

Cruelty to Animals

Vancouver-Quadra (Mr. Clarke) in bringing this Bill forward, and I should like to make a few comments on it.

The Bill under consideration proposes to make minor amendments to the Criminal Code provisions dealing with cruelty to animals. The proposal's key feature is to make a negligent act of cruelty to an animal a criminal offence. Very few negligent acts with respect to human beings are governed by the criminal law, so I do not see why we should afford more protection to animals than we do to people.

A criminal offence generally requires an *actus reus* and a *mens rea*. The act must be committed plus the person committing the act must have the required intention. Where a person does not intend the consequences of his act or does not have the necessary mental state to understand that the act is wrong, he is generally not punished by the criminal law. There are few exceptions to this rule.

The Criminal Code currently defines criminal negligence in Section 202(1). The Section states:

Everyone is criminally negligent who

(a) in doing anything, or

(b) in omitting to do anything that it is his duty to do,

shows wanton or reckless disregard for the lives or safety of other persons.

Subsection 202(2) adds:

For the purposes of this section, "duty" means a duty imposed by law.

This same type of recklessness is contemplated by Section 402 dealing with cruelty to animals due to the application of Section 386.

Section 386(1) provides:

Everyone who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

If Section 402 is read completely and in the context of Part IX of the Code, it is apparent that advertent negligence or recklessness is already included. Further, by the operation of Subsections 402(3) and 386(1), proof of simple negligence is, in the absence of evidence to the contrary, proof of advertent negligence or recklessness.

Subsection 402(3) states:

—evidence that a person failed to exercise reasonable care or supervision of an animal or bird thereby causing it pain, suffering, damage or injury is, in the absence of any evidence to the contrary, proof that such pain, suffering, damage or injury was caused or was permitted to be caused wilfully or was caused by wilful neglect, as the case may be.

Since negligence means the failure to exercise reasonable care, the current Subsection 402(3) would appear to accomplish the intended purpose of the proposed amendment.

The Hon. Member has mentioned that the Government's policy with respect to criminal law is to reserve its use for conduct for which other means of control are inadequate and inappropriate. The Provinces have enacted legislation with respect to cruelty to animals which focuses on protection and rehabilitation of the animal rather than punishment of the owner or custodian.

The Provinces have also enacted legislation imposing certain standards of care where animals are used for research.

The current Criminal Code provisions are more than adequate to deter and punish those who deliberately or recklessly harm animals. There is no need for amendment. The proposed amendments add little to the current law.

May I also point out that it is premature to consider any amendments to the Criminal Code at this time, especially unnecessary amendments. The Members of the House of Commons are well aware that the Minister of Justice (Mr. MacGuigan) is currently involved in a fundamental and comprehensive review of the Criminal Code, in the course of which Section 402 will be considered. The Criminal Code was originally enacted in 1892, and since that date there have been a continuous series of patchwork amendments. The criminal law review is aimed at the enactment of a modern, responsible and effective criminal law for Canada based on consistent and fundamental principles. This review has been undertaken in co-operation with the Ministry of the Solicitor General and in close consultation with the Provinces. The recommendations of the Law Reform Commission of Canada will be reviewed and a detailed examination of all substantive and procedural aspects of Canadian criminal law will be conducted.

Each section of the present Criminal Code will be examined in light of the principles stated in the Criminal Law in Canadian Society which were discussed by the Hon. Member. The sections will also be reviewed with regard to the numerous amendments that have been proposed but not adopted and their intended purpose.

The consideration of minor amendments to seldom used sections at this time is likely to lead to more patchwork legislation. The consideration of Section 402 will be thoroughly dealt with by the House when undertaking its analysis of proposed amendments resulting from the criminal law review process. I would therefore suggest that the proposed amendments be dealt with at that time.

Mr. Nelson A. Riis (Kamloops-Shuswap): Mr. Speaker, I am very pleased to have this opportunity to support the Hon. Member for Vancouver-Quadra (Mr. Clarke) who presented Bill C-407. I find it somewhat refreshing that after days, weeks, and months of debate on important economic issues, we set aside time for topics that some people may consider frivolous. The Bill before us shows some sensitivity for living creatures other than human beings.

As Parliamentarians we have shown our concern for a quality environment in various pieces of legislation that we have debated over the years. These indicate a genuine interest in the preservation of a quality environment.

There have also been some very strong statements on human rights from both sides of the House, so I find it refreshing that today we are attempting to make changes to the Criminal Code that would provide greater safety and better protection for the animal and bird kingdoms.

I want to use this occasion to extend this debate into an area that goes a bit beyond the intent of the Bill in some respects,