



## MINUTES OF PROCEEDINGS

OTTAWA, Thursday, May 23, 2024  
(103)

[English]

The Standing Senate Committee on Legal and Constitutional Affairs met this day at 11:48 a.m., in room B30, Senate of Canada Building, the chair, the Honourable Mobina S. B. Jaffer, presiding.

*Members of the committee present:* The Honourable Senators Batters, Boyer, Clement, Cotter, Dalphond, Gold, P.C., Jaffer, Klyne, Oh, Pate, Plett, Prosper, Simons and Tannas (14).

*Participating in the meeting:* Iryna Zazulya, Analyst, Parliamentary Information and Research Services, Library of Parliament.

Pursuant to the order of reference adopted by the Senate on Tuesday, March 19, 2024, the committee continued its consideration of Bill S-15, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act.

*WITNESSES:*

*Department of Justice Canada:*

Joanna Wells, Senior Counsel, Criminal Law Policy Section;

Aleksander Godlewski, Counsel, Criminal Law Policy Section.

*Environment and Climate Change Canada:*

Basile van Havre, Director General, Canadian Wildlife Service;

Stephanie Lane, Executive Director, Legislative Governance.

The committee resumed clause-by-clause consideration of Bill S-15.

Stephanie Lane and Aleksander Godlewski answered questions from time to time.

The committee resumed debate on the motion of the Honourable Senator Klyne that Bill S-15 be amended in clause 1,

(a) on page 1,

(i) by replacing line 20 with the following:

“(i) possesses an elephant, great ape or designated animal that is kept in”,

(ii) by replacing line 22 with the following:

“(ii) breeds or impregnates an elephant, great ape or designated animal”;

(b) on page 2,

(i) by replacing line 6 with the following:

“the course of which elephants, great apes or designated animals that are”,

(ii) by replacing line 9 with the following:

“(2) Every person who possesses an elephant, great ape or designated animal” ,

(iii) by replacing line 12 with the following:

“elephant, great ape or designated animal.”,

(iv) by replacing lines 13 and 14 with the following:

“(3) If, on the day on which this section comes into force or the day on which a species of animal is designated under section 445.4, a person possesses an elephant, great ape or designated animal that is kept”,

(v) by replacing line 16 with the following:

“them in respect of that elephant, great ape or designated animal during the”,

(vi) by replacing line 19 with the following:

“(4) If an elephant, great ape or designated animal that is kept in captivity”,

(vii) by replacing lines 21 to 23 with the following:

“on which this section comes into force or the day on which a species of animal is designated under section 445.4, subparagraph (1)(a)(i) does not apply, in respect of that elephant, great ape or designated animal, to a person who possesses it on the day of its”,

(viii) by replacing lines 32 and 33 with the following:

“sesses an elephant, great ape or designated animal that is kept in captivity in the best interests of the elephant’s, great ape’s or designated animal’s”,

(ix) by replacing line 37 with the following:

“an elephant, great ape or designated animal that is kept in captivity in”;

(c) on page 3,

(i) by replacing line 1 with the following:

“an elephant, great ape or designated animal that is kept in captivity in”,

(ii) by replacing lines 4 to 7 with the following:

“tent authority in a province, possesses an elephant, great ape or designated animal that is kept in captivity in the best interests of the elephant’s, great ape’s or designated animal’s welfare;

**(d.1)** a person who possesses a designated animal in captivity for the purpose of protecting property or public safety in accordance with any applicable law of Canada or a province or with an Aboriginal or treaty right recognized and affirmed by section 35 of the *Constitution Act, 1982*;

**(d.2)** a person who traps a designated animal in accordance with any applicable law of Canada or a province or with an Aboriginal or treaty right recognized and affirmed by section 35 of the *Constitution Act, 1982*; or

**(e)** a person who possesses an elephant, great ape or designated animal”,

(iii) by replacing line 9 with the following:

“with assistance or rehabilitating it following an injury or another state of distress.”,

(iv) by replacing line 15 with the following:

“breeds or impregnates an elephant, great ape or designated animal that is”,

(v) by replacing line 20 with the following:

“impregnates an elephant, great ape or designated animal that is kept in”,

(vi) by replacing line 27 with the following:

“mits natural breeding of an elephant, great ape or designated animal that”,

(vii) by replacing line 32 with the following:

“natural breeding of an elephant, great ape or designated animal that is”;

(d) on page 4,

(i) by adding the following after line 1:

“**designated animal** means an animal of a species designated under section 445.4 or a non-domesticated subspecies of that species. It also includes a hybrid animal that has, in the last four generations of its lineage, at least one animal of a species designated under section 445.4. (*animal désigné*)”,

(ii) by adding the following after line 5:

**445.4 (1)** On the recommendation of the Minister of the Environment, the Governor in Council may designate, by order, a non-domesticated species of animal as a designated animal based on the best available scientific, veterinary, animal care or animal welfare information.

**(2)** Before making a recommendation under subsection (1), the Minister must consider the following:

**(a)** whether the species is capable of living in captivity;

**(b)** whether the biological needs of individual animals of that species to live a good life can be met in captivity, including, in particular,

**(i)** the ability of animals of the species to engage in natural behaviour while in captivity,

**(ii)** the intelligence, emotions, social requirements, physical size, lifestyle and potential use in performances of animals of the species, and

**(iii)** the evidence of harm to animals of the species in captivity, including stereotypies, health problems in captivity, shorter lifespans and increased infant mortality rates; and

**(c)** the public safety risks posed by animals of the species.

**(3)** The Governor in Council may not designate a species of animal under this section if the species is used in farming for food purposes in Canada.”.

The Honourable Senator Plett moved that the motion in amendment be amended in subparagraph (d)(ii)

- (a) by adding the following after proposed subsection 445.4(2.2), added by previous decision of the committee:

“(2.21) Before making a recommendation under subsection (1) to designate a species of animal that is native to Canada, the Minister must also consult with representatives of persons or groups that hold an Aboriginal or treaty right recognized and affirmed by section 35 of the *Constitution Act, 1982*.”;

- (b) by replacing “subsection (2.2)” with “subsections (2.2) and (2.21)” in the proposed paragraph 445.4(2.3)(b), added by previous decision of the committee.

After debate, the question being put on the subamendment, it was adopted.

After debate, the question being put on the motion in amendment as amended, it was adopted on the following vote:

YEAS

The Honourable Senators

Jaffer, Boyer, Clement, Cotter, Dalphond, Klyne, Pate, Prosper, Tannas — [9]

NAYS

The Honourable Senators

Batters, Oh, Plett — [3]

ABSTENTIONS

The Honourable Senators

Gold, Simons — [2]

The Honourable Senator Clement moved that Bill S-15 be amended in clause 1, on page 2, by replacing line 8 with the following:

“ment in a performance or for conveyance.”.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Jaffer, Boyer, Clement, Cotter, Dalphond, Gold, Klyne, Pate, Prosper, Simons — [10]

NAYS

The Honourable Senators

Batters, Oh, Plett — [3]

ABSTENTIONS

The Honourable Senators

Tannas — [1]

The Honourable Senator Clement moved that Bill S-15 be amended in clause 1,

(a) on page 2, by replacing line 38 with the following:

“connection with a scientific research program for conservation purposes;”;

(b) on page 3,

(i) by replacing line 17 with the following:

“search program for conservation purposes; or”,

(ii) by replacing line 29 with the following:

“search program for conservation purposes; or”,

(iii) by replacing line 38 with the following:

“for conservation purposes or in a conservation program.”.

After debate, the question being put on the motion in amendment, it was adopted on the following vote:

YEAS

The Honourable Senators

Jaffer, Boyer, Clement, Dalphond, Klyne, Pate — [6]

NAYS

The Honourable Senators

Batters, Oh, Plett, Tannas — [4]

ABSTENTIONS

The Honourable Senators

Cotter, Gold, Prosper, Simons — [4]

The Honourable Senator Plett moved that Bill S-15 be amended in clause 1, on page 3, by adding the following after line 38:

“(8.1) Paragraph 1(a) does not apply to a zoological institution that is accredited by either Canada’s Accredited Zoos and Aquariums or the Association of Zoos and Aquariums.”.

After debate, the question being put on the motion in amendment, it was negatived on the following vote:

YEAS

The Honourable Senators

Batters, Oh, Plett — [3]

NAYS

The Honourable Senators

Jaffer, Boyer, Clement, Cotter, Dalphond, Gold, Klyne, Prosper — [8]

ABSTENTIONS

The Honourable Senators

Simons, Tannas — [2]

The Honourable Senator Batters moved that Bill S-15 be amended in clause 1, on page 4, by replacing lines 4 and 5 with the following:

**“great ape** means any species of the genus *Gorilla*, *Pan*, or *Pongo*, including a gorilla, bonobo, chimpanzee or orangutan. (*grand singe*)”.

After debate, the question being put on the motion in amendment, it was adopted.

The Honourable Senator Simons moved that Bill S-15 be amended in clause 1, on page 4, by adding the following after line 5:

**“445.5 (1)** The court imposing sentence on a person convicted of an offence under subsection 445.2(2) or (4) or 445.3(1) or discharging the offender under section 730 may, on application of the prosecutor or on its own motion, in addition to any other measure imposed on the offender, order that the offender carry out any action, at the offender’s cost, that is necessary in the best interests of the animal involved in the offence, including

**(a)** modifying the physical conditions in which the animal is kept;

**(b)** relocating the animal to another facility or sanctuary;

**(c)** modifying the social conditions in which the animal is kept; or

**(d)** forfeiting ownership of the animal and surrendering the animal to an animal welfare authority named in the order.

**(2)** In determining whether to make an order under subsection (1), the court must ask for and consider expert evidence on the individual animal’s welfare and conservation of its species.

**(3)** On its own motion or on application of the prosecutor, the court may make an order made under subsection (1) applicable to any other animals in the offender’s possession if those animals are of the same species as or a species closely related to the animal in respect of which the offence was committed.”.

After debate, it is agreed to postpone consideration of the motion in amendment until the next meeting.

At 1:47 p.m., the committee adjourned to the call of the chair.

*ATTEST:*

Vincent Labrosse

*Clerk of the Committee*