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1:38PM

ONLINE SCRIPT SERVICES

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Proceedings

1 the proceedings again as a result of an abuse of
2 process, there is a suggestion that the letter
3 written by the S.P.C.A. to the defendant here,
4 asking for money for the board and care and
5 transportation of the horses in return for an
6 agreement to return the horses back to the owner,
7 really amounts to what one could classify as an
8 extortion in that it is using the threat, if you
9 will, or implied threat of criminal prosecution
10 in order to collect this money. I cannot find
11 that on the facts because, first of all, there is
12 a separation between the people who provide the
13 facts and the people who lay the charge. Crown
14 counsel lays the charge. It is not up to the
15 S.P.C.A. to decide whether or not the charges
16 should be laid. They were in the process of
17 putting that information before the Crown at the
18 time that the letter went out. I cannot find
19 that they had any control one way or another as
20 to whether or not ultimately charges would come
21 forward and the letter did not refer to charges
22 not proceeding or anything of that nature.

23 In addition, of course, the Act provides
24 that the S.P.C.A. is entitled to collect for care
25 of animals which are in their possession as a
26 result of a seizure, presumably a lawful seizure,
27 but up until that point in time, they did not
28 know any different, so they are not doing
29 anything wrong in writing a letter to the
30 defendant, asking for money. The defendant has a
31 right, of course, to refuse to pay, which she
32 did.

33 So, I cannot find anything in there to
34 suggest that there is an abuse of process and
35 that the charge was laid because, for example,
36 the money was not paid. The defendant, I
37 suppose, has the right be suspicious about that,
38 but there is no evidence of it.

39 I just want to comment on one other thing
40 which really relates to why I did not enter a
41 stay of proceedings after having found a breach
42 of the Charter in an unlawful search warrant and
43 that is respect to the TV crew which was
44 mentioned in the arguments and I failed to
45 mention them in my reasons, but defence counsel
46 argues that there is sufficient bad faith shown
47 here, if you will, by the presence of TV crews at