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Monday 18 August 2008

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des débats
(Hansard)**

Lundi 18 août 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Monday 18 August 2008

Lundi 18 août 2008

The committee met at 1008 in room 228.

PROVINCIAL ANIMAL
WELFARE ACT, 2008

LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act / Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

The Vice-Chair (Mr. Jeff Leal): I want to bring this meeting of the Standing Committee on Justice Policy to order.

First of all, I want to acknowledge the great work of David Zimmer, who filled in for me as Chair during deliberations and hearing the delegations at various sites across the province, and I really want to thank him for his great work. The report I have is that everything went extremely smoothly, delegations got to make their presentations, and there were in-depth questions asked by members of the committee. So, David, I want to thank you for your efforts.

Mr. David Zimmer: Thank you, Mr. Chair. There was never any doubt.

The Vice-Chair (Mr. Jeff Leal): Never any doubt.

We're going to go through clause-by-clause deliberation and consideration this morning, but first of all, we had a number of late amendments that came in. I understand there's agreement that we'll accept them—Ms. DiNovo, Mr. Dunlop?

Mr. Garfield Dunlop: Dunlop.

The Vice-Chair (Mr. Jeff Leal): Same as the tires. And the government—

Mr. Dave Levac: Mr. Levac.

The Vice-Chair (Mr. Jeff Leal): I know. I've been away from it for a while, you see. You get a little rusty.

The first item is, are there any comments, questions or amendments to any section of the bill, and if so, which section? Mr. Levac.

Mr. Dave Levac: I move that subsection 1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be amended by adding the following definition:

“accredited veterinary facility” means a veterinary facility as defined in the Veterinarians Act that is accredited under that act.”

We accept that.

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I've just got to get organized here, for sure. These are not easy to do.

The Vice-Chair (Mr. Jeff Leal): We'll give you a moment.

Mr. Garfield Dunlop: I move that the definition of “distress” in subsection 1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be struck out.

I've done that because in my following motion I have a new section which defines “distress” more fully.

The Vice-Chair (Mr. Jeff Leal): Comments or questions? Mr. Levac.

Mr. Dave Levac: The government will not accept this particular definition, and the rationale behind our not accepting it is that it does remove the current definition of “distress.” I do know that the PC Party will be offering us a new definition, but we will express our concerns after that about their definition.

The current definition of “distress” is one of the things that works very well under the present act, and it has proven effective in education, prevention and enforcement, and it's been supported by the courts for decades. Veterinarians' assessments of the animals are used in investigations to support any contention that the condition of distress exists. It calls into question whether or not the veterinarians actually know when an animal is in distress. The OSPCA investigators are trained to recognize distress, veterinarians diagnose distress, and that is the basis for their good working relationship. We believe that removing this and adding the one that's being proposed will break that relationship up.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to say that I and the New Democratic Party would like to see the broadest definition of “distress” and not a more narrow version that the Progressive Conservatives bring forward, so we're going to be voting against this motion.

The Vice-Chair (Mr. Jeff Leal): Any further comments or questions? All in favour of this amendment? Opposed? It's defeated.

Mr. Levac.

Mr. Dave Levac: I move that the definition of “veterinary facility” in subsection 1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be struck out.

That removes the definition of “veterinary facility,” and it’s linked to the previous accepted motion. The veterinarians’ college has asked for this distinction to be made. This ensures certainty. The veterinary facilities do not require CVO’s accreditation to remain subject to the OSPCA’s jurisdiction in these situations—facilities that only deal with animals owned by the employer, such as a large riding establishment not open to the public. The principle behind the veterinary exception is that the excepted facilities are fully regulated by the Veterinarians Act, which the CVO administers on behalf of the Ministry of Agriculture, Food and Rural Affairs. Therefore, only the CVO-accredited facilities will get this exception.

The Vice-Chair (Mr. Jeff Leal): Further comments or questions? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be amended by adding the following subsections:

“Animal in distress

“(3) Subject to subsection (4), for the purposes of this act, an animal is in distress if it is,

“(a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;

“(b) subjected to conditions that cause the animal to suffer acute pain;

“(c) not provided food and water sufficient to maintain the animal in a state of good health;

“(d) not provided appropriate medical attention when the animal is wounded or ill;

“(e) unduly exposed to cold or heat; or

“(f) subjected to conditions that will, over time, significantly impair the animal’s health or well-being, including,

“(i) confinement in an area of insufficient space,

“(ii) confinement in unsanitary conditions,

“(iii) confinement without adequate ventilation,

“(iv) not being allowed an opportunity for adequate exercise, and

“(v) conditions that cause the animal extreme anxiety or distress.

“Accepted activities

“(4) For the purposes of this act, an animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of any of the following accepted activities:

“1. Activities carried on in accordance with the Fish and Wildlife Conservation Act, 1997.

“2. Activities carried on to control pests or feral cats or dogs.

“3. Activities undertaken by a farmer in accordance with veterinary procedures or treatment, whether or not under the supervision or orders of a veterinarian.

“4. Activities that conform to national codes of practice related to standards of care for animals.

“5. Activities that conform to reasonable and generally accepted practices of agricultural animal care, manage-

ment or husbandry, including livestock or poultry production.

“6. Activities carried on with respect to reasonable and generally accepted practices of farm animal use or food production.

“7. Activities carried on with respect to a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.”

What I wanted to add to that was that we had a number of our stakeholders who made deputations who wanted a more detailed accounting of distress in animals, groups like the Ontario Federation of Anglers and Hunters, the OFA, etc. We’ve heard from them, and we felt that this was where the amendment had to be made. I understand that the government won’t be supporting it, but—I’m sorry, number 7 that I just spoke of, we would just delete that, and from the Hansard as well. We withdraw that.

Anyhow, I just wanted to add that we wanted a more detailed definition of “distress.”

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please. Just for the record, it does end on 6.

Ms. Cheri DiNovo: Yes. I see that. Just for the record, we in the NDP are going to be voting against this amendment. But again, we heard from the same deputants and wanted to express concern that it’s not so much the definition of “distress” but the way that the law has been handled and the way that “distress” has been interpreted by OSPCA agents at various times, and that just speaks to the training of OSPCA agents. We are going to be attaching a letter to the end of this, talking about the OSPCA, the way it does business and the training, but we want to see the broadest definition of “distress.”

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Just to kind of come back to the point that I made earlier when we talked about the definition of “distress:” the situation that we did hear—and to Mr. Dunlop’s credit, recognizing that there were some concerns—through some of the deputants, that there was possibly an agenda attached beyond the definition of “distress,” as opposed to the workings of this definition. We honestly believe that this particular piece that’s being proposed as a substitute removes what I had originally talked about in terms of the partnership that’s in existence with the courts and how “distress” is used, through working with the OSPCA and veterinarians and to acknowledge the concern that was raised with training and acknowledge the concerns that were raised with the application. We will make it clear later, but I think we did repeat it earlier in the deputation, that the chief inspector will be granted powers that we believe will start to address some of the concerns about training and some of the concerns about—I think it was referred to as, in past deputations, “overzealous inspectors.” I think that that component needs to be separated from the actual definition, and this particular definition will cause us some concern in the future, so we won’t be supporting it.

The Vice-Chair (Mr. Jeff Leal): Any further comments or questions?

All in favour of this amendment? Opposed? It's defeated.

Shall section 1, as amended, carry? All in favour? It's carried.

We have no amendments for sections 2, 3, 4 and 5. All in favour of sections 2 to 5?

Interjection.

The Vice-Chair (Mr. Jeff Leal): There's a new section 5.1, after 5.

Section 2, inclusive to section 5, all in favour? Carried.

We're now going to the new section 5.1.

Mr. Garfield Dunlop: I move that the bill be amended by adding the following section:

"5.1 The Act is amended by adding the following section:

"Public accountability

"Annual audit

"9.1(1) The board of directors of the society shall appoint a licensed public accountant to audit the accounts and transactions of the society annually.

"Annual report

"(2) The society shall annually file with the minister responsible for the administration of this act a report upon its affairs and activities in the previous year and the minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the assembly if it is in session or, if not, at the next session.

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"Same

"(3) The annual report must include,

"(a) copies of the most recent annual audited financial statements of the society and of the auditor's report on the financial statements;

"(b) details on the investigations and enforcement activities carried out by the society in the previous year, including the outcomes of each investigation; and

"(c) details respecting any appeals taken under section 17 or 18 in the previous year, including their outcomes.

"Material available to the public

"(4) The society shall make available to the public,

"(a) a copy of its bylaws;

"(b) a copy of any procedural or operations manuals for its inspectors and agents, including any prescribed biosecurity protocols; and

"(c) the qualifications, requirements and standards for inspectors and agents of the society established by the chief inspector of the society under subsection 6.1(2)."

It is our opinion that this section will ensure that the OSPCA is accountable and their activities are transparent to the public. It relates to both fiscal matters and the OSPCA inspections. When you're starting to handle sums of \$5 million etc., which was transferred over to the OSPCA this year, I think there's an accountability process that we have to follow.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: We'll be supporting this amendment in the NDP. Certainly, we heard enough deputants speaking about the overzealous actions of the OSPCA. Not to mention, as my colleague suggested, that it's not a transparent organization; I still have not seen a copy of the bylaws.

This is a public charity. It's also a public charity that receives public money, tax money. As such, it should be more open and transparent. This is not asking for the moon; this is asking for what any church or any organization out there would be willing to provide, particularly one that receives a tax grant. So certainly we'll be supporting this amendment.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: With respect to accountability, after reviewing some of the concerns that were raised, we—staff and myself—went back to take a look at some of the accusations that were being laid. We're satisfied that the accountability mechanism is in place that addresses OSPCA law enforcement activities, including enhanced authority of the chief inspector, which we've referenced in terms of the hearings and what's going to happen there; appeals of compliance and removal orders by the ACRB; and that ACRB decisions may be appealed to the courts. So we wanted to bring the distinction between what that body can do—and also, you'll be seeing later some amendments that make it clear the distinction between courts and the capacity for those to use the courts and charges that are dealt with by the court system. So those three components that we talked about in reference to accountability, we believe, are in place.

With respect to the OSPCA organizational and financial accountability, they're governed by legislation that deals with charities and their inherent need and desire to maintain a public credibility and trust. Having said that, some concerns were raised, and it's been asked of them to make sure—it was during the deputations—that they make their bylaws and their reports public. Much of the suggestions made during that time have been done, including an annual report and an audited financial statement that are publicly accessible. Overall investigative statistics are also made public, if requested. Actually, I referenced those during the deputation; I made those statistics available.

The suggestion regarding the ACRB appeals is dealt with by the ACRB's annual report, which is also public. The OSPCA is dealing, as a report to this committee right now, with the issue of accessibility to their bylaws, and we anticipate that they will act appropriately. We believe that this particular piece inside of the legislation is not necessary.

Ms. Cheri DiNovo: Just responding to something that Mr. Levac said—and I appreciate that hopefully this is going to change, with or without this amendment passed, the OSPCA. Some of the statistics that we were given and that we did have available to us were unaudited statistics. They were provided by the agency itself and not ascertained or verified by an outside agency. That's exactly what we and the Progressive Conservatives are

asking for in this amendment: that it be verified by an outside agency. We heard various statistics, for example, about euthanasia rates. How do we verify that if we don't have somebody from outside of the OSPCA giving that to us? So that's the momentum of this amendment. I know it's going to be defeated, so I'm just saying that I hope that by going on record this is changed.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Just for clarification purposes, all of the statistics that were provided during that committee were not solely accumulated from the SPCA. They were accumulated through other sources that provided those pieces of information. For clarity purposes—and if you'd like, I could go back and get those singled out to show you that some of those came from other statistics that are taken by other agencies. We gave you a package of an overall picture that we committed to. So I can get that clarity for you.

Ms. Cheri DiNovo: Thanks, Dave.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Levac. Further comments or questions?

Shall section 5.1 carry? All those in favour? Opposed?

Mr. Garfield Dunlop: Can I ask for a recorded vote, Mr. Chair?

The Vice-Chair (Mr. Jeff Leal): Absolutely.

Ms. Cheri DiNovo: Are we voting on the amendment?

The Vice-Chair (Mr. Jeff Leal): We're voting on the new section 5.1, as proposed by Mr. Dunlop. And Mr. Dunlop has asked for a recorded vote.

Ms. Cheri DiNovo: This is the amendment, yes.

Ayes

DiNovo, Dunlop.

Nays

Flynn, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It's defeated.

Section 6: Mr. Levac, please.

Mr. Dave Levac: I move that section 10 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 6 of the bill, be amended by adding the following subsection:

"Exception

"(2) Despite clause (1)(b), a corporation or other entity that was an affiliated society on April 3, 2008 may continue to use the name 'humane society,' 'society for the prevention of cruelty to animals' or 'spca,' or the equivalent of any of those names in any other language, alone or in combination with any other word, name, initial or description, even if it is no longer an affiliated society."

Basically, in a nutshell, in one of the deputations, a recommendation from a highly regarded individual indicated that we grandfather "humane society" and "SPCA" or SPCA affiliates as of April 3, 2008. As far as

grandfathering is concerned, for the OSPCA affiliates, we are going to start the clock at April 3, 2008, the date of Bill 50's introduction. Any groups that were affiliated with the OSPCA on that date can continue to use the name, even if they cease to be affiliates in the future.

The intent of section 6 remains clear and important to ensure that the public, veterinarians and police can identify which local animal welfare group has authority under the OSPCA Act, which has been in existence all the time—it has never been any different—by restricting the use of the names "humane society" and the "SPCA." In most but not all of Ontario, these names have become synonymous with OSPCA. We understand there are approximately six or seven local groups that use the name "humane society" that are not affiliated with the OSPCA. In some instances, this has caused some confusion and concerns—and I say "in some instances."

We're also saying that any group that does not provide substantial field-level animal welfare services should not be using the names because it confuses the public, who may unfortunately assume that their local individual groups are dealing with or contributing to the OSPCA affiliate.

During the hearings, it became apparent that even the committee members, including myself, at some times had difficulty making a distinction between some of these cases, which only reinforces the need for the law to have greater clarity on this particular issue. So we are making the amendment to section 6, as we made the commitment to do so.

The Vice-Chair (Mr. Jeff Leal): Thanks, Mr. Levac. Just to clarify, Mr. Flynn arrived. He voted on the last motion, but his sub didn't start; the clock doesn't start ticking until 10:30. Just to let you know that, committee, for the record.

Mr. Kevin Daniel Flynn: You mean, I could have stayed out?

The Vice-Chair (Mr. Jeff Leal): You could have stayed out for another two and a half minutes, Mr. Flynn, but thank you for your prompt attendance.

I know there will be some debate from the official opposition and NDP because both of you are recommending voting against this. Ms. DiNovo, please. We'll go to you first and then Mr. Dunlop.

Ms. Cheri DiNovo: Yes, and I'm also looking for some clarification. Clearly, we'll get to that. We are asking on this side of the room that section 6 be taken out entirely. The government had promised an amendment. We got it. We're not happy with it. For one thing, we wonder about this magical date of April 3, 2008, and the fact that it does exclude those who are not affiliated with the OSPCA.

1030

I also wonder about the jurisdiction that even this committee or this bill has over names, period. Can we actually legislate somebody not to use the word "humane" in their name? I think that this is outside of our jurisdictional ability here. I also think that it speaks to what we heard over and over again in the deputations and

what we're so upset about on this side: that is, this turf-warfare aspect of the bill that's supposed to be about animal welfare when in fact it's about human welfare and the human welfare of the OSPCA over and against some of its affiliates.

This is a problem. We were hoping for more from the government. We'd like to hear more of an explanation from the government. We're voting against it as it stands.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, please.

Mr. Garfield Dunlop: I have a couple of questions that I'd like to have answered, if the parliamentary assistant can provide that. There are a couple of things that I'm concerned about with this particular amendment, one being those that aren't affiliated whose names could be taken away or will be taken away as of April 3. I want to know, first of all: Will groups like the London Humane Society, the Toronto Humane Society, Burlington and Hamilton retain their names as we know them today as a result of the government passing this amendment? I'd like that put on the record, if we could.

The second thing that I'm concerned about is—I'm looking into the future. A lot of people care a lot about animals, and I'm thinking of philanthropists etc. who may want to leave large sums of money to a community to actually initiate what we would call a humane society, and that might disallow them to use that name in the future. When other communities have it now and it's been something that we know at least has been around for 121 years in the province of Ontario, I think the name "humane society" should be able to be used in the future, and not only by the existing ones. I can see potential down the road for others being established and being very reputable and very professional in the way they operate. I'm not sure if you have any comments on that, but if you wish, I'd like the answer.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Certainly. Let's try to tackle all of them as they came up.

April 8, 2008, is the designated time at which, if the bill passes, it proceeds. We're using that as the start point, so it's not as if it's a magical date. It happens to be the date on which, if we as a Legislature pass the bill, it is enacted. That's the point that between now and then other people have an opportunity to make some decisions on what they do or don't do. That's the date.

You asked about names and courts. I can give you several examples, but I'm not a lawyer, so I don't profess to know the legalese behind this. There are some people who have definitive opinions that you cannot legislate this name. "Things go better" or "It's the real thing"—those trademarked phrases. There are court cases ad infinitum about people using somebody else's name or catchphrase or verbiage taken by themselves out of the context of selling those things or those things being available in our simple everyday language. You can give ton of those examples. Quite frankly, that's for the courts to decide. Everyone's got a lawyer who's saying that "Our opinion is, it's yes" or "Our opinion is, it's no," and with all due respect to any lawyers in the room, there's

an old saying: If you put three people in a room and three of them are lawyers, you'll have five different opinions of whether or not it's legal. What we're saying as the government is that this is our attempt to try to clean up something that has had some problems in the past, and that it's going to be referenced to the court in order to fulfill that requirement.

Mr. Dunlop said that it could be taken away. That's the good, operative word: "could" be taken away. There are no provisions in this particular legislation for it automatically to happen, so that if it leaves room for anyone who feels that there's a way in which this name should be removed because of their practices, then there would have to be a civil suit. There would have to be court action in order for that to be done. It's not done in the bill. If you look carefully, what happens in the bill is that it sets the premise out for the foundation of how the OSPCA has always acted. This is not entrenching anything brand new; this is entrenching something that's been in existence for quite some time under section 10.

There are various situations that you asked about when you mentioned London, Toronto and all the other ones. Some are different. Some of them are affiliates, so it's grandfathered and nothing's going to change, so they're going to keep their name. Under the circumstances, the potential for losing or keeping the name is all up between the two groups of people. You can join, you can remove yourself, and if you remove yourself and you're already an affiliate—I want to be clear—then that name stays with you.

For the example that you used, in Toronto's case, it's an affiliate. But if it removes itself and says, "I no longer want to be an affiliate to the OSPCA," it keeps its name as the Toronto Humane Society. What's the other example? Burlington—if Burlington wants to join the OSPCA, then it can join the OSPCA at a later date if it doesn't even have affiliation, and it could have cause to change its name. If there's an organization out there that does not have an association with the OSPCA, it keeps its name. It's the courts that are now going to be carrying the load on decisions in terms of whether or not somebody can or cannot maintain their name.

The last example I'll give you—and this is just me speaking; I didn't get this approved or not. The example I'll share with you is the WWF, the World Wildlife Fund, in case you were thinking I was going to talk about wrestling. It had the initials "WWF" before the wrestling. They did go to court, and Vince McMahon made it clear, saying, "We are going to fold. My company is not going to be able to survive if you make us"—their arguments in the court were basically saying, "It's ours; it's nothing like the WWF. We're going to go; we're going to fold." They changed their name because they lost the court case. The WWF, which is the World Wildlife Fund, maintained their name, and the other WWF was ordered to change its name. It changed its name to WWE, and I don't think there's anyone here who doesn't realize that they're doing quite well, thank you very much.

I think that the courts are where this is going to take place, if it does, and I think that there needs to be an

understanding—and it was referenced earlier—that this is a turf war. I don't want to be dragged into it. This is their opportunity to kind of put it to rest, one way or the other, through the courts, where it belongs. I hope that clarifies the difference between somebody saying that they're taking sides as opposed to entrenching something that's already in existence, leaving it there, bringing clarification, as committed to, and adjusting it so that the grandfather piece takes care of those who had the biggest concerns that were laid out.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please?

Ms. Cheri DiNovo: Thank you for that explanation, Dave. However, a couple of things: First of all, groups are affected by this, and immediately so. The Humane Society of Canada is affected by this; the Burlington Humane Society, among others, is affected by this. They're not affiliates of the OSPCA. I think that animal lovers across the province would wonder: Why are we forcing groups that have been in existence for quite a while, that have shown that they're animal-positive, shown that they do good work in the community—why are we all of a sudden forcing them to become affiliates? What place does forcing them to become affiliates have in an animal welfare bill?

I don't understand why the government is so wedded to section 6. Would it really cost this bill, which is purportedly in favour of animal welfare—and I believe that most of it is—anything to take the whole section out? Why do we have this section in? It does affect existing organizations. Why force those existing organizations to have to go to court? What is the point in that? They're going to take valuable money away from the good work that they do with animals to spend on lawyers. Is that in the interest of animals? Is that in the interest of animal welfare? This has no place in an animal welfare bill.

I know there has been the speculation that people will be kicking in doors, pretending they're the OSPCA when in fact they're not—when they're from PETA or something. The reality is, we didn't hear one deputant talk about anything like that. This has not happened. We don't have officers running around pretending to be OSPCA officers. It hasn't happened. We didn't hear about it in deputation, so why? The only reason I can come up with—and honestly the only reason; I'm not taking sides here—is that for some reason, there's some infighting between the OSPCA and its affiliates, and they're going to take it out in this bill. This is no place for that. This is a bill purportedly for animal welfare, and I don't think we should have to drive people to the courts when we don't have to.

I see it, first of all, as completely unnecessary in terms of animal welfare. The only necessity I can see, as I say, is a kind of turf struggle that has no place in an animal welfare bill. We're absolutely opposed to not only this amendment, but the entire section 6. We want to see it come out entirely—I'm not going to filibuster, you'll be happy to know, like I did with another bill. But we hope, and we've heard some assurances, that even though it's

there, they're not going to act on it. Well, we'll wait and see. My question is, why put something in place that's so egregious?

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The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, please.

Mr. Garfield Dunlop: First of all, I'm really glad you're not going to filibuster; it's August 18 and we're now in Queen's Park.

Second of all, our party won't be supporting this either. I mentioned earlier in my comments about the potential for a problem, not only with the affiliates and non-affiliates but in the future with other organizations to want to create an organization and use the words "humane society." I don't think this bill is the place to put it in so that it won't happen. I mentioned earlier that you could easily have—if you look at the example Mr. Levac was using of Vince McMahon and the World Wildlife Fund. There's another example that happened just recently in the United States. I believe it was Leona Helmsley, a billionaire heiress who left \$7 billion or \$8 billion to her cats or dogs or something like that. That could have easily been left to an organization to create a new humane society in a state, or in this case a province, or a city or community or whatever. I'd hate to think that somebody with philanthropy behind them, and the potential for a new organization to be created that would help animals in our province, couldn't use the words "humane society" in the future. For that reason alone, along with the affiliate problem, we can't support this particular motion.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: I want to make sure that we're clear on some of the assumptions that Ms. DiNovo made. First of all, no one immediately, because of this legislation, loses their name. What has to happen as a result of the legislation—should there be a desire to have them stop using the name, then a court action has to take place. This bill does not remove that name. We want to be clear about that. So if they continue using the name, the only way in which that gets done, unless I'm misinterpreting this—and I'll turn to my staff and anyone in the legal department. I'm getting a nod that says I'm saying that right.

As to the second point you made, I disagree with you that nothing has been impacted by some of this problem. There has been. There have been people raising money under the premise that they immediately get money and they do welfare work with animals. There are some organizations out there that simply raise money. That's a problem, because very similar to the philanthropic belief of some people who love animals dearly, they could be sitting there giving money thinking that they're getting that particular animal fixed right away, and quite frankly there could be organizations out there that are just simply raising money. They have this amazing capacity to raise money, and if they're using the terminology associated with "humane society," the implication is that the same kind of work that the OSPCA is doing is being done. So there is a problem presently.

To assume that nothing else is a problem is not a good assumption, because there are some ways that people are raising money right now, under that premise, so we're trying to kind of tighten that enough to simply say, "You're not going to use that little trick anymore; we're going to try to fix that by putting in this piece of legislation."

Ms. Cheri DiNovo: With respect, and seriously with respect to all the good work that has gone into this bill by staff in the ministry, if somebody is ringing doorbells and raising money and saying that they're doing something and they're not, it's fraud. It's a criminal case and it's covered by the criminal laws of the federal government. So we don't need to put this piece in a provincial bill to address that; it's already covered, which is the other thing. Again, with the assurances of, "Nothing's going to change. They don't need to do anything," it then makes it even more appropriate to say, "Well, why put it in? Why have section 6? If it's not going to make that much of a difference to the Burlington Humane Society or the Humane Society of Canada, then why have it?" Clearly, they're upset about it. A number of potential affiliates are very upset about this, and we heard deputations from them.

Again, it doesn't do much in the way of positive actions. Certainly, it doesn't do anything for the animals. In the case of fraud, it doesn't address that, because that's already addressed. So I don't get it. I still don't get it, despite the assurances to the contrary, so I will be voting against it.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, anything further?

Mr. Garfield Dunlop: No.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment?

Interjection.

The Vice-Chair (Mr. Jeff Leal): A recorded vote.

Ayes

Flynn, Jaczek, Levac, Rinaldi.

Nays

DiNovo, Dunlop.

The Vice-Chair (Mr. Jeff Leal): The amendment's carried.

Shall section 6, as amended, carry? Carried.

Section 7: Mr. Dunlop.

Mr. Dave Levac: Mr. Chair, we should acknowledge that after section 6, which was accepted, there are two notices. Does that automatically remove those, just for the purposes of clarity?

The Vice-Chair (Mr. Jeff Leal): Yes, it automatically removes—they weren't amendments; they were just motions, saying to vote against section 6.

Mr. Dave Levac: Yes, and because it passed with the amendment—

The Vice-Chair (Mr. Jeff Leal): They're redundant.

Mr. Dave Levac: Thank you very much.

Mr. Garfield Dunlop: I was going to vote with the PC party and the NDP against it.

The Vice-Chair (Mr. Jeff Leal): That's correct, and you've exercised your vote.

Mr. Dunlop, the next one is yours.

Mr. Garfield Dunlop: I move that section 7 of the bill be amended by adding the following subsection:

"(2.1) Section 11 of the act is amended by adding the following subsection:

"Training

"(2.1) The society shall ensure that every inspector and agent of the society is trained in the prescribed biosecurity protocols."

This section is added to the existing section 11. It requires that all inspectors are trained in biosecurity protocols. This will help to ensure that hazardous accidents are avoided; for example, that an inspector knows the proper safety standards when moving from one area with biosecurity hazards to another area, and how to conduct themselves in such areas. We'd appreciate it if we could get support on that.

The Vice-Chair (Mr. Jeff Leal): Thank you. Mr. Levac.

Mr. Dave Levac: While we appreciate deeply the concern from the agricultural community and anyone else handling food that there are procedures in place, I must point out that OMAFRA has led on this issue, quite frankly, across the nation—not only in the nation but in the world—in terms of food safety. They've stated themselves, checking with OMAFRA, that it's not practical, as their current policy is not precise enough to effectively prescribe in law the biosecurity protocols. That's why OMAFRA doesn't prescribe biosecurity requirements in any laws that they administer. Therefore, it's primarily due to the biosecurity issues being different from premise to premise, from situation to situation and from species to species that we find that this particular amendment, although well intended, would not prove to be effective and practical. It's also because the biosecurity requirement methods and training are continually being adjusted and improved to deal with emerging issues, techniques and technology. That would be a difficult situation when you have a law that's specific and that prescribes.

Both OMAFRA and the OSPCA are committed to meeting the most current and effective biosecurity requirements. I'd point out that there were some deputations that basically implied, anecdotally, that a member from the OSPCA would walk in and practise absolutely no biosecurity functions whatsoever. I don't necessarily indicate that that person was not telling the truth; what I'm suggesting to you is that if it did happen, it was an extreme rarity, because our check, after the deputation made the comments, indicated that there is an effective way in which veterinarians, OMAFRA, the farmers and OSPCA staff are continually very sensitive and practise good practices and protocols for biosecurity.

OMAFRA and the OSPCA are actively addressing that by saying that they've posted OMAFRA biosecurity

policy on their website and engage with OMAFRA on ongoing and enhanced training to comply with this policy. As well, with the new chief veterinarian, the animal health and safety branch is dealing with the issue and liaises with the OSPCA to ensure that the policy that is developed and implemented is ever-fluid so that it can modify and change as the situation does, case by case.

My last comment would be that the new powers that the chief investigator is going to be given if we pass the amendments will be very cognizant of that issue that has been raised. So we will not be entrenching that into law.

1050

The Vice-Chair (Mr. Jeff Leal): Any further comments?

Mr. Garfield Dunlop: Just a comment: For a bill that wasn't going to have a lot of impact on agriculture, with agriculture being kind of an exception, we've got a lot of information now on record from OMAFRA and their concerns with biosecurity and their protocols themselves. I'm hoping that although you may not be accepting this right now, down the road, we can have our OSPCA inspectors trained in some of these areas, because there's no question that they're entering farms. There will also be the roadside zoos that they'll enter as well. They wouldn't want to carry any kind of disease from one location to another.

Ms. Cheri DiNovo: Certainly we heard assurances from the government side too that the training that OSPCA agents undergo is going to be extended, lengthened and added to. I'm hearing assurances that this is already part of the protocol of training in OSPCA persons. The problem is that in the deputations that I heard, there were some concerns. I hear that perhaps they're anecdotal. Perhaps they are; perhaps they're not. Who knows? I don't see a problem with really entrenching this or entrenching other things in this bill, so why not entrench better training in this bill? Again, we're going to be including a letter about the operations of the OSPCA at the end when we submit our final thoughts about it. Training is going to be one of those issues that we think really needs to be addressed in the OSPCA.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? All in favour of this amendment? Opposed? It's defeated.

Shall section 7 carry? All in favour? Carried.

Section 8: Mr. Levac, please.

Mr. Dave Levac: This is in regard to section 8. I move that section 11.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be amended by adding the following subsection:

"Exception

"(1.1) Subsection (1) does not apply in respect of,

"(a) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or

"(b) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities."

This is to talk to Mr. Dunlop's concern, originally expressed, and it fulfills a commitment that an entrenchment of this would take place in the bill. We had indicated in the hearings that the exemptions were there. We repeated it several times and found that the subsection needed to be exact, and we've made that commitment to do so, so that's what we're adding this for.

It was always our intention to provide an exemption for reasonable and accepted agricultural practices. We indicated that we respected the farm community's day-to-day operations and we respected agriculture's ability to establish those practices, which is another way of saying that the entrenchment of this particular clause respects that circumstance. I want to repeat, though, the one comment that I made that indicated that it doesn't say that the OSPCA officer would not intervene, but that it would be beyond the accepted norms and practices, which would be coordinated with OMAFRA, the farm community, OFA, Christian Farmers and anyone else in terms of the proper practice. The OSPCA would then have continued authority to do that if it's an intervention beyond the normal practices. I want to indicate to you that this is a commitment that we made, and we're fulfilling that today.

The Vice-Chair (Mr. Jeff Leal): Further discussion? All in favour of this amendment? Carried.

Mr. Dunlop, please.

Mr. Garfield Dunlop: Mr. Vice-Chair, I understand that because subsection 1(4) was turned down, this motion will be out of order.

The Vice-Chair (Mr. Jeff Leal): That's correct.

Mr. Garfield Dunlop: I'll withdraw that, please.

The Vice-Chair (Mr. Jeff Leal): Thank you very much. You're up next.

Mr. Garfield Dunlop: Page 12?

The Vice-Chair (Mr. Jeff Leal): That's correct.

Mr. Garfield Dunlop: I move that subsection 11.2(3) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be struck out and the following substituted:

"Training, permitting animals to fight

"(3) No person shall,

"(a) train an animal to fight with another animal for the purposes of competition or entertainment; or

"(b) permit an animal that the person owns or has custody or care of to fight another animal for the purposes of competition or entertainment."

One of the reasons we put that in is that the amendment will strike out the existing section in the bill and elaborates that specifically an animal cannot be trained or permitted to be trained for fighting. This section limits those situations to being for competition or entertainment. Restricting these sections to competition and entertainment takes into account the various contexts where it is natural for an animal to fight—for example, the normal assertion of dominance or when they are protecting a farmer's livestock and attack another animal to ward them off. A good example would be a sheepdog, someone who has a dog to herd sheep or cattle. They have to

be trained in that particular area, and we'd like to make sure they're exempt from that.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Dunlop. Mr. Levac.

Mr. Dave Levac: Picking up on that last comment, I'll indicate that we'll be speaking to that in a later amendment that's being proposed. To make it simple, we believe that with this particular amendment, what you do is create a possible loophole with this activity, the claim that there's some other purpose to training or fighting. We believe that we want to be broad enough so that no matter what they try to use as an excuse, it would just simply be inside of the definition that we're presently proposing so that if the purposes of competition or entertainment can't be met, then that means it excuses them for doing what they're doing. I don't think the intent was there, but you're creating a loophole that they can come up with a reason why it's not entertainment or competition and they get to proceed to do what they're doing on the sly. Quite frankly, we believe this particular amendment to be a little bit flawed, so we can't accept it.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo.

Ms. Cheri DiNovo: Yes, we are going to side with the animals on this one. Again, as in the distress discussion, the broader the definition, the better. I would hope that the situation that Mr. Dunlop referred to—and I'm very aware of that from the deputations—be covered by the standard practices of agriculture, which is in another section of the bill. So we're going to vote against this.

The Vice-Chair (Mr. Jeff Leal): Any further comments?

Mr. Garfield Dunlop: I'll ask for a recorded vote on that.

Ayes

Dunlop.

Nays

DiNovo, Flynn, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Mr. Dave Levac: I move that clauses 11.2(6)(a) and (b) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be struck out and the following substituted:

“(a) an activity permitted under the Fish and Wildlife Conservation Act, 1997 in relation to wildlife in the wild;

“(a.1) an activity permitted under the Fish and Wildlife Conservation Act, 1997 or the Fisheries Act (Canada) in relation to fish;

“(b) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or.”

Quite frankly, this is just simply a continuation of the stakeholders' committee, to hear their request that this be enshrined in the body of the act. We're fulfilling that commitment, as requested.

The Vice-Chair (Mr. Jeff Leal): Further discussion?

Mr. Garfield Dunlop: I will support this particular amendment, although, when you use a statement like part (b), “an activity carried on in accordance with reasonable and generally accepted practices,” I guess my concern there is, that's very vague as well. You have a lot of different concerns on what's generally accepted. I can understand where you're going with it, but I can also see there being a loophole there as well.

Ms. Cheri DiNovo: We're going to vote in favour of this motion as well. It tightens up the definitions a little bit, which is always a good thing. But I hear Mr. Dunlop's concerns. Again, those are sort of the meta-concerns of this entire bill. Certainly, I refer again to the fact that I will be including a letter—and this speaks again to the training of the agents, the transparency of the organization. If they move in that direction, then we're fine with this motion.

1100

Mr. Dave Levac: Just as a follow-up, the point's taken and accepted, except to say that if you then start to prescribe specifically what those processes are in agriculture, you're doing the exact opposite of what was being asked, which is to “leave us alone and let us do our job,” because we already have, within OMAFRA and our organizations in the farming community, the practices that are prescribed out there. We also heard deputations that indicated that those are even changing, and that there are different ways in which that's happening. So you can't have it both ways. If you start doing that, we'd have to revisit the law and then change that again.

So I think, in terms of defending the position, I accept what the opposition have said as cautions. I think that's fair to say, to be careful of this, because if it's too loosey-goosey, it means that the OSPCA can interpret it differently. But then what we'd be doing is going against what we committed to the farmers in the first place, which is that we would try to just entrench the protocols that they have in place.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I will withdraw this next section.

The Vice-Chair (Mr. Jeff Leal): Thank you.

Mr. Dunlop again, page 15.

Mr. Garfield Dunlop: Okay. This is the warrantless entry section. No, I'm sorry—

Mr. Dave Levac: No, no.

The Vice-Chair (Mr. Jeff Leal): This one's about predators.

Mr. Dave Levac: This is the one that piggybacks on the—

Mr. Garfield Dunlop: Okay, yes. I'm sorry. I've got it here.

I move that section 11.2 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be amended by adding the following subsection:

“Same

“(8) Subsection (3) does not apply in respect of animals used to guard and defend livestock from predators.”

This adds a further exception to when distress is not able to be found. In other words, when an animal is utilized to defend livestock and attacks another animal, causing it, for example, to suffer, it’s not equivalent to a finding of distress pursuant to this act.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: This is the one that I referenced I would be coming back to explain about the farm community. The dog we were given as an example in terms of nipping at the heels of a sheep and chasing coyotes—we’re in favour of doing that. What we need to express is the fact that farmers would be protected as guarding, defending or herding, and are not simply fighting, just as hunting is not fighting. So the examples that were given by those hunting and fishing people who presented, saying that a dog treeing a raccoon could be cited—that’s not it. That’s part of the hunting process, as is farming. They need to guard their stock; they need to defend against the predators for the animals. In the herding situation, it takes care of the dog nipping at the heels, because that’s a normal practice for the dog and it doesn’t hurt the animal.

This is an example of how the other motion had to be turned down, because then they could turn around and say, “Well, I’m training the dog to defend a herd.” So therefore, you almost create this illusion that we understand that training for fighting is an acceptable practice, because we just want to box it. We want to send the signal loud and clear: We ain’t going to let it happen. Even though it’s a positive way in which you’re trying to protect the farmer, this almost implies that fighting is acceptable in a small range of areas. We want to shut that down completely, and that’s why we can’t accept this amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: We’re going to vote against this amendment, much for the same reasons. We don’t want to leave any loopholes for dogfighting. As a former owner of a British bull terrier, my best dog ever, I’m very aware of that problem and its existence, and we want to allow that to be eradicated. Again, I take whoever is reading these notes back to the fact that standard agricultural practices are protected in this bill. One of them is the fact that you have sheepdogs and you have animals that guard against coyotes and other predators. So we are going to vote against this motion.

The Vice-Chair (Mr. Jeff Leal): Anything further?

Mr. Garfield Dunlop: I’ll ask for a recorded vote.

Ayes

Dunlop.

Nays

DiNovo, Flynn, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It’s defeated.

Mr. Levac, please.

Mr. Dave Levac: I move that subsection 11.4(3) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be amended by striking out “a veterinary facility” at the end and substituting “accredited veterinary facility.”

This is housekeeping, as we accepted the previous amendment.

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I’m sorry I’m so slow on some of this this morning. I’m just trying to keep organized.

I move that sections 11.4 and 11.5 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be struck out.

Section 11.4 is struck out so that warrantless searches are no longer allowed. This section provided too much power to OSPCA inspectors. As a result of striking out sections 11.4 and 11.5, it is no longer necessary. Section 11.5 relates to the granting of a warrant in circumstances when an OSPCA officer has been denied entry to inspect, pursuant to 11.4.

We’ve heard a lot on this particular section, and not just people making deputations; we’ve had a lot of correspondence and a lot of letters on it as well. On behalf of our party, we just can’t support the whole concept of warrantless entry, so we want this removed. I don’t expect you’re probably going to support it, but the reality is that we want to bring it to the table for a potential amendment.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Understanding the intent and the philosophy behind this particular motion, we’re not going to support it, but we do want to make a couple of quick points.

The first point is that warrantless entry already exists under three headings, and we explained that the two headings would stay the same. The one heading was modified in order for the observation piece to be strengthened. We gave the example several times over that you could enter a car if you could see through the window and see a dog in distress, but if you heard the dog yelping or the kitty mewing in the trunk, you couldn’t because you can’t see it, which is part of the definition. So that’s the only change of that that we wanted to make.

Warrantless entry already existed under the circumstances, which was non-compliance to an order and with permission of those that are on site. So if I go to a person and say to them, as an SPCA officer, “Do you mind if I come in to inspect the circumstances behind which we are receiving complaints?” and they say yes, you don’t need a warrant. That’s already in existence. So I wanted to make that clear.

The second thing: By removing 11.4 and 11.5, you take out the entire package. Therefore, you would completely remove the OSPCA’s ability to protect animals in

captivity, including zoos, circuses, rodeos and pet stores, which is one of the reasons why we wanted to do an update on the bill. Although I respect—and I've indicated that clearly—the philosophical belief that warrantless entry shouldn't exist at all, I just have a problem with taking it completely out. Because when you remove it—probably inadvertently, because I think you were looking specifically at warrantless entry. But by removing the clauses the way you have, it completely takes out that authority altogether.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo and then Mr. Dunlop.

Ms. Cheri DiNovo: I was surprised to find out that warrantless entry has been on the books forever and that this is just an update of it. However, again, if the world worked as it should and the OSPCA worked as it should, then absolutely: Probable cause is really the philosophical reason behind this. If you've got probable cause, even if you don't have a warrant you can enter facilities. We're giving this power to agents, and I think it's what we should do. I'm going to vote against this motion.

1110

But—and here's where the “but” comes in—we heard a number of deputations about the way this was handled, and handled not well. One of the recommendations—again, this will go in the letter—is that, for example, we had an instance where an agent entered a zoo. It was assured to us that, for example, with exotic animals—you can't be an expert on every kind of animal breed—a veterinarian would go along with them who knew about the breed and would be able to say whether this animal is being abused or not.

The question was: When they remove exotic animals, where do they remove them to? Euthanasia is usually the case because others won't take them or can't take them. We're concerned about it. We think that it should be upheld, that they should be able to enter with probable cause. We want to protect the animals first and foremost, but we also want to ensure, with the training of the agents, that they're taking along people with them who know about the breeds and they're not removing animals unnecessarily because they don't have the facilities to look after them either, which raises another interesting point, and I'll just make it quickly: that the OSPCA is exempt from this very bill. This will also go in the letter. In other words, if they remove an animal and look after it, who inspects the inspectors? We've heard some concern about the animals that the OSPCA is looking after. Are they looking after them well? Who's going to check on them? The oversight issue will go in the letter.

We're voting against this amendment.

Mr. Garfield Dunlop: Just quickly, I've heard so many horror stories during the deputations and from individuals who approached me on a one-to-one basis who were telling me about stories around warrantless entry. I'm hoping that the whole image around the OSPCA can be changed drastically in this particular area.

One of the things I thought was good about the bill was the fact that we had the opportunity, with a phone

call, to call a JP. A JP could give you approval to enter the premises. Again, I go back to inspectors who might be overzealous and offer to go on any property, which may in fact cause some damage or bad feelings or just be a bad decision. I think we heard some of the people here at our committee hearings, but it's not something that our party agrees with: going onto a premise without a warrant. I'll ask for a recorded vote on that too, please.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? Shall this amendment carry? All in favour?

Ms. Cheri DiNovo: Can I just say one more thing? There's another ethical reason behind the reason, and I just want to make this very clear that we're voting no for this amendment as well. I understand the Progressive Conservatives' reason for putting it forward. It's always a touchy subject. But ultimately, we in the New Democratic Party believe that animal rights supersede property rights. That's very important.

The Vice-Chair (Mr. Jeff Leal): All in favour of the amendment? A recorded vote.

Ayes

Dunlop.

Nays

DiNovo, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It is defeated. Shall section 8, as amended, carry? All in favour? Carried.

Section 9: Mr. Dunlop, please.

Mr. Garfield Dunlop: I will, then, withdraw this one.

The Vice-Chair (Mr. Jeff Leal): Okay. Mr. Levac, please.

Mr. Dave Levac: Thank you, Mr. Dunlop, for your recognizing and making things move along. I appreciate that.

I move that subsection 12(7) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 9 of the bill, be amended by striking out “a veterinary facility” at the end and substituting “an accredited veterinary facility.”

This is very similar to all of the cases in which we mention “veterinary facility.” This is housekeeping to use “accredited.”

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Mr. Garfield Dunlop: I move that subsection 12.1(2) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 9 of the bill, be amended by striking out “upon conclusion of the tests and analyses, shall dispose of the sample or carcass” at the end and substituting “upon conclusion of the tests and analyses, and subject to allowing the owner or occupier of the building or place from which a sample is taken or the owner or custodian of the animal whose carcass is being tested and analysed, to conduct their own tests and

analyses of the same sample or carcass, shall dispose of the sample or carcass.”

We’ve added “and subject to allowing the owner or occupier of the building or place from which a sample is taken or the owner or custodian of the animal whose carcass is being tested and analysed.” By adding this part, the owner or occupier is being permitted to conduct their own test independently of the OSPCA before the animal is actually disposed of. We think that’s fair.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Dunlop. Mr. Levac, please.

Mr. Dave Levac: That last comment is exactly bang-on. The only concern that we have is that by this entrenchment, you could be opening up a fudged result. I’m not an expert, please, but I did get some opinion on this. I guess the best way to characterize this would be to look at your cases of CSI, the testing procedure that takes place. After the fact that the test has been done, then the test material and/or the carcass is deemed to be not usable. Therefore, it would cause a problem for the testing procedures that take place in a legalized way.

Second to that, there’s absolutely nothing to prevent an owner from taking a sample on their own at the same time as the OSPCA takes their sample and having it tested. There’s nothing in law that says that if an OSPCA officer shows up on site and says, “I’m going to take a sample of that carcass”—that agent cannot restrict the owner from going in and taking their own sample and having it tested in a parallel circumstance. We believe that the motion is not appropriate.

OMAFRA has stated that—we confirmed that with OMAFRA, so I didn’t learn this from TV—a sample material or a carcass would be properly disposed of after testing, and these tests would normally be conducted at the animal health laboratory at the University of Guelph, which is a highly credible internationally accredited institution, so I don’t think that there should be any question of that piece. But we recommend very strongly that there could be some communication piece out there that makes it clear, either through OFA or OMAFRA or somebody, that if somebody wants to test your animal, go grab a sample, because it’s not against the law to do that. So we’re not going to support the motion.

The Vice-Chair (Mr. Jeff Leal): Thanks so much, Mr. Levac. Ms. DiNovo.

Ms. Cheri DiNovo: Yes, I agree. It’s in the act here—“an inspector, agent or veterinarian”; it doesn’t necessarily say “an agent of the OSPCA.” So I don’t think it’s a necessary amendment.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, anything further?

Mr. Garfield Dunlop: No.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It’s defeated.

Mr. Dunlop, please.

Mr. Garfield Dunlop: I move that section 12.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 9 of the bill, be amended by adding the following subsection:

“Biosecurity protocols

“(4.1) An inspector or an agent of the society who is lawfully present in a building or place under the authority of any provision of this act or of a warrant issued under this act shall follow the prescribed biosecurity protocols, and the society shall fully compensate any person who suffers economic loss as a result of an inspector’s or agent’s failure to follow a prescribed biosecurity protocol.”

This section ensures that the biosecurity protocols set out in the regulation are followed by OSPCA inspectors, and if the protocols are not followed and any person suffers an economic loss, the OSPCA is required to compensate that person for their loss.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: OMAFRA has led the way on this issue. As stated in the motion, it’s not practical, as their current policy is not precise enough to effectively prescribe in law, as indicated previously. That’s why OMAFRA doesn’t prescribe biosecurity requirements in any laws that they administer. This is primarily due to biosecurity issues being different from premise to premise, situation to situation, location to location and species to species. We won’t be supporting this amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: Again, back to property rights vs. the animal’s welfare: We won’t be supporting this motion either. If the world worked as it should, if the OSPCA worked as it should, is really the cautionary note here. We don’t think that they should be hampered by the thought, if they’re saving an animal’s life, that, “Oops, I might have to pay for a wrecked rug or something.” We are going to be voting against this amendment, but again: emphasis on the training.

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The Vice-Chair (Mr. Jeff Leal): Thank you.

Mr. Garfield Dunlop: I’ll ask for a recorded vote on that.

Ayes

Dunlop.

Nays

DiNovo, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It’s defeated. Shall section 9, as amended, carry? Carried.

Interjection.

The Vice-Chair (Mr. Jeff Leal): It was withdrawn.

Section 10: Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 10 of the bill be amended by adding the following subsection:

“(0.1) Subsection 13(2) of the act is repealed and the following substituted:

“Order to be in writing

“(2) Every order under subsection (1) shall be in writing and shall have printed or written thereon a description of the rights and obligations of the person who is subject to the order, including a full description of the process for appealing the order.”

On that, section 13 elaborates what an inspector can order an owner or custodian to do when a finding of distress is made. This amendment requires that the order be in writing, as presently legislated, but also include an individual's rights and obligations and the process that they can undertake if they wish to appeal the order. Adding this amendment will ensure procedural transparency by making every effort to ensure that all parties are fully aware of what they can and cannot do when an order is actually made.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Before I comment on that, I just want to point something out that I think we need to take a look at and will correct afterwards. I think we did not pass or defeat one of the motions in section 9. Can I have this checked, please, before we finish up?

Mr. Garfield Dunlop: That was withdrawn.

Mr. Dave Levac: You withdrew it?

Mr. Garfield Dunlop: Yes.

The Vice-Chair (Mr. Jeff Leal): Yes, we pulled it from the package.

Mr. Dave Levac: Oh, it was pulled altogether? My package didn't show that, so I appreciate the clarity. Now I can go back to the amendment in section 10.

The Vice-Chair (Mr. Jeff Leal): Yes. You're up, Mr. Levac.

Mr. Dave Levac: Thank you very much. I apologize for that piece. But when I see something in paper, I always clarify.

The OSPCA orders are already required to include information on the making of an appeal. I do have for you copies of the forms, and it already superimposes those. So since it's already in an action, we can't support something that already takes place. If you'd like to see the forms, I can pass copies around for the members to indicate to you what is expected in terms of notification. I think that's what you're after in terms of communication and making sure people are aware of what their rights are and what the law is. Since I have the forms, I can pass them out as evidence.

Mr. Garfield Dunlop: I do appreciate that. I'm under the impression that that's not always been the case, so if we can improve the image in the future—

The Vice-Chair (Mr. Jeff Leal): We're working on that.

Ms. DiNovo, please.

Ms. Cheri DiNovo: Again, it speaks to the training and it speaks to following standard protocol. This is, I understand, standard protocol. So let's hope they follow it. I don't think the amendment's necessary.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It's defeated.

Shall section 10 carry? Carried.

Section 11: Mr. Levac, please.

Mr. Dave Levac: I move that subsection 11(1) of the bill be amended by adding the following subsection to section 14 of the Ontario Society for the Prevention of Cruelty to Animals Act:

“Order re costs

“(1.1.1) Where a justice of the peace or provincial judge makes an order under subsection (1.1), he or she may also order that the whole or any part of the cost to the society of providing food, care or treatment to the animal pursuant to its removal under subsection (1) and pursuant to the order under subsection (1.1) be paid by the owner or custodian of the animal to the society.

“Same

“(1.1.2) The society or owner or custodian of the animal may at any time apply to a justice of the peace or provincial judge to vary an order made under subsection (1.1.1) and the justice of the peace or provincial judge may make such order as he or she considers appropriate.”

This basically clarifies the court order to retain an animal, may address costs and sets out the process for the OSPCA or animal owner to apply to have that order modified or, in effect, resolved. This ensures that the issue of the cost can be addressed when the court order is granted, that either party can apply to have the order modified and that statements of account can be served on the owner.

This further clarifies that when a court orders an animal retained by the OSPCA, the matter will not be wholly subject to court order—and will not be within the jurisdiction of the Animal Care Review Board, the ACRB. Previously, only the ACRB-related sections mentioned costs in relation to retain an animal, so that it could be misconstrued that even where there is a court order to retain the animal, the ACRB still had jurisdiction to rule on costs. This facilitates concluding a matter at appropriate points in time, including, for example, when a charge is resolved in court. Simply put, this separates that understanding between the ACRB and the court and who can and cannot order cost recovery or cost payments.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour of this amendment? Carried. Subsection 11, as amended, carried.

Section 12: Mr. Dunlop.

Mr. Garfield Dunlop: I've got a replacement section 12, with a couple of amendments made to it.

The Vice-Chair (Mr. Jeff Leal): It's 25R.

Mr. Garfield Dunlop: It's 25R? It replaces section 25?

The Vice-Chair (Mr. Jeff Leal): Yes, it's been distributed, I believe. It's right here.

Mr. Garfield Dunlop: I move that subsection 15(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 12 of the bill, be struck out and the following substituted:

“Liability of owner for expenses

“(1) If an inspector or an agent of the society has provided an animal with food, care or treatment, the society shall serve on the owner or custodian of the animal an

itemized statement of account respecting the food, care and treatment.

“Same

“(1.1) Upon being served with an itemized statement of account under subsection (1), the owner or custodian of the animal is, subject to an order made under subsection 17(6), liable for the amount specified in the statement of account.

“Exception

“(1.2) Despite subsection (1.1), the owner or custodian of the animal is not liable for an amount expended for food, care or treatment that was not reasonable or necessary.”

The section splits the existing section into two and adds subsection (1.2). Subsection (1.2) exempts an owner or custodian from paying for unreasonable or unnecessary food care or treatment while in the custody or care of the OSPCA. It helps to ensure accountability and that extraordinary, unreasonable measures are not taken at the expense of the owner or the custodian.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: The intent is obvious to me: It’s to make sure that this doesn’t get used as a fundraiser, so quite frankly, in a nutshell, we’re not going to support it, because it implies that. It may not be purposefully implying that, but we did hear some deputations where people were kind of zealous on the other side, saying that this is nothing more than a money-maker, because when they catch you, they charge an exorbitant amount of money in order to maintain the animal, and therefore we’re making lots of money. I don’t subscribe to that.

What I’m going to suggest to you respectfully is that this may fall into the category of the concerns that have been raised in the past about image versus reality, and if that case indeed is the fact, then there will be some work done with the staff and with the ministry and the OSPCA to see if there’s any way to clean that up. But the OSPCA, in our research, charges actual animal care costs—veterinary bills, which are a standard practice not controlled by them; standard boarding charges—and if that could be probably researched and found out in terms of an average cost, which are calculated on a straight cost-recovery basis. The motion doesn’t state how or by whom the cost might be judged as “reasonable or necessary,” which is very problematic. To define that becomes even a bigger cause of concern if this gets entrenched into the legislation, so we won’t be supporting the amendment.

The Vice-Chair (Mr. Jeff Leal): Any further comment? Ms. DiNovo.

Ms. Cheri DiNovo: Again, this speaks to the deputations, and my concern and our concern in the NDP is those instances where the OSPCA has made a mistake and where the animal review board has said they’ve made a mistake and the owner still gets billed. That’s not fair.

I know that in the previous amendment that the government made there’s an attempt to put into this law that there’s redress possible from either a provincial

judge or an animal review board or somebody that can then address the owner and charge OSPCA rather than the owner in those instances. Again, I hope that that’s the case and that happens, because that’s what this amendment speaks to.

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But I’m also concerned, and I will be voting against the amendment for the same reasons I voted against the other amendments: that we want to err on the side of the welfare of the animals. We don’t want to hamper investigations where the animal’s safety is in question with the thoughts, “Did I wreck their rug?” or “I’m going to have to pay for this some day down the road.” We don’t want to leave any loopholes. So, erring on the side of the animals, we’ll vote against this amendment.

Mr. Garfield Dunlop: If I may, just for a moment: What we were trying to do with this was to bring in more transparency and more accountability to an organization that we heard clearly, over the course of the hearings, that there has been problems with. A lot of the things we’re saying here today—“We’re going to fix it in the future. We’re going to make sure that they’re trained better” etc. But at the end of the day, they are accountable to the taxpayers of the province of Ontario. I felt that a motion like this was well intended and showed that we as legislators—or this committee at least—are trying to show accountability. I still believe it’s a mistake not to support this, but I will be asking for a recorded vote on it.

The Vice-Chair (Mr. Jeff Leal): Any further comment? All in favour of this amendment?

Ayes

Dunlop.

Nays

DiNovo, Jaczek, Levac, Moridi, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Mr. Levac.

Mr. Dave Levac: I move that subsection 15(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 12 of the bill, be amended by striking out “subject to an order made under subsection 17(6)” and substituting “subject to an order made under subsection 14(1.1.1) or (1.1.2) or 17(6).”

This clarifies the liability for animal care costs that applies to all removed animals, whether they are simply removed to relieve their distress or retained by the order and subject to a decision by the ACRB. This removes the text that inappropriately suggests that the ACRB could rule on costs pertaining to a court order.

This goes back to my comment about separating a court order and the ACRB, ensuring that a court order removes this matter from the jurisdiction of the ACRB.

The Vice-Chair (Mr. Jeff Leal): Any further comments? All in favour of this amendment? Carried.

Shall section 12, as amended, carry? Carried.

There are no amendments for sections 13 and 14. Shall sections 13 and 14 carry? Carried.

We're now on to page 27: Mr. Levac.

Mr. Dave Levac: I move that section 15 of the bill be amended by adding the following subsection:

“(1.1) Subsection 17(2) of the act is amended by striking out ‘in respect of which an order has been made’ and substituting ‘in respect of which an order under subsection 13(1) has been made.’”

Obviously, this clarifies the section which refers to costs in the matter within a jurisdiction of the ACRB, not a matter being dealt with by the new proposed court order to retain an animal. This specifies that the order referred to in this current ACRB-related section of the OSPCA Act is a compliance order made under the existing section 13 of the act, not a court order obtained through the proposed new provisions of this bill. This helps eliminate any potential confusion and ensures that a court order removes this matter from the jurisdiction of the ACRB.

The Vice-Chair (Mr. Jeff Leal): Further comment? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 15 of the bill be amended by adding the following subsection:

“(2.1) Section 17 of the act is amended by adding the following subsection:

“Composition of board at hearing

“(4.1) The panel assigned under subsection 16(4) for a hearing under this section must include one veterinarian with experience caring for animals belonging to the same species as the animal that is the subject of the hearing.”

This addition will ensure that an experienced veterinarian sits on the review board. It provides some accountability when complaints are made against the organization by placing an independent expert on that board.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Dunlop. Mr. Levac, please.

Mr. Dave Levac: I guess maybe a simple question would be, what would happen if you couldn't find one? Does it therefore become moot? Can they proceed? Can they do work?

Are you defining what their role is specifically only because they can talk on matters of jurisdiction within their own professional domain? There are no requirements for any particular skills or professional qualifications to be appointed to the ACRB. This amendment would make sure that happens, but even so, it has sometimes proven difficult to attract those particular kinds of members to any board, under any circumstance, that we have in the province. Veterinarians would be welcomed on the board. It's not as if we're saying that they can't apply. Everybody has access to apply to this, and maybe some cajoling and some nudging of shoulders could help. In practice, because of the tight timelines required to deal with appeals, veterinarians who have been on the ACRB in the past have found it difficult to participate in hearings because they can't close their clinics with such little notice.

It wouldn't be a bad thing to have access to advice from a veterinarian, which is actually presently the case. The board relies on testimony, including expert testimony from either party. That, too, can include veterinarians or specific expertise. If it's specific to the expertise that we're looking for, there are two ways to do that. That would be to encourage a veterinarian to join the board on their own, and number two would be that any side of an issue can bring their own expert to make expert testimony to the process that's going on presently.

So we're not in favour of demanding that somebody has to be a certain type of person to be on the board.

Mr. Garfield Dunlop: I certainly understand the reasons you've given, but when you think of something like an Animal Care Review Board, you would automatically think that you'd want the expertise of somebody with some veterinary experience on it. We thought this was something where, if we moved forward with better animal welfare in the province of Ontario, we would be able to attract people like that. That's why we wanted to put it in as part of the actual amendments. There are many, many veterinarians who are retired and I'm sure would love to be that particular person on the board, but you could easily appoint it too. Make it part of the legislation: That's what we're asking for. But I take by your comments you're not going to support it.

Mr. Dave Levac: No.

Mr. Garfield Dunlop: So I'll ask for a recorded vote on that. Thank you.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: I'm wondering if the government would consider a sort of friendly amendment to this amendment. You had mentioned that testimony from a veterinarian is included in such cases. I'm wondering if we could make that a necessity, that it include testimony from a veterinarian with experience caring for animals belonging to the same species as the animal that is the subject of the hearing, so that that voice is heard in those cases. Again, I'm thinking of the cases where you're looking at exotic animals and exotic circumstances, so to speak, where you really do need expert testimony. It makes me, as it makes Mr. Dunlop and certainly a number of deputants we've heard, a little queasy to think that folk will be deciding on these cases without that expert testimony.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, just for the sake of clarification, you're moving an amendment to this amendment?

Ms. Cheri DiNovo: Well, instead of including “one veterinarian,” it would be testimony from a veterinarian.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: I'm going to take a shot at this one, kind of ad hoc, so bear with me in case somebody whispers to me later.

What I think we're doing here is making an assumption that everyone would be participating at an expert level. Don't forget, this is not at the court level, because that happens—and we've separated that—in any other

given circumstance where expert testimony comes in, and it's usually two different experts who have opposing views of what they're looking at.

In terms of the Animal Care Review Board, we're making the same assumption, that we have to have a veterinarian there. If they have to have a veterinarian there, my logic tells me that if I'm the person who's going to "lose" the case, I'm going to want to try to get an expert there. Am I guaranteed that that person whom we're asking for in terms of maybe an on-call veterinarian, I guess I'm characterizing it as—is there an assumption there that either side is going to be happy with what the veterinarian says? That's not the intent, if I'm hearing this right. The intent is to ensure that we've got somebody who's got expertise in the particular case—not holistically—that we're dealing with. It behooves those who are involved in the case to bring somebody to show them, "You're wrong in your assumption, OSPCA," or the OSPCA brings somebody who says, "You're wrong, because our experts tell us you're not treating them properly, and we've got expertise to do that." I just don't think that legally we should be entrenching that in the legislation, as opposed to a practice that should be maintained. You can do the friendly amendment, but we're not going to accept it.

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Ms. Cheri DiNovo: We've entrenched lots of things in this bill that shouldn't be entrenched.

In light of the overriding ethic of the welfare of the animals, I'm going to support this amendment as it stands, because I hope it sends a strong message that we need to have expertise on this animal review board and that you can't have people ascertaining the welfare of a tiger who have never met one. Again, the interest of the animal at stake here—the end result of this is that when you remove animals, particularly exotic ones, where do they go? Nobody has room for them; they're going to be euthanized. So in the interest of the welfare of the animals, to see more animals saved, I'm going to vote for this amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, just for clarification, are you moving an amendment to the amendment?

Ms. Cheri DiNovo: No, I'm withdrawing it. The government is not interested in doing that anyway. I was hoping maybe we could get it passed that way, but we'll vote for it as it stands, since it's not going to pass anyway.

The Vice-Chair (Mr. Jeff Leal): Thank you very much for that clarification. Mr. Dunlop, do you have anything further?

Mr. Garfield Dunlop: No, that's fine. I'd ask for a recorded vote.

Ayes

DiNovo, Dunlop.

Nays

Jaczek, Levac, Moridi, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Mr. Levac, please.

Mr. Dave Levac: I move that clause 17(6)(d) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in subsection 15(4) of the bill, be amended by striking out "or an order to keep the animal under subsection 14(1.1)."

This removes an erroneous reference to the suggestion that ACRB could rule on costs involving a matter that is subject to the court. We've gone through this a couple of times. This is one of those housekeeping issues, where we're separating the court action and the ACRB. It helps eliminate any potential confusion and ensures that a court order removes this matter from the jurisdiction of the ACRB.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour of this amendment? Carried.

Shall section 15, as amended, carry?

We have a proposed new section 15.1. Mr. Dunlop, please.

Mr. Garfield Dunlop: I move that the bill be amended by adding the following section:

"15.1 The act is amended by adding the following section:

"Public complaints

"17.1 (1) Any person may file a complaint with the board in respect of the conduct of an inspector or an agent of the society.

"Procedures

"(2) Subsections 17(3), (4) and (5) apply with necessary modifications to a complaint made under subsection (1).

"Powers of board

"(3) After a hearing or, with the consent of the society, the inspector or agent who is the subject of the complaint and the person who filed the complaint under subsection (1), without a hearing, the board may make a finding as to whether the inspector or agent conducted himself or herself in accordance with the standards established by the chief inspector of the society under subsection 6.1(2).

"Notice of decision

"(4) Notice of the decision of the board made under subsection (3), together with reasons in writing for its decision, shall be served forthwith upon the society, the inspector or agent who is the subject of the complaint and the person who filed the complaint."

In this edition, it expands the powers of the animal review board, it allows an individual to make a complaint against an inspector to the existing review board, and it provides the board with the power to make a finding. In such cases, the finding must be reported to the OSPCA.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Because of the deputation, there is logic to what the PCs are providing here in this amendment, but it causes some pretty big problems, so I want to review what those concerns could be.

Presently, for clarity, the board currently hears only the appeals of the OSPCA compliance or removal orders,

so what you're doing is actually expanding the scope immensely, which creates a little bit of an extra bureaucratic—and I'm appealing to the member who proposed this and their normal philosophical belief, that it's expanding the actual premise of what the ACRB is. It could increase their workload and a need for additional expertise to deal with these matters, with a significant resource impact. While that may not be such a bad thing, the problem is that with the definition of the chief inspector, we now have a public complaints process for which he or she would be responsible and we have formalized the position within the OSPCA. Therefore, what you then do is you remove all of that process completely.

So, coupled with the fact that this is a scope increase that we're not prepared to support, and that we'll start to remove the very essence of why we've increased the chief inspector's scope, I think it's fair to say that we can't accept the amendment as proposed. But we also recommend strongly to look at that side-effect that we believe is going to be there by accepting the amendment.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Levac. All in favour of a new section 15.1? Opposed? It's defeated.

Section 16: Mr. Dunlop, please, on page 31.

Mr. Garfield Dunlop: I move that section 18.1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 16 of the bill, be amended by striking out "or" at the end of clause (d), by adding "or" at the end of clause (e) and by adding the following clause:

"(f) makes a frivolous report to the society in respect of an animal being in distress."

This addition expands the offences section. It makes it an offence for someone to make a complaint against another person that they are causing an animal distress, or to claim that an animal is in distress, when there is no valid basis for making that claim. This addition will help to protect animal owners against complaints made, for example, as a result of spite and not fact.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Actually, I like this one. We've talked about this, and, quite frankly, we did hear that those circumstances exist. In my past life, I experienced the types of things that frivolous and vexatious accusations can cause.

We would like to offer Mr. Dunlop a friendly amendment by broadening and making some definitions. In front of "makes," we would like to propose "knowingly," and instead of "frivolous," to simply use the word "false." I think "false" defines it and actually broadens the capacity. So we would like to support, with a friendly amendment, adding the words "knowingly" and changing "frivolous" to "false."

Mr. Garfield Dunlop: I really appreciate the amendment.

The Vice-Chair (Mr. Jeff Leal): What we'll do is deal with the amendment to the amendment first.

Mr. Dave Levac: With a friendly amendment, can't you just simply add it without having to deal with it?

The Vice-Chair (Mr. Jeff Leal): I want to follow process, so we'll go with the amendment to the amendment. All in favour of that? Carried.

Ms. DiNovo, did you want to provide some comment here?

Ms. Cheri DiNovo: Just that I support the government's amendment. Before, Dave said that it needs to be knowingly false, because again, we don't want to deter people from making a complaint where they think there's a basis. It might turn out there's not a basis, but we don't want to deter that—so absolutely.

The Vice-Chair (Mr. Jeff Leal): All in favour of the amendment, as amended?

Mr. Dave Levac: Recorded vote.

The Vice-Chair (Mr. Jeff Leal): It carries.

Mr. Dunlop, please continue.

Mr. Garfield Dunlop: I thought he asked for a recorded vote.

Mr. Dave Levac: I did.

Mr. Garfield Dunlop: It's okay, Dave.

Mr. Dave Levac: Is it too late?

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that subsection 18.1(2) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 16 of the bill, be amended by striking out "clause (1)(a), (d) or (e)" and substituting "clause (1)(a), (d), (e) or (f)."

This simply accounts for the previous addition to 18.1(2) by adding subsection (f) so that the individuals found guilty of making a frivolous complaint are subject to the penalties laid out in this section.

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The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Following protocol, Mr. Chairman, I would ask for an amendment to this amendment.

The Vice-Chair (Mr. Jeff Leal): Proceed, Mr. Levac.

Mr. Dave Levac: The amendment to the amendment would use the same verbiage as was just passed, as in "knowingly," and "false" for "frivolous." That's not necessary.

The Vice-Chair (Mr. Jeff Leal): This just lays out the section. We don't need that, Mr. Levac.

Mr. Dave Levac: We don't even need that?

The Vice-Chair (Mr. Jeff Leal): No.

Mr. Dave Levac: Okay, so it just says "(f)"?

The Vice-Chair (Mr. Jeff Leal): We're good.

Mr. Dave Levac: Okay. So I'll tell you what: We'll support that one.

The Vice-Chair (Mr. Jeff Leal): Any further comment? All in favour? Carried.

Mr. Dunlop, you're on a roll here.

Mr. Garfield Dunlop: I wonder for how long.

Mr. Dave Levac: Keep going.

The Vice-Chair (Mr. Jeff Leal): You never know.

Mr. Garfield Dunlop: I move that section 18.1 of the Ontario Society for the Prevention of Cruelty to Animals

Act, as set out in section 16 of the bill, be amended by adding the following subsection:

“Other orders

“(8) If a person is convicted of an offence under subsection (1), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.”

This provides the court with the power, as a penalty when an offence has been committed, to order an individual to undergo counselling or training. It provides a penalty that can teach an individual the proper method of caring for animals as opposed to simply punishing an individual when the latter may not be appropriate in the specific context.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Just to show you that we’ve been doing our homework, Mr. Chairman, and that I listened, I’d like to explain a friendly amendment that we would propose to make this acceptable. We will be voting in favour if we can get this.

If I can read the section that we want to change, it would be immediately after, in the first sentence, subsection (1): “(b) or (c).”

The rationale behind that, I explained to Mr. Dunlop, would be that there are circumstances where, if we pass this unamended, then someone who would be doing something rather nasty could actually just get counselling. What we’re talking about is the animal cruelty portion of the bill and how to treat animals. That’s why we want to put in (b) and (c) and not to allow simply no charges except for a counselling piece when somebody’s doing something really nasty. Our intention is to protect the animals in the animal cruelty piece. That’s what we’re suggesting.

Mr. Garfield Dunlop: I fully support that and appreciate that.

The Vice-Chair (Mr. Jeff Leal): Mr. Wood, please.

Mr. Michael Wood: Just a slight comment here about wording: If we are going to refer to (1)(b) or (c), we have to say “clause (1)(b) or (c),” not “subsection (1)(b) or (c).”

Mr. Dave Levac: I will stand corrected and re-amend it, if that’s the process, Mr. Chairman.

The Vice-Chair (Mr. Jeff Leal): Yes, that’s fine.

Mr. Dave Levac: So I’ll say, “If a person is convicted of an offence under clause (1)(b) or (c),” instead of “under subsection (1).” That’s the change we’re looking for. I would give that to Mr. Dunlop to make his comments on.

Mr. Garfield Dunlop: I appreciate that and will support that.

The Vice-Chair (Mr. Jeff Leal): In due process, we’ll do the amendment to the amendment first, which was just your former remarks there. All in favour of that? Carried.

Then the amendment to the amendment—we’ll vote on that, and then we’ll vote on the final amendment, as amended, right? It’s all good?

Interjection.

The Vice-Chair (Mr. Jeff Leal): Okay. We’ll vote for the amendment, as amended. All in favour? Carried.

Shall section 16, as amended, carry? Carried.

I’m just going to ask for guidance from the committee. It’s about five to 12 here. We have section 17, where there are no amendments, so we could carry that, and then go through section 18, which is the last one. So I think we could probably finish up without recessing and coming back after 1. I’m just looking for committee members’ guidance on that.

Mr. Garfield Dunlop: I would support that, Mr. Chair.

The Vice-Chair (Mr. Jeff Leal): Thank you.

Mr. Dave Levac: I’m in.

The Vice-Chair (Mr. Jeff Leal): Okay, good. Shall 17 carry? Carried.

Section 18: Mr. Dunlop, please.

Mr. Garfield Dunlop: I move that section 21 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by striking out “the provision that affords the greater protection to animals shall prevail” at the end and substituting “the provision of this act or of the regulation made under this act shall prevail.”

This amendment ensures that animals are treated by a uniform standard across the province. It provides animal owners and caretakers with uniform standards, making compliance less complicated, and provides farmers with equal standards of care so that some are not put in a relatively uncompetitive position from different OSPCAs across the province.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac?

Mr. Dave Levac: This is one of those tough ones where you end up with legislation, historically, on either side of the fence. I’ll explain to you why we’ve landed against this particular one and on the side of the fence of the community bylaw standards.

The motion, even though it’s not done this way—and I respect Mr. Dunlop’s and the party’s position—doesn’t respect the municipal jurisdiction to make bylaws pertaining to animals, nor does it support the goodwill of the communities that want local bylaws to deal with particular local animal welfare issues, because there are varying issues for animal welfare from community to community: urban/rural, small/large, northern/southern, eastern/western. I think that each one of those communities has done a good job on their own of deciphering what their local needs can be. Therefore, that’s the side of the fence that we’re landing on with this one and why we can’t accept it.

I would also suggest to you—and this is respectful—that we did consult with AMO and we received their support to not accept this amendment because of the stated facts that I just gave you, that regionally and under the circumstances of the bylaws, we can’t accept that.

The Vice-Chair (Mr. Jeff Leal): Thanks, Mr. Levac. Mr. Dunlop, anything further?

Mr. Garfield Dunlop: I have no further comments.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: Yes, we're going to vote against this amendment as well. Again, we would like to see the greater protection of animals prevail. It's too bad we can't use this to get rid of section 6.

This was a fault in some other government legislation, I seem to recall, where pesticides or something were concerned, where municipalities had, in fact, stronger legislation than the government brought forward and were subsumed under the government legislation. So we will be voting against this.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It's defeated.

We move to 35R: Mr. Dunlop.

Mr. Garfield Dunlop: Yes, there's a replacement for 35, 35R, but I'll be withdrawing that because it refers to subsection 1(4).

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Dunlop.

Mr. Levac, please.

Mr. Dave Levac: Again, thank you, Mr. Dunlop, for recognizing that.

I move that clause 22(1)(a) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be struck out.

This removes 22, regulation-making authority to define the details of wildlife exceptions to cause/permit distress. We've already dealt with that in the previous body of the act, and I think it becomes redundant.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour? Carried.

Mr. Dave Levac: We're going to use the same situation, but I have to put it on for Hansard.

I move that clauses 22(1)(b) and (c) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be struck out and the following substituted:

“(b) prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry for the purposes of clauses 11.1(1.1)(a) and 11.2(6)(b);

“(c) prescribing classes of animals, circumstances and conditions or activities for the purposes of clauses 11.1(1.1)(b) and 11.2(6)(c).”

This is a language situation, again, from the body of the legislation that we've already done to entrench something we've made the commitment to do.

The Vice-Chair (Mr. Jeff Leal): Comments? All in favour of this amendment? Carried.

Number 39: Mr. Dunlop, please. Sorry; 38.

Mr. Garfield Dunlop: This may be redundant, but I'll read it anyway.

I move that subsection 22(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by adding the following clause:

“(c.1) prescribing biosecurity protocols to be followed by inspectors and agents of the society.”

This expands the list of what can be regulated to include biosecurity protocols, mentioned in our previous amendment; I don't think any of them passed. Having prescribed protocols will ensure uniform standards where none already exist. It will also set a prescribed standard for OSPCA inspectors to follow across our province.

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The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: As pointed out by Mr. Dunlop, that it becomes redundant or ineffective on its own, I'm just going to simply suggest that—but I will say this: The debate on the biosecurity has been mentioned, brought up, and we will make sure that Hansard and notes are taken and that the chief inspector is notified of the concerns raised by the PC Party on this issue.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It's defeated.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that clause 22(2)(d) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be struck out and the following substituted:

“(d) prescribing forms for the information on oath required by subsection 12(1) or 14(1.1), for a warrant issued under subsection 12(1) and for an order issued under subsection 14(1.1) or (1.2).”

This amendment ensures that standards of care are prescribed that are not different from the national codes of practice, if they exist. This will ensure uniformity and that existing standards are not amended in the light of this bill.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: As was the case in the last example, this would end up having no effect on its own because of the rejection of the previous proposal of the amendment, which means that you would remove the inspection powers, as has been explained previously. So we're not going to support it.

The Vice-Chair (Mr. Jeff Leal): Anything further? All in favour of this amendment? Opposed? It's defeated.

Number 40: Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 22 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by adding the following subsection:

“Prescribed standards of care

“(3) The standards of care prescribed under clause (2)(b) shall correspond to national codes of practice where they exist.”

This amendment ensures that where standards of care are prescribed they are not different from the national codes of practice, if and when they exist. This will ensure that uniformity and that existing standards are not amended in light of this bill.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: I have to start by acknowledging that there is a certain logic to what's being proposed, that

if it were the perfect circumstance, this would be acceptable. But the perfect circumstance doesn't actually exist. In our research, we found out that it's problematic to reference a national code of practice, because they're currently outdated and actually are being looked at, and they're unenforceable or they deal with very limited types of animals, including animal research facilities, which is addressed in OMAFRA's Animals for Research Act. Within itself, as explained in the deputations are exempted research facilities from the OSPCA Act anyway.

So there's such inconsistency, and it's going to be very hard to tie all of this in. I again reinforce that it would be nice, in a perfect world, to be able to do that in terms of the national codes, but it also infringes on the relationship that's been struck between OMAFRA, OSPCA and common practices in Ontario, and there's a limited amount of practice between provinces that is universal in nature, given the circumstances behind food safety. It also would change even the proposed definition of "distress" that we didn't accept, and therefore on its own would make it very difficult for us to accept this as a motion.

The Vice-Chair (Mr. Jeff Leal): Anything further? All in favour of the amendment? Opposed? Defeated.

You have a new one, Mr. Dunlop, 41R?

Mr. Garfield Dunlop: Yes, I do. I move that section 22 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by adding the following subsection:

"Consultation required

"(4) Before recommending or making a regulation under subsection (1) or (2), the minister shall consult with organizations representing persons who may be affected by the regulation or representing the interests of animals that may be affected by the regulation."

I just wanted to add that this section as added ensures that when the regulations are made, the minister shall consult with interested parties. It ensures consultation when existing regulations are also being amended. We heard this over and over again. A lot of people are extremely concerned about what will come out in the regulations, and we want the expertise behind them helping the government make those regulation changes.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Again, one of those kind of motherhood things that imply that, wouldn't it be a perfect world if we could all come together and say, "This is the regulation we want"?

Germane to the specifics of the request, it could significantly encumber the government's role in making regulation because anyone can identify themselves as a stakeholder because it's not described. If it's not going to be prescribed in terms of who are those stakeholders that would be affected, it could be a tactic that gets used in order to stall, stop, derail any kind of regulation that's coming on. So any person may claim to be affected by the regulation so therefore must be part and parcel of all of the consultation that's going on.

So I point out a couple of things. Number one, under every government of all stripes there was always—let me be kinder—usually a consultation component to regulations. We've got evidence of that. From time to time, there's a hit and miss, but the general practice is for government officials at staff level, and sometimes even at the ministry level, to enter into some honest brokering and honest debating about regulations and how they're going to impact; that's number one. Number two, consultations with stakeholders is a standard practice with the intent, and it being advisable, that it occurs on an ongoing basis, because there has been consultation, and some people like to define it as, "Well, you didn't do any consultation because I've got an example of a group over here that didn't get called." If we engage in the "gotcha" mentality, this entrenches it, but the flaws outweigh the intent of what is being proposed.

First of all, that means we can't accept it, and second of all, I'd also suggest to you respectfully that this is an ongoing process. The bill itself garnered a lot of consultation from the stakeholders, then it was produced, then we shopped it by going on committee, and now we're coming back and doing clause-by-clause. Each of the parties has indicated that it has contacted its stakeholders, the people who were concerned about it. The commitment that this government and this particular minister made was that there will be some consultation during the process of creating the regulations. I think that process itself is satisfied without having this particular amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: This speaks to transparency, and basically the principle is: more transparency, good; less transparency, bad.

With respect, hearing the concerns of the government side, we still think that there were voices that were heard in deputation that were clearly not front and centre in even the development of this bill, hence our problems with section 6 and the fact that the government seems to have come down on the side of the OSPCA against some of its affiliates and non-affiliates. Again, I think it's pretty clear which are the organizations that exist in our communities that speak for animals. You would want them to be part of the regulatory process. Because the government has the majority, this is not going to pass. We would hope that particularly those voices that feel left out and, perhaps it's not too strong a word to use, abused by elements like section 6 could be the first to the table in terms of regulations. We feel that needs some time.

Again, we're very concerned about the idea clearly manifest in section 6 that the OSPCA is the place to go, and the Humane Society of Canada or the Burlington Humane Society or other humane societies are not the place to go. We would like those voices that have been overlooked and not heard to be heard. I absolutely would support this amendment, but as I say, since we know it's not going to pass, just a friendly cautionary note that I

hope that those voices are incorporated into the regulations so it doesn't affect them adversely.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, anything further?

Mr. Garfield Dunlop: I would just ask for a recorded vote on this one, please.

Ayes

DiNovo, Dunlop.

Nays

Jaczek, Levac, Moridi, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): This amendment is defeated.

Shall section 18, as amended, carry? Carried.

Shall sections 19 and 20 carry? Carried.

Shall the preamble of the bill carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 50, as amended, carry? Carried.

Shall I report Bill 50, as amended, to the House? Carried.

Mr. Dunlop, please.

Mr. Garfield Dunlop: If I may, I'd like to thank you and Mr. Zimmer for the work you've done as chairs of the committee. I'd also like to thank legislative counsel and legislative research for their work on this, particularly with the amendments. To my executive assistant, Gaggan Gill, who's here today, and our caucus research, a young lady, Sarah Ellis, I want to appreciate the work they've done as well. I look forward to the third reading debate in the House.

The Vice-Chair (Mr. Jeff Leal): I would just like to thank the work, Mr. Dunlop, that has been accomplished by you over the years—

Interjection: Dunlop.

The Vice-Chair (Mr. Jeff Leal): Sorry; that's right: the tires on the car.

Mr. Dunlop, I just want to thank you for your work in previous Legislatures on this particular issue, as you've been a critic and member of government on this issue; and certainly Mr. Zimmer and Mr. Colle for the work that they've been doing in this field over the last number of years; and Mr. Levac, for the erstwhile work you've

been doing as the parliamentary assistant to move this forward.

Mr. Levac, please.

Mr. Dave Levac: I would be remiss not to thank everybody, actually. I found this committee work on this particular bill to be exemplary in terms of providing people with an opportunity to voice their concerns. I want to thank the deputants. I think they were professional in nature. I would like to thank the opposition for its willingness to participate in the briefings that were provided during that time period.

I also think that, in terms of trying to protect animals, I would never accuse anyone of not doing so. But in terms of clarity, I think what we've tried to do is bring a continuation and growth of what we want to do in Ontario. I know that there will be questions about certain aspects of the bill, and that's just a normal thing to happen in government.

A very large thank you to all those who supported us, and a special mention to staff who have quietly, behind the scenes, done an awful lot of work. I think that's kind of nice, because I think all of us have mentioned that from time to time, the amount of work that goes on behind the scenes—Hansard, everybody. Quite frankly, this place works very well, quietly, and a lot of people don't take a moment to say thank you, so I think we're all saying thank you for that.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please?

Ms. Cheri DiNovo: Just to second all of that.

A question: In terms of adding a letter to this submission, is there a date on that? When do we have to get it in by?

The Vice-Chair (Mr. Jeff Leal): Mr. Clerk?

Interjection.

The Vice-Chair (Mr. Jeff Leal): We'll get back to you on that, if that's okay.

Ms. Cheri DiNovo: Wonderful. Thank you. I thank legislative counsel again.

The Vice-Chair (Mr. Jeff Leal): We have duly noted it. Anything further?

This committee stands adjourned.

The committee adjourned at 1214.

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