, our animal control has to deal not only with urban animals, which includes domestic animals, skunks and raccoons, but it has to deal with rural animals. That’s not unusual at all. Even in the hobby farming areas, you’re going to experience that. We don’t have the animal control officers now to deal with routine animal control matters. We’ve got a pound run by the humane society, SPCA, that is running a perpetual bake sale—that’s how it’s done in small-town Ontario—because of the inadequacy of funding, trying to keep that modest-sized pound operating. They just can’t keep up. From time to time, communities across this province, like the one I represent, do blitzes on licensing dogs, but those blitzes are as often as not haphazard and catch-as-may-can. In the summertime, a bunch of students are sent out there to go through neighbourhoods. Of course, dog owners who are scofflaws and have no interest in licensing their dogs have a million and one ways of avoiding licensing their dogs and paying the annual fee.

The Attorney General, Mr. Zimmer’s boss, came here last week and tried to make the news by talking about new monies flowing to animal control in municipalities across the province. That was after Mr. McGuinty’s other friend, Mr. Rae, talked about the need for \$1.3 billion—what was the amount we need in post-secondary education?

*Interjection.*

**Mr. Kormos:** Billions of dollars. That was after Mr. Smitherman talked about the need for monies for health care, notwithstanding 800 nurses and hundreds of other health care workers losing their jobs.

So I don’t buy the money argument that Mr Bryant, the Attorney General, makes. This is an expensive process. It’s labour-intensive. What makes it most labour intensive is the breed-specific ban, not just in the courtroom now, as we were talking about last round, but out there on the street.

Preventive measures are far less expensive and far more effective because they deal with it before the fact. We heard about programs—because kids are especially vulnerable to dog bites—educating kids on fundamental dog behaviour and how to avoid dog bites. We heard about leashing. We heard about not leaving a dog tethered 24 hours a day, seven days a week, because that dog is more likely to bite. I presume that meant a dog of any breed. We learned about muzzling and how that was conceivable, but in many cases an impractical approach. We learned about neutering and spaying. But these sorts of things can be done far less costly than enforcement

after the fact with far more effective results, and there hasn’t been, notwithstanding the pitch made by Mr. Bryant, a commitment of significant monies to communities so animal control officers can get involved in enforcement of this statute, should it become part of the Dog Owners’ Liability Act. You’ve missed the boat.

**1700**

We are interested in seeing a significant reduction in vicious dog attacks. Like Mr. Tascona, I predict that, even should this bill pass—and I predict that the bill will pass—there will not be a sufficiently impressive reduction, if any, in vicious dog attacks to leave people feeling comforted by the bill. In the next year or two years, even in the next election campaign, I bet you there may be some Liberals—and I’m admonishing some of the backbenchers here: Don’t buy into the centralized stuff—the stuff they send you from central office—because it will have, “We effected North America’s toughest pit bull ban.” Yes, and the family that gets that pamphlet, whose kid was just bitten by any number of dogs, is going to say, “Yes, well, thanks but no thanks.” So that central stuff coming out of the main Liberal Party office, be careful of it. Read it carefully before you use it in your own campaign. You’ve got to canvass with your own image and your own message, not the central party’s—free advice, worth probably as much as you’re paying for it.

**Mr. Zimmer:** Thanks for your advice.

**Mr. Kormos:** The amendment before us doesn’t compel the government to do the things that the regulations will permit it to do, but it permits the government to do it. The government clearly doesn’t want even the permission to contemplate these things, which reveals this exercise as pretty much a fraud on the people of Ontario. We’re wrapping up the amendments, we’re going to get into clause-by-clause and, as I say, I can read the government members here. I know where they’re coming from. You don’t gotta be, as the guy says on the cooking channel, a rocket science to figure that one out. That’s a Portuguese-American guy, by the way. But I just shake my head.

There will be another piece of legislation. There have been quite a few of them in the recent past—and, quite frankly, some did come from the last government too; some probably came from the government before that—that are statutes in law but have no real impact out there on the street. You know, you could’ve created a province-wide regime for dog management, amongst other things. You could’ve created a provincial requirement for licensing, tagging/registration, so that every municipality had the same standard. I appreciate your observation that the legislation that imposes the higher standard is the one that prevails, but you could’ve done that. You could’ve created uniform licensing and tagging, not with a view to revenue generation but with a view to being able to monitor what dogs are out there, where they are, what the numbers are and, first and foremost, to acquire some real, made-in-Ontario dog-bite data. We’re never going to address this issue unless we get that data. I am amazed at the lack of logic and the rejection of

anything akin to a scientific approach that's been utilized by this government in the course of pursuing this legislation.

I look forward to the bill being debated for third reading in the House. I just want to tell the government again, you need some unanimous consent to fix periods of time in committee of the whole to bring some amendments to this bill, to toughen it up the way both opposition parties have recommended. We want to toughen this bill up—I can't speak for the Conservatives, but I'm telling you, I'll accommodate you; the New Democrats will accommodate you—neutering and spaying, a regime for province-wide tagging and getting rid of this silly courtroom diversion, this nonsense that's going to take place, courtroom after courtroom, occupying scarce courts and JPs' and prosecutors' precious time in the mass of litigation over identification.

Let's call the question here, Chair.

**The Chair:** Further debate? Hearing none—

**Mr. Kormos:** I'm tired of the Liberals dragging this on to the point where all of us are becoming fatigued.

**Mr. Tascona:** Recorded vote.

**The Chair:** Shall the amendment carry?

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the motion lost.

Shall section 1, as amended, carry?

**Mr. Tascona:** Hey, what about 37?

**The Chair:** That's in section 2. So we're finished with section 1.

**Mr. Kormos:** On a point of order, Mr. Chair: There's another amendment; that's fine. Since there's only one more amendment, I think, really, it makes sense to move on to that amendment. This isn't time-allocated. As we proceed, section by section, we comment and question on those sections, as amended.

**The Chair:** We have completed the amendments for section 1. It is now appropriate to call the question and to ask whether section 1, as amended, carries.

**Mr. Kormos:** No, it's appropriate to ask for questions or comments on section 1, as amended.

**The Chair:** You are correct. Questions and comments on section 1? Mr. Kormos.

**Mr. Kormos:** Thank you. I wouldn't have felt compelled to do this except, with the engagement, it flowed irresistibly.

**Mr. Zimmer:** Is there any chance we might take a five-minute break before you wind up again?

**Mr. Kormos:** Sure, why don't you make it six and a half?

**Mr. Zimmer:** Can you give us some estimate—not to tell you what I want to do, but I can—

**Mr. Kormos:** At our age, another couple of minutes wouldn't hurt.

**The Chair:** This committee stands in recess until 5:15.

*The committee recessed from 1707 to 1716.*

**The Chair:** Again, after a very generous five minutes, let's come back to order, please.

Discussion on section 1, prior to asking whether section 1, as amended, will carry: Mr. Kormos.

**Mr. Kormos:** Very briefly, Chair, New Democrats are committed, have demonstrated that and have been very clear about the need for this province to have tough, effective vicious dog legislation.

The government has missed the boat. We're disappointed that our amendments were not acceptable to the government, not one of them. They were amendments that were designed to make this bill tougher, more effective, and to truly create a regime that protects people from vicious dog attacks. I will not be supporting section 1 of the bill.

**Mr. Tascona:** I'll just say for our party, the official opposition, that we won't be supporting section 1 for the reasons that have been all too frequently stated.

The lack of responsible dog ownership is the problem in this province, and the measures that we put forth in our amendments would help address that. What people want is protection against vicious dogs. They don't want legal wranglings and court delays. They want justice, and they want justice quickly. This is not going to accomplish that. There are going to be pit bulls on the streets after this bill is passed and they're not going to be any less dangerous than they already are in the hands of irresponsible dog owners.

We can't support this bill. It's not dealing with vicious dog owners. It's not putting forth a very progressive, responsible approach to dog ownership in this province, which is much needed, and the data that is necessary to make sure this works.

I'll just be blunt about it. I think the Toronto Sun, in their editorial—Mr. Goldstein in his approach—said that the Attorney General was lazy in terms of what he was trying to do to solve the vicious dog problem, and he is lazy. This is a lazy man's approach to dealing with a serious problem, and basically the stunts that he's put forth haven't solved the problem. They've exacerbated it because he's putting a perception out there that the public feels that he is going to address the problems of dangerous dogs through pit bulls, when in fact he has done nothing.

1720

**The Chair:** Shall section 1, as amended, carry?

**Mr. Kormos:** Recorded vote.

**The Chair:** Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare section 1, as amended, carried.

Section 2: We have one proposed amendment.

**Mr. Tascona:** I move that subsections 2(2) to (5) of the bill be struck out.

This is dealing with the Animals for Research Act in specific reference to the pit bull breed extinction. Those are all the comments I have.

**The Chair:** Further questions and comments?

Shall the amendment carry?

**Mr. Tascona:** Recorded vote.

#### Ayes

Kormos, Miller, Tascona.

#### Nays

Kular, Peterson, Qaadri, Racco, Zimmer.

**The Chair:** I declare the amendment lost.

Shall section 2 carry?

**Mr. Kormos:** Recorded vote.

**The Chair:** Recorded vote. Shall section 2 carry?

**Mr. Kormos:** As amended.

**The Chair:** There were no amendments to section 2.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare section 2 carried.

There are no amendments to section 3 or section 4.

**Mr. Tascona:** Recorded vote.

**The Chair:** Recorded vote.

Shall section 3 and section 4 carry?

**Mr. Kormos:** I assume there's no debate on either of those then.

**The Chair:** Is there any discussion on section 3 and section 4? Shall section 3 and section 4 carry?

**Mr. Kormos:** Recorded vote.

**The Chair:** Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare section 3 and section 4 carried.

Shall the title of the bill carry?

**Mr. Kormos:** Recorded vote.

**The Chair:** Recorded vote.

#### Ayes

Kular, Peterson, Qaadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** I declare the title of the bill carried.

Shall Bill 132, as amended, carry?

**Mr. Kormos:** One moment. That warrants debate.

**The Chair:** Mr Kormos.

**Mr. Kormos:** Once again, New Democrats want to make it clear that the breed-specific ban is not a solution. It is yet another illustration of the politics of diversion by a Liberal government that is floundering in the polls, that lacks an agenda, that is no longer known as the promise-breaking government but as the government in drift and the government that has betrayed Ontarians when it comes to health care, betrayed Ontarians when it comes to controlling the price of electricity, betrayed seniors across this province when it comes to their ability to live in their own homes in their senior years. This is a government that has not served victims of vicious dogs well at all by the political diversionary tactic of breed-specific ban, which sounds good at the moment but regrettably lacks the capacity to deliver safer streets for the people of Ontario. New Democrats will not support this bill.

**The Chair:** Thank you. Further questions and comments?

**Mr. Tascona:** The official opposition is on record for supporting vicious dog legislation changes and also legislation that will not put in the public's mind a false sense of security. Our leader John Tory is on record for that, and I would only say that we've missed an opportunity here. The lazy-man approach to dealing with dog enforcement and dangerous dogs is not going to solve the problem.

We had an opportunity here. I think the last time that this was even looked at was by Joan Smith, the Liberal Solicitor General back in 1987, when they were dealing with this issue and put together a committee of ministers to deal with this legislation. It didn't go anywhere. It didn't go anywhere, but that was a problem of that particular government.

Here we are, 17 years later, with an opportunity to deal with what is really a problem with respect to dangerous dogs going after young children. During the course of these proceedings, we had situations—the one that happened, I believe, in St. Catharines or Niagara Falls was a German shepherd that attacked a four-year-old and then bit the people who came to protect that child. We had other occasions where there were vicious dog attacks.

So what we've accomplished here as parliamentarians is nothing in terms of making sure we have more responsible dog ownership, making sure that we have measures in place to make sure that we can protect the public, and measures that can make cities do their job. After all, they're enforcing it. They have no more tools than they've ever had, and their reluctance to enforce the Dog Owners' Liability Act isn't going to be enhanced by us passing Bill 132. In fact, I think you're going to find it being diminished because of the court time that's going to be wasted.

In fact, what the Liberals did by removing the part IV option in my riding and in other ridings, and the money

that was coming from the part IV option with respect to highway traffic offences, is put more pressure on police, but it also now increases court time usage, because now those offences have to be prosecuted. So where are we going to find the court time? Where are the municipalities going to find the bylaw enforcement officers and the court personnel to do the job that they now have to do with the Highway Traffic Act, which they didn't have to do before? Now we're going to put more onerous provisions on them in terms of dog bylaw enforcement because of this legislation.

It's a missed opportunity. I don't blame the members across the way for following the orders that they have to follow. It was the Attorney General's file to produce good legislation. I think he missed an opportunity. I think the public's going to know it and, unfortunately, the person who is the next victim of a vicious dog attack, which could be any type of dog brought forth by the criminal element or from an irresponsible dog owner, is going to know that nothing is there for them in terms of protection.

**The Chair:** Thank you. Further comments?

1730

**Mr. Miller:** I'd just briefly like to say that it's really unfortunate that we haven't used all the information from all the people who have come before this committee over four days. I have to say that there has been more interest in this issue than in many that I've been involved with on committee. We had hundreds of people come before us, and some travelled long distances. If you think about the expert travelling in from Texas, the people who were here for all four days, and all the various veterinarians, humane societies and animal control officers, it's really a shame the government isn't taking some time to actually bring about good legislation that is going to make a difference. We got a wealth of information and Mr. Kaye, the researcher, worked overtime to delve into various other jurisdictions like New York state, California and Calgary. There's a lot of information we now have, and if we just took the time, we could make a much better law.

My feeling is that the law that is being created is one lawyers are going to love. They are going to be about the only ones who are going to benefit from this law. It's going to create a false sense of security. The government may get a short-term bang and boost from passing this bill, but it's really misleading the public and making the public think there is some sort of protection from dangerous dogs, when in fact they really aren't bringing in much protection at all.

We've been given a wealth of information about things that really work: dealing with dog owners, educating the public, perhaps having some control on breeders, dealing with backyard breeders and requiring much more licensing. As I mentioned before, Calgary has 95% licensing whereas I think in Ontario it's far lower than that. We've been given lots of suggestions that would really make a difference: neutering and spaying all the animals that aren't purebreds or show dogs, as

suggested in one of the amendments today. If we took the time and actually went through all the information we were given, we could probably come up with a law that would do a lot of good in this province.

It's just a shame that, for all those people who came before this committee, basically it's been a sham, a joke. You didn't listen to the people who came before this committee and that's a real shame. In the long run, I think that will be borne out as this new law is shown to be very ineffectual. It's disappointing that we haven't listened to all the people who came before the committee.

**The Chair:** Another comment?

**Mr. Kormos:** In closing, before leaving this committee process, I really want to make special mention of the parliamentary assistant. I can't for the life of me imagine what he did to warrant having this dropped in his lap. The Attorney General does all the glossy press conferences in rooms packed with media and scores the political brownie points, if there are any to be scored, and then Zimmer has to run with the ball. You heard me earlier commend Mr. Zimmer for staying on script, even when I'm sure his intellect told him not to. That's one of the challenges a parliamentary assistant has to meet dead on, and that is that their best opinions mean zip. Their best judgment is for naught because it's about doing—well, you talk about dogs. There is the old RCA Victor logo with the Victrola and the little dog—I think that's a banned breed, or will be, under this government—"His Master's Voice." That's the role of a parliamentary assistant. It's a unique one; it's a peculiar one. It's akin to self-flagellation, I'm sure, in terms of the quality of life. I want to commend him for resisting what I'm sure his intellect told him many times, and I'm sure what his conscience suggested to him on even a couple of other times. I applaud him for stewardship of a really hollow bit of legislation.

Rest assured that this bill was announced by Bryant, but it's Mr. Zimmer who is going to be called upon to explain its failure. Success has a thousand parents; failure is always an orphan.

**The Chair:** Thank you. Mr. Zimmer?

**Mr. Zimmer:** I was going to make a long speech and use up my 20 minutes, Peter, and I thought, what could I say? I think I'm just going to quote from an editorial in one of Toronto's major newspapers this past Sunday. The headline is, "Bryant Must Hold Firm on Bill to Ban Pit Bulls." I'll just quote a couple of pieces from it and perhaps a reference to your party—and your party also:

"There have been too many such stories for too long"—that's pit bull attacks—"and too often involving innocent victims who were in the wrong place at the wrong time.

"That's why it is imperative that Ontario Attorney General Michael Bryant and the Liberal government follow through on their commitment to ban pit bulls in the province....

"Bryant is on solid ground in his quest to ban pit bulls....

“Last fall ... a sensible bill” was introduced “that would allow current owners to keep their pit bulls, although they must be muzzled and leashed in public and be neutered or spayed.

“...Liberal MPPs should stick with their plan to pass the legislation quickly.

“Such action is critical because a community has a right to protect itself against potentially dangerous animals—poisonous snakes, lions or, yes, pit bulls.”

Then a little bit of gratuitous advice for my friends in the Conservative Party and the New Democratic Party: “The Conservatives and New Democrats oppose a breed-specific ban. They should reconsider their stand.”

I will just close on that note.

**Mr. Miller:** I can’t have the parliamentary assistant use this example of the editorial, which I was astounded to read in the Star, without mentioning that I wish he would read from the letter to the editor that came the next day, which was much better written and went through all the various points as to why it made sense to not support breed-specific legislation. I gather from what he is saying that they make their laws based on what’s in the media, and that certainly seems what this law is geared toward.

**The Chair:** Let’s just go in the rotation here. I think Mr. Racco has been dying to—

**Mr. Racco:** Mr. Chair, I think it’s fair that those of us who wish to speak can speak, and then you can go around.

No topic, no bill, no issue that is controversial will ever be supported by both the government and the opposition parties, because it’s controversial. So I’m not surprised that both the opposition and the third party are not supporting it. One thing is clear, though: Millions of Ontarians do support this bill. It’s clear that people who have been affected—who are usually the ones we want to make sure are not affected again in the future, and others—certainly are supportive of the bill.

No bill will ever be perfect. There are always ways that we can improve things. But surely there is significant support for this bill, not only from the people who support the bill but also people who are involved in enforcing the law. Therefore, I think we should see the merits. It’s nice to complain all the time, but I think there are some benefits that can be seen. Those are my comments.

**The Chair:** Are we at the point of someone wanting the last word?

**Mr. Kormos:** There’s no time allocation here.

**The Chair:** There is no time allocation. I was merely asking.

**Mr. Kormos:** One, I appreciated Mr. Racco’s observations. I suppose he’s right; I should become more

willing to embrace controversy, rather than flee from it and hide from it, as I have during my lifetime.

Mr. Zimmer, your reading of that editorial illustrates what I’ve been trying to tell you. Did they mention David Zimmer in the editorial? No. It’s, “Michael Bryant, Michael Bryant, Michael Bryant.” But just watch, when this damn thing blows up in your face, Bryant’s going to be nowhere near it. It’s going to be, “David Zimmer, David Zimmer, David Zimmer shepherded it through committee and the Legislature.” It illustrates and proves my point.

**The Chair:** Perhaps, then, legislative research, in answer to one of your earlier questions, could find some sources of assertiveness training for you.

Mr. Tascona?

**Mr. Tascona:** I just want to say I think the people who did present here, and there were hundreds of them, are going to feel that the process didn’t work. I think both opposition parties fought for hearings, and for this to come out as nothing happening in terms of protecting people on the street—because nothing is going to happen. The day after this legislation is passed, there will be no changes in terms of vicious dog protection. So let’s just get that on the record and spare us any more Toronto Star editorials, please.

Recorded vote.

**The Chair:** Shall Bill 132, as amended, carry?

#### Ayes

Kular, Peterson, Qadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** Shall I report the bill, as amended, to the House?

**Mr. Kormos:** I suggest that this be put to a vote and ask that it be a recorded vote.

#### Ayes

Kular, Peterson, Qadri, Racco, Zimmer.

#### Nays

Kormos, Miller, Tascona.

**The Chair:** Thank you very much, one and all. Our business here is done. This meeting is adjourned.

*The committee adjourned at 1741.*







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