



MINUTES OF PROCEEDINGS

OTTAWA, Wednesday, May 22, 2024
(102)

[English]

The Standing Senate Committee on Legal and Constitutional Affairs met this day at 4:14 p.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, Carignan, P.C., Clement, Cotter, Dalphond, Gold, P.C., Jaffer, Klyne, Pate, Plett, Prosper, Simons and Tannas (14).

Other senators present: The Honourable Senator Oudar (1).

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.

Stephanie Lane, Basile van Havre, Aleksander Godlewski and Joanna Wells answered questions from time to time.

Resuming 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.”.

A point of order was raised concerning the receivability of the motion in amendment.

After debate, the chair ruled that the motion in amendment was in order and that it respected the objective and scope of Bill S-15.

Whereupon, the chair’s ruling was appealed.

The question being put on whether the chair's ruling shall be sustained, it was adopted on the following vote:

YEAS

The Honourable Senators

Boyer, Clement, Dalphond, Gold, Klyne, Pate, Prosper — [7]

NAYS

The Honourable Senators

Batters, Carignan, Plett, Simons, Tannas — [5]

ABSTENTIONS

The Honourable Senators

Jaffer, Cotter — [2]

The Honourable Senator Plett moved that the committee suspend its clause-by-clause meeting, and develop an additional witness list to appear on Bill S-15.

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

YEAS

The Honourable Senators

Batters, Carignan, Plett — [3]

NAYS

The Honourable Senators

Jaffer, Boyer, Clement, Cotter, Dalphond, Gold, Klyne, Pate, Prosper, Simons, Tannas — [11]

ABSTENTIONS

The Honourable Senators

Nil

It was moved by the Honourable Senator Plett that the motion in amendment be amended in subparagraph (d)(ii) by adding the following after proposed subsection 445.4(2):

“(2.1) At least 180 days before making a recommendation under subsection (1), the Minister must publish the proposed order in the *Canada Gazette* and afford a reasonable opportunity to interested persons to make representations to the Minister with respect to the proposed order.

(2.2) Before making a recommendation under subsection (1), the Minister must consult with representatives of the zoo industry, wildlife biologists, animal care experts and provincial representatives responsible for animal welfare.

(2.3) At least 30 days before making a recommendation under subsection (1), the Minister must table before each House of Parliament a report setting out a detailed description of

(a) the Minister's consultations under subsection (2.2); and

(b) the scientific or other evidence that supports the proposed order.

(2.4) The Minister must publish the report on the Department of the Environment website within 10 days after the day on which the report is tabled in Parliament."

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

At 6:14 p.m., the committee adjourned to the call of the chair.

ATTEST:

Vincent Labrosse

Clerk of the Committee