

2015.11.03

3.3 Deputy P.D. McLinton of St. Saviour of the Minister for Transport and Technical Services regarding requirements for drivers to report accidents involving animals to the police:

Following recent publicity regarding the alleged cruel treatment of a cat which had been run over and euthanized at the side of the road by the driver, would the Minister consider extending the law to require drivers to report accidents involving cats to the police, putting cats on a parity with dogs, and if not, why not?

Deputy E.J. Noel of St. Lawrence (The Minister for Transport and Technical Services):

I understand the concerns of the Deputy and those supporting the petition about animal welfare, and in particular the current provisions in Jersey that protect cats against cruelty or unnecessary suffering. I can confirm that all domestic animals, including cats, are protected from cruelty under the Animal Welfare (Jersey) Law 2004. It is this law that makes it a criminal offence to cause unnecessary suffering to an animal without reasonable cause or excuse.

[10:00]

The police are using these powers to investigate the incident that has led to this oral question and to the petition. I would, therefore, like to invite the Deputy and the organisers of the petition to meet with myself, the Minister for Planning and Environment and the States Vet to consider how the laws relating to this might be strengthened.

3.3.1 Deputy P.D. McLinton:

Again, I thank the Minister for the invitation to meet with the people behind the petition, which has reached some 3,000 people now. However, in the Minister's answer I was hoping to hear the words "be made illegal not to call the police in the event of striking a cat with a motor vehicle". That was really the simple question and so can the Minister now state in this Assembly that he would see through legislation or would make it against the law to drive off having struck a cat?

Deputy E.J. Noel:

The provisions within the Road Traffic Law and the Highway Code relate to the duty of owners to prevent farm animals from straying onto the highway and to keep animals under control when being led or herded. In this instance, dogs are also included in that provision. The legislation relates to animals which are likely to stray and pose a risk to road users and the liability to their owners. The function of the requirement to report an accident is to allow the question of responsibility for damage or injury to be settled and permit the police to take action to bring the animal back under control of the owner; and for these purposes, I have already mentioned dogs are required to be registered and licenced. The reason cats are excluded, and not licenced, is that the owners are not expected to keep their cats under the same level of control. Cats are considered to be free agents and owners are not usually liable for their behaviour. Cats cannot realistically be fenced in. While it is not impossible to include cats in the Road Traffic Law, its benefits to animal welfare would be limited and indirect; and as a cat owner myself, if you could actually ever own a cat, I personally would like to be informed if they were involved in a road traffic accident, and the mechanism for that is something that we need to explore further. However, I do not currently think it is appropriate that that should be covered under the Road Traffic Law but something that we can extend the Animal Welfare Law to include.

3.3.2 Deputy M. Tadier:

Is the Minister not making heavy weather of this? The Road Traffic 1956 (Jersey) Law says that, basically, if you hit an animal or a person you have to stop and report it. The problem is that in part 3 of the Article it says an animal means a horse, cattle, ass, mule, sheep, pig, goat or dog. Can we not simply add "cat" to that list, see how that works and take it from there?

Deputy E.J. Noel:

In simple terms, that sounds like a solution. But in reality, those animals that are included in those laws are to trace the owner and to apportion responsibility for the accident and, therefore, farm animals are traceable and so are dogs. In this instance, I believe a better mechanism is for the law under the prevention of cruelty to animals to be the place where we put that condition in. I do believe that the people that should be reported to is the animal shelter or the vet fraternity in the Island and not the police. One of the reasons for that is that members of the public might be less inclined to contact the police if they have the misfortune of having an accident involving their vehicle and a cat, whereby they are more likely to contact the animal shelter and, therefore, either help given to the injured animal or at least the owners are informed of what has happened. So I believe that there is a gap currently in the legislation, but the appropriate law to amend, I believe, is the Animal Welfare Law and not the Road Traffic Law and I am happy to work with Deputy McLinton and the organisers of the petition, along with the Minister for Planning and Environment and the States Vet, to bring that about.

3.3.3 Deputy M. Tadier:

There is a gap in the law and it is a 3-letter word, it is called "cat". **[Approbation]** That is what is missing from the law. To listen to the Minister speak: saying that if we put "cat" in the law then there might be fewer people phoning the police, if and when they do hit a cat, is frankly nonsensical. Does the Minister accept that this part of the law is not about the police's response to the practicalities of finding the owners? It is about the responsibility of the driver to stop and inform the police in the event that they do hit what is a much-loved pet in this Island and what we would hope people would do anyway, but it does provide that back-up in law.

Deputy E.J. Noel:

As I said, the Road Traffic Law is probably not the place to put such a stipulation in. For example, in a road accident now the driver of the vehicle is not allowed to move that vehicle until the police give them permission to do so. It is the wrong tool to solve the problem. The problem is that the public need to take responsibility when involved in such incidents and also the owners and the veterinary services need to be able to help that animal if it has been injured. The best way, I believe, to do that is not changing the Road Traffic Law but to change the Animal Cruelty Law.

3.3.4 Deputy D. Johnson of St. Mary:

Again, to revert to the basic question: a member of my family unfortunately hit a cat some years ago in the early morning; was quite distressed about it, stopped, no cat there, as often happens. When the Parish Hall was open he took the trouble, through me, to notify the Parish Hall of what had happened and they immediately were able to locate the owner. Is that not the nub of the problem? That too often we see in the *J.E.P. (Jersey Evening Post)* and hear on radio notices as to stray cats or whatever. It is the owners who want the comfort of knowing what might have happened and a simple amendment to the law, whether it is the Road Traffic Law or under the environmental legislation - I do not think anyone minds - but could at least the 2 Ministers liaise and get the word "cat" put in that law to avoid this problem?

The Bailiff:

Minister, could you liaise and ...

Deputy E.J. Noel:

I have already offered to work with the Deputy and the organisers of the petition, along with my colleague, the Minister for Planning and Environment, to bring this about into legislation. It is just that the appropriate legislation is the Animal Welfare Law and not the Road Traffic Law.

3.3.5 Deputy A.D. Lewis:

I have, unfortunately, lost 3 cats on Jersey's roads in recent years. On each occasion the J.S.P.C.A. (Jersey Society for the Prevention of Cruelty to Animals) were excellent and they notified us immediately, because the cats were chipped. Could it not be made mandatory that all cats are chipped? It is a very simple, painless process and as a result you have the satisfaction that you know what has happened to your cat, both for the driver and for the owner. The J.S.P.C.A. helps them as well because they often get a call and cannot identify the cat. So, simple legislation that would allow all cats to be chipped could have all sorts of benefits. Perhaps it is one for the Minister for Planning and Environment. Perhaps the Minister would be prepared to comment on it.

The Bailiff:

I was going to say, Deputy, it is not a matter for the Minister for Transport and Technical Services.

Deputy E.J. Noel:

I am quite happy to comment on it. I agree with much of what Deputy Lewis of St. Helier has said. The appropriate place for this is under the Animal Welfare Law, not under the Road Traffic Law and I am willing to work with the Minister for Planning and Environment to bring that about.

3.3.6 Deputy L.M.C. Doublet:

If the Minister does not feel the law needs to be changed, will he, at the very least, commit to some kind of road safety campaign, not just for cats but for dogs, children, all humans, because I think the real root cause of this issue is that we have big traffic issues in our Island and a road safety campaign could go some way towards helping that?

The Bailiff:

I do not think that arises out of the original question.

3.3.7 Deputy P.D. McLinton:

Our wonderful cat, Eddy, went walkabouts. A beautiful cat, we never saw him again. We spent a small fortune in the *Jersey Evening Post* and my wife went round banging a tin can for months on end shouting his name. My neighbours thought that she had gone quite mad. Had simply the Road Traffic Act put "cat" in there, then the simple requirement for a driver, who had likely hit our cat, to say: "Whoops" and phone the police, report the cat having been hit on the road, they contact the animal shelter, who contact us. Problem solved. Our cat is insured. If our cat causes an accident then absolutely our insurance should pay for any damage to the car as well. I do not mind that being in that law. I understand, as the Minister said, he said: "this is the wrong tool". No, this is a tool combined with the Animal Welfare Law and ...

The Bailiff:

And the question, Deputy?

Deputy P.D. McLinton:

I beg your pardon. T.T.S. (Transport and Technical Services Department) and the Environment Department are like yin and yang at the moment. They work well together so I dare say we can settle down and do this. I do not want to have to bring the 3,000 name petition to this Assembly - that would be a bit embarrassing - so will the Minister absolutely guarantee this Assembly that this law will come into fruition and at the very least put the word "cats" in there and we will deal with it as it comes along?

Deputy E.J. Noel:

I cannot guarantee that we will bring it into the Road Traffic Law, but I can give a guarantee that I will work with the Minister for Planning and Environment to bring it into the equivalent provision into the Animal Welfare Law.