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Tuesday 22 July 2008

**Journal
des débats
(Hansard)**

Mardi 22 juillet 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Tuesday 22 July 2008

Mardi 22 juillet 2008

The committee met at 1002 in the Sheraton Four Points, London.

**PROVINCIAL ANIMAL
WELFARE ACT, 2008**

**LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX**

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

ENVIRONMENT VOTERS

The Acting Chair (Mr. David Zimmer): Welcome to London, everybody. The 4:30 agenda item, Environment Voters, has been moved to 10 o'clock. I understand that Karen Levenson is here; come forward and join us. You see all the committee members' names. These are the Liberal members, opposition members, Conservatives, NDP. You have 15 minutes. I'll give you a three-minute warning when your time is about to be up. You can use the 15 minutes or you can leave time at the end for questions from members of the committee. Okay?

Ms. Karen Levenson: Okay.

The Acting Chair (Mr. David Zimmer): And if you could introduce yourself for the record.

Ms. Karen Levenson: My name is Karen Levenson. I'm with Environment Voters. First of all, I want to thank the chairperson and committee members for having me speak today on behalf of Environment Voters. Environment Voters is a national non-profit organization that uses electoral politics to create legislation that is favourable to animals and the environment.

First, I want to applaud the people of Ontario and the provincial government for their very progressive approach to the treatment of animals and for their recognition of our joint responsibility to provide the best possible protection for animals in Ontario. I also want to commend the Ontario Society for the Prevention of Cruelty to Animals for its ongoing commitment and dedication to protecting animals in this province.

Apart from my being the director of Environment Voters, I believe I'm particularly equipped to be speaking before the committee today. Prior to my position with Environment Voters, I worked for 25 years in the

advertising industry; eight of those years were promoting pharmaceutical products. In that time I've read a vast amount of clinical and animal use studies. I've also worked at the research communications office at the University of Guelph and participated in a voluntary dog-walking program.

The Acting Chair (Mr. David Zimmer): Excuse me. I think if you could just back up a bit from the mic, it'll be easier for us to hear.

Ms. Karen Levenson: Okay. Can you all hear me?

The Acting Chair (Mr. David Zimmer): Yes. That's much better.

Ms. Karen Levenson: I participated in a dog-walking program that was supposed to enrich laboratory dog life. Furthermore, I have first-hand experience in dealing with life-threatening illness. A family member has an illness very akin to ALS. He is now in a nursing home and cannot use any of his muscles. So that's me.

The amendment to the Ontario Society for the Prevention of Cruelty to Animals Act broadens the authority and increases the power of the OSPCA to protect individual animals from individual acts of cruelty, yet the amended OSPCA Act does not protect animals from institutionalized cruelty. In fact, the exemptions to the act weaken it in such a way that institutional cruelty is actually easier to continue.

We are woefully behind Europe despite the progressive approach—I don't want to take away from the wonderful proposals of this bill, but I want to say that we are woefully behind Europe in our protection for animals. In fact, there's a ban on animal use in cosmetic testing throughout the European Union that will take effect in 2009. Any products that want to be distributed in the European Union must prove that they have not been tested on animals.

Furthermore, the Spanish Parliament approved a resolution confirming human rights for great apes. We're talking about chimpanzees, gorillas, orangutans and bonobos. They believe that non-human hominids should have the same right to life, freedom and protection from torture that you and I share. As a matter of fact, they've followed the leads of the Netherlands, New Zealand, the United Kingdom, Sweden, Germany and Austria. Austria actually bans use of animal research on lesser apes.

If we look specifically at animals in research, Bill 50 does nothing to protect or advance animal protection for research animals. For every one animal hurt by an

individual or in a dogfighting ring, there are hundreds that are hurt behind the closed doors of institutionalized cruelty. That includes research labs. The exemption gives triple protection to those who own or operate a research or supply facility from which animals are bred or housed to be used in research. Perpetrators of cruelty within the system of animal research are protected by the Animals for Research Act and by the legal arguments of colour of right and lawful excuse. The exemptions do not protect animals; they protect those who can potentially abuse and misuse animals in the name of science and education. Since research labs and supply facilities are already protected under the Animals for Research Act, which excludes the OSPCA from entering the research or supply facility, this exemption should be removed.

Research is one of the most important areas to expand the protection of animals since animals in research are specifically subjected to acts of cruelty. Research involves burning; gassing; ingesting large doses of toxic chemicals; subjecting them to high doses of radiation or industrial, agricultural or environmental pollutants; starvation; force-feeding; breeding animals with specific illnesses such as asthma or renal failure; subjecting them to pain; sensory deprivation; and depriving them of their mothers. If any individual under this new amended bill enacted any of these experiments, they would be charged under the expanded powers of this act. So there is a double standard that institutional cruelty is okay, but individual acts of cruelty are not.

Since the province is looking to expand the powers of the act and protect animals and has recognized that it is a right for animals to be protected in the province of Ontario, we ask that you look at all the legislation that regulates the treatment of animals, and, specifically, elevate the level of protection animals are afforded under the Animals for Research Act.

1010

The OSPCA is complaint-driven; however, under the exemptions, there is no independent body for an individual to lodge a complaint against a researcher, technician, peer-approved experiment, lab or supply facility. The Animals for Research Act is voluntary. It prescribes that facilities should follow the guidelines of the Canadian Council on Animal Care; however, again, that is voluntary. I've been in a research facility that knew that there was a scheduled appointment with the CCAC, and they spent a month cleaning up the face of that research facility so that they could get approved.

Also, any researcher or any student at a veterinary college who wants to speak out against animal cruelty is really prohibited by the institutionalized status quo. Their careers can be ruined. There is great pressure among colleagues not to respond. In fact, the peer review committee is voluntary; however, if you want your research approved, then you better approve your colleague's research. So it makes it very difficult. I've spoken to researchers who have had their careers destroyed at a research facility because of speaking out against cruelty to animals. I've also spoken to students who have actu-

ally taken the alternative program, and faculty members have denigrated them and given them lesser grades, which have been appealed. They make it very difficult for students to function under the alternative program.

There is also a desensitization that occurs on day one of veterinary school, which makes it very difficult for individuals who go through that process to detect pain and suffering in animals. In fact, acknowledging signs of depression, boredom, anxiety, fear and other emotions in animals is considered anthropomorphizing and is a cause for shame and disfavour.

The new section 21 of the act provides that in the event of conflict between the act or a regulation made under it and a municipal bylaw, the provision that affords the greater protection to animals prevails. Environment Voters asks that this same condition be applied to provincial acts or regulations that govern the use of animals, including animals in research.

There needs to be some independent body to which a whistle-blower can turn. There needs to be protection under the OSPCA Act for those who speak out against institutionalized cruelty to animals, including animals in research. There needs to be a way to address cruelty, and the animal research industries must be held accountable for their treatment of animals. In addition, there must be closer examination of the benefits of proposed research studies using animals, and these must be weighed against the moral and ethical considerations of the welfare of animals.

There needs to be a body that enforces the currently voluntary three Rs: refinement, reduction and replacement. There must be an independent body that can encourage the use of alternatives to animal testing and challenge the belief that animals need to be used. There needs to be a body that can stand up for the social, psychological and physical well-being of animals used in research.

John J. Pippin, MD and senior medical and research adviser for the Physicians Committee for Responsible Medicine, states that "for every instance where they're using live animals, there are methods that can be used instead that would provide either equivalent or superior educational value."

Researchers at the University of Toronto reviewed 76 prestigious animal studies, originally published in journals such as *Science* and cited in 500 other papers, to see if these studies have resulted in better human care. But despite these animal studies, only eight of the studies resulted in improved drugs for humans. That's a mere 11%. Despite the prestigious journals in which they originally appeared, less than half of the 76 animal studies were weighted as having a good methodological quality. The authors warn that even the very limited success rate of 11% was likely to be overestimated, because they examined only highly cited studies featured in very prominent journals.

The Acting Chair (Mr. David Zimmer): Three minutes.

Ms. Karen Levenson: Okay.

They conclude that patients and physicians should remain cautious about extrapolating the findings of prominent animal research to the care of human disease.

In April 2000, a study published by the US watchdog group Public Citizen reported that an estimated 100,000 Americans die every year from adverse drug reactions to medications that are tested on animals.

The report *A Spoonful of Sugar*, which the Audit Commission published in 2002, revealed that human deaths attributed to adverse drug reactions have increased more than fivefold in the UK.

In Germany, according to a scientific study, 16,000 people die every year from adverse drug reactions.

We all want to see real benefits in ending human disease, but we believe that these advances must be made depending on the advancement of biological technology relevant to research techniques that are modern and do not use animals.

I ask that you follow the lead of the European Union with regard to banning cosmetic testing on animals and recognize the limitations of animal testing in advancing scientific and medical knowledge and human health. For Ontario to be truly progressive in regard to animal welfare, it must challenge the use of animals in product testing and using animals in research on illness and drug development. Expand the areas of cruelty to include unnecessary research or use of animals in research that is not biologically relevant and that cannot guarantee applicable results for humans.

To paraphrase Mahatma Gandhi, the level of advancement of civilization is reflected in how it treats its animals.

Any questions?

The Acting Chair (Mr. David Zimmer): You've got about 10 seconds left, so I'll use it to thank you for coming and presenting to the committee.

CITIZENS FOR COMPANION ANIMALS

The Acting Chair (Mr. David Zimmer): Committee members, we're going to go to our 10:45 agenda item, Citizens for Companion Animals, and hear from them next.

Welcome to the committee. You will have 15 minutes. I will give you a three-minute warning toward the end of your submission. You can use all of the 15 minutes or leave time for questions from the committee members if you wish. Please identify yourself for the record.

Ms. Mary Shepherd: I am Mary Shepherd. I am representing Citizens for Companion Animals.

I wish to thank the Chair and the committee for your work on Bill 50 to bring about positive changes for the animals in Ontario. You are to be commended for responding to the expectations of the majority of citizens in this and every community in Ontario.

My presentation will support the concepts in Bill 50 and encourage you to continue to press for positive change, highlight strengths within the bill, offer recommendations that will set Ontario apart as a leader in

addressing the issues of animal welfare, and examine in many contexts the changing values around animals.

As an educator, vice-principal, classroom teacher and teacher specialist, I was expected to model compassion, care and respect for the environment, all people and animals. Curriculum includes teaching children about animals and their habitats. We expect our schools to help children grow into adults who are responsible, thoughtful decision-makers.

It is this generation that will look at what is accomplished here and be proud of or dismayed by the result. Students are becoming increasingly informed and concerned about their environment, and animals are at the forefront of these concerns. Many children are choosing to become vegetarians without any influence from their parents. Few children brag anymore about going hunting.

1020

Citizens for Companion Animals was the organization instrumental in creating the first-ever task force in London to review and improve how animals are treated in this city. As co-chair of this task force and a member of the advisory committee resulting from it, I have watched attitudes and values change dramatically in this city. Around the world, in Canada, which prides itself on its approach to humanitarian issues, and in Ontario specifically, animals have suffered long and suffered enough. They have no one to speak for them except those of us who care. Caring, however, has never been enough, not enough to prevent horrendous acts of cruelty, neglect, and abuse, and certainly not enough to see those responsible for these acts receive consequences that speak to the depravity of their crimes. Attitudes, values, and beliefs have changed.

The Michael Vick story saw international public outrage like never before. And yet, out of all the horror and because of Best Friends Animal Society seeing this as a chance to challenge traditionally held beliefs about rehabbing such brutally trained dogs, amazing stories are happening every day for these animals. They and the people working with them are proving the disbelievers wrong.

Treatment of animals is no longer an animal-rights fanatics' issue. This is now a mainstream societal concern. How can Ontario not pass a bill that offers increased protection against intentional acts of cruelty when the majority of citizens have voiced their desire to see animals better protected and those who inflict suffering on any animal prosecuted aggressively?

The University of Toronto and Queen's will join at least six other Canadian universities that teach courses about animals under the law. Distinguished lawyers Clayton Ruby and Leslie Bisgould were allowed by the Supreme Court to intervene in a case on behalf of several animal rights organizations. Ms. Bisgould says that the tide has turned and people are saying that animals are important. Family law is beginning to speak about animals as a special kind of property. A McGill law student states that animals are beings unable to represent themselves and it's the best job a lawyer can have.

In the United States, Duquesne University, recognized as a school of leadership and professional advancement, has partnered with the Humane Society University to offer a bachelor of science degree in humane leadership, a graduate degree in organizational leadership, and six programs of certification: humane law enforcement, executive leadership, humane education specialist, pets for life, volunteer management, and certified advocacy management specialist. All of these university level degrees and diplomas are about animals—people choosing careers that will bring about positive changes for animals.

That animals matter is indisputable. What happens to them matters, and what happens to anyone who mistreats, abuses, neglects or kills them matters to a whole lot of people. While Bill 50 is a beginning, and a decent beginning, it leaves gaps that need to be addressed if we are truly to demonstrate that we have moved to a level of care and compassion that society now demands.

One issue I want to address that may not fall under this bill but most definitely needs to be dealt with is, please ban or declare illegal the declawing of cats. This mutilating procedure is banned or illegal in 24 countries and a number of states in the United States. If this committee has any authority over this painful mutilating procedure, then please do the right thing and ban declawing or make it illegal once and for all.

The section of this bill that addresses dogfighting is quite comprehensive. Having said that, additional recommendations would be an improvement. The state of Georgia in 2008 decided that anyone even watching a dogfight shall be subject to criminal prosecution. It is important that every single person who has anything to do with participating in, promoting or gaining financially from dogs fighting should be prosecuted.

This committee should create as many sections as needed to address any and all possibilities and to attach the most severe penalties possible to this section of Bill 50.

In addition, it should be spelled out clearly that the use of other animals—such as kittens, rabbits, small dogs—as bait to train a dog to fight must be viewed as a serious breach of the dogfighting legislation and will result in prosecution.

Other than attending to maximum penalties, sentencing is left to the judge's discretion. We expect that their training and experience will lead them to decisions that are fair and reasonable. It has become clear that where animals are concerned, additional judicial training must be made mandatory, as judgments have come down that are an embarrassment to this province.

Jesse Power took a small grey and white cat, now known as Kensington, from Kensington Market in Toronto. He put a noose made of wire around its neck and hung it from the ceiling. Along with two friends, they repeatedly stabbed this cat as it howled in agony, and then Mr. Power slit its chest open. He videotaped this act. This savagery went on for four to five minutes before the

cat died. Hardened police officers cried when they watched the video.

Judge Ted Ormston's finding was that Mr. Power did not intend for the cat to suffer; he only intended to kill it. Mr. Power received a 90-day sentence served on 16 consecutive weekends, an 18-month conditional sentence, and three years' probation, during which time he was not to have any animals.

Upon review, Mr. Justice David Doherty stated that there was nothing in the video or in Power's subsequent conduct to suggest that he did not fully appreciate and relish in the cruelty inflicted upon Kensington. Judge Doherty also scorned the defence psychiatric report, which was supported by Judge Ormston, that the cat project was an artistic venture. Even Power admitted that he didn't know if he would use the video in an art project. Judge Ormston said that it wasn't the worst way the cat could die. Judge Doherty disagreed. He said it was the worst because of the cruelty.

Power's buddy, Anthony Wennickers, received 21 months' jail time; 10 months had already been served. Also, he received a three-year probationary period during which he was not to own an animal.

The real problem, stated by Judge Doherty, may well be that the present six-month maximum penalty for cruelty to animals is inadequate.

Laura Avery was convicted of failing to provide for her cat when it was full of maggots, with lumps under its chin, and they were decaying. The cat was dehydrated and thin, and was euthanized. She received 12 months' probation, two years' prohibition from owning animals and 45 hours of community service.

Here in London, a man put a cat in a cage, put the cage in his bathroom, and allowed it to starve. Death did not come quickly. When an investigator was called, the cat had to be euthanized immediately. The sentence: limited time served on weekends.

I respectfully suggest that part of the problem may be the personal biases that judges like Judge Ormston bring to the courtroom. Crown attorneys and judges must be instructed about animal issues.

To ensure that crown attorneys throughout the province are prosecuting cases and seeking penalties that accord with the expectations of the people of Ontario, including all special interest and animal rights groups, Bill 50 should mandate the formation of a permanent advisory committee to assist the minister with all aspects of administering this statute. The committee would be comprised of members from government, the public sector and the various special-interest animal groups. The job of the committee would be to provide policy recommendations based on its research and investigation to the minister to assist him or her in administering this statute.

The Acting Chair (Mr. David Zimmer): There are three minutes left.

Ms. Mary Shepherd: Thank you.

This government has an obligation to contribute to salaries paid by the OSPCA, its branches and affiliates. It

is no longer appropriate for these organizations to have to rely on charitable donations while being given more powers and expected to carry out additional responsibilities.

Warrantless searches are critical if investigators are to catch dogfighting rings in the act. These participants quickly disperse while a warrant is being prepared.

1030

In addition to these comments, it is important to speak about those segments of society exempt from Bill 50 but who still feel it is necessary to try to influence the outcome of this proposed legislation. It is clear that the people objecting to moving forward have a vested interest in the business of animals. Why are researchers, hunters and farmers so concerned about Bill 50? What possible reason could they have, other than to maintain the status quo and continue to exploit animals for business and sport?

In conclusion, at this time in our nation's history, it's a good thing to be part of the animal rights movement. This movement engenders people from all socio-economic backgrounds, those with numerous university degrees and those with none. The male gender is now well represented, as are the young, middle-aged and old. No longer is this a little old woman's story.

Bill 50 has the potential to bring Ontario into the limelight of positive media coverage. Societies around the world are watching to see which country, province, state or municipality will set standards around the treatment of animals. Animal issues and rights are being examined from many perspectives, and the majority of citizens in Ontario are speaking out for the animals. We are the animals' voice, the voice of understanding and respect, of commitment, care and compassion.

The Acting Chair (Mr. David Zimmer): There is no time for questions, so thank you very much for your presentation and taking the time to come today.

SCOTT THIBAudeau

The Acting Chair (Mr. David Zimmer): We're now going to do the 10:30 slot, Scott Thibaudeau. There are 15 minutes. I'll give you a three-minute warning towards the end. Could you identify yourself for the Hansard record?

Mr. Scott Thibaudeau: Good morning, Mr. Chairman, ladies and gentlemen of the committee. Thank you for providing me with the opportunity to speak to you this morning about Bill 50.

There is no doubt in anyone's mind who sits in this room or in any other part of the world that—

The Acting Chair (Mr. David Zimmer): Sorry, are you here in your personal capacity or on behalf of an organization?

Mr. Scott Thibaudeau: I'm here in my personal capacity.

There is no doubt in anyone's mind in this world that acts of cruelty cannot be tolerated—intentional acts of cruelty.

The legislation that you're being asked to draft and propose is looking at expanding the powers under the OSPCA Act in Ontario. I've provided you with a copy of the Manitoba Animal Care Act. In your considerations and the drafting of your legislation—and I apologize; this isn't the most up-to-date version; it's from 2007. That's the one I had available to me this morning. It provides some specific, important definitions that are lacking in the present legislation in Ontario. Specifically, I would ask you to look at section 2(2) of the act, which states:

“A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner

“(a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations.”

In the present-day legislation in Ontario, what is substantially lacking are regulations. I would ask that the committee, in formulating the bill, research the various—for example, the Canadian Kennel Club code of conduct. Additionally, in northern parts of Ontario where conflict has come into regulation, there's a code of conduct for snow dogs and a musher's guide.

The problem from a practical point of view in the present-day legislation is that a lot of the terms and what constitutes “distress” are not defined. It's left solely to the discretion of the investigating officer, who at present is from the OSPCA. The SPCA, while its intentions and meanings are truly justified, is nonetheless a special interest organization whose objectives and goals may fall into conflict with other recognized organizations and institutions or groups in the province.

In a free and just democratic society—as Ontario, as part of Canada, is defined as found in the charter—there has to be an equal balance placed in the interpretation of legislation to create legislation the focus of which serves all persons, not specifically one.

The definition of “infliction of suffering prohibited” found in the act I would also ask the committee to consider in its drafting of the legislation. “No person shall inflict upon an animal acute suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or well-being.” In the present legislation as it stands, it is not defined, and leaves sole discretion to that of the investigating officer.

The enactment goes on and places “acceptable activities,” which are defined by regulations in section 4. When you compare the regulations, as compared to the Alberta and BC legislation, the regulations are extensive. They create a concise, clear, cohesive definition and acceptable path of conduct which people, in following the law, must have. The law cannot be so sufficiently vague as to leave people without the terms of reference upon which their care and conduct are to be judged. The present legislation that this Bill 50 seeks to replace is such legislation. It's sufficiently vague that it provides, in the abstract, a few relative and loose terms.

I'd ask the committee, in moving forward, in moving Ontario to the forefront with its legislation, first to consider additionally that the Supreme Court, in a number of

circumstances, has indicated that warrantless searches are, prima facie, unreasonable. The right to privacy of individuals, and individuals whose interests may run contrary to the OSPCA, is paramount. It cannot be easily waived. There have to exist reasonable sets of circumstances that would convince a justice of the peace, acting impartially, that these types of distress are founded and are actually present and worthy of investigation before the privacy that we all treasure in our own homes is so freely given away to another entity or body that may have a conflicting form or opinion and may come onto your property.

The act that I have placed before you clearly specifies that an activity under 4(2) is an accepted activity under subsection (1) only if it is carried out in a manner that is “consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations.” That brings us back to perhaps the comment of the last speaker before you. I’d ask you, as members of this committee: If a vet who actually performs the declawing of a cat believes that is an inhumane practice, would that not violate their code of ethics and conduct? However, if a vet, who is licensed by this province, believes that it’s a practice or procedure prescribed in their training, then how can it possibly be cruelty?

Similarly, a lot of jurisdictions in our province prescribe and allow for the hunting of vermin or varmints such as coyotes.

1040

A lot has been said about hunting. If a regulation or an act provides for it, as our hunting regulations and bylaws in a lot of rural municipalities do, and procedures are spelled out and prescribed for how the hunts are to be conducted, then how can that be cruelty? This type of legislation, where the regulations would be constructed so as to show that there are acceptable and allowable areas of conduct, would remove the sole discretion from the investigating OSPCA officer—as long as they’re carried out in accordance with those terms found within the regulations which your legislation would draft.

Under section 6 in the legislation—so many times it’s been heard: “An animal is in distress.” Subsection 6(1) goes on for the purposes of the act and defines it in clear, concise terms:

“(a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;” that doesn’t mean that when the inspector walks in and finds that a water dish is empty at that particular time, the animal is effectively in distress.

“(b) subjected to conditions that cause the animal to suffer acute pain;

“(c) not provided food and water sufficient to maintain the animal in a state of good health.”

These are common sense. This legislation is very common sense. I would ask this committee to look into what sometimes becomes lost in legislation: common sense. This is clear to people. It’s concise. The regulations created to enforce this should be so too constructed and worded as to provide people with what is

necessary to comply with the terms of the act. We don’t have that at present in Ontario.

The act goes on and affords what this legislation currently does not. It also provides an animal protection officer the power with which to stop a motor vehicle. Again, the authorities, the legislations, naturally flow with one another, hand in hand. They balance the approach, so that people aren’t left to guess at where the power of the enforcement agency ends and exceeds the person’s individual rights and care and protection of their own animals.

The Acting Chair (Mr. David Zimmer): Three minutes.

Mr. Scott Thibaudeau: Thank you.

This legislation goes on to say in subsection 8(8), “A police officer may take any action authorized under subsection (5) or (7) without a warrant if conditions for obtaining a warrant under subsection (5) or (7) exist but, by reason of exigent circumstances, it would not be practical....”

The legislation protects the interests of the animals, that where animals are in immediate distress and immediate care is needed, that power is given to enter. That is important in the legislation. As the previous speaker has said, too often when a warrant is sought, people flee. If there’s an exigent circumstance that exists, which is defined in the regulation, they can enter to protect the animals that are in danger. The intent of the legislation is to protect animals, and that is important, ladies and gentlemen.

I’d ask you to balance the need of protection—that it be compliant with the Charter of Rights and Freedoms, and that legislation being put forward would afford a balanced approach, so that individuals are not subject to the will of individuals who may have a specific interest over and above the interests of the individual. Cruelty in this day and age is unacceptable, whether it be to an individual, an animal, or any other thing in this world.

Does anyone have any questions?

The Acting Chair (Mr. David Zimmer): You’ve got about three seconds left, so thank you very much for presenting to the committee today, and thank you for the effort you’ve put into your submission.

Mr. Scott Thibaudeau: Thank you.

Ms. Cheri DiNovo: On a point of order, Mr. Chair: I’m just wondering if you could explain to the deputants that—we’ve heard from three now, and we haven’t been able to ask any questions. Perhaps you could explain to the next one that if they leave some time in their 15 minutes, then we can ask them some questions.

The Acting Chair (Mr. David Zimmer): Yes, I’ve done that, but I’ll make that exceptionally clear.

ANIMAL OUTREACH STRAY CAT RESCUE

The Acting Chair (Mr. David Zimmer): We are now going to hear from the 11 o’clock slot, Dianne Fortney of Animal Outreach Stray Cat Rescue. Ms. Fortney, you will have 15 minutes. I’ll give a three-min-

ute warning as you approach the limit. But if you want to enter into a question-and-answer exercise with the committee members, you should leave as much time as you want for that, if that's what you want to do.

Ms. Dianne Fortney: Thank you very much, Mr. Zimmer.

The Acting Chair (Mr. David Zimmer): And if you would identify yourself for the Hansard record.

Ms. Dianne Fortney: I am Dianne Fortney from Animal Outreach Stray Cat Rescue.

Mr. Chairman, members of the committee, ladies and gentlemen, today I speak to you as an animal rights extremist, a terrorist, a fanatic. Oh, those are the names that other people call me—people whose livelihood depends on their ability to use animals as they see fit without interference, people who derive pleasure from stalking and killing animals. What I actually am is a registered nurse, a widow who raised a daughter who is now in university, and a person who cares deeply about the suffering of all animals, human and other.

I work in one of the busiest emergency departments in all of Ontario, with one of the most vulnerable populations in our society, psychiatric patients. I also work with the London police department on their mobile crisis response team. I am a contributing member of my community, and I have never been in jail.

Five years ago, I co-founded Animal Outreach Stray Cat Rescue, a registered not-for-profit charity. Since we started, our group of volunteers has rescued and rehomed over 700 cats from the streets. As in all urban centres, London's homeless cats are in dire straits. Cats are not an indigenous wild species. All stray and feral cat populations have originated from humans who were either callous or irresponsible.

Since starting this charity, I have been struck by two things. First, the vast majority of our society is comprised of people who are compassionate, with a sense of fairness and integrity. In London, there are hundreds of people helping stray cats, volunteering their time, their financial resources, and their emotional energy to help alleviate these cats' suffering. Secondly, there is a segment of our society that has not made the connection between human and animal suffering. These people abuse animals, and often people, with no regard. Kittens are drowned, dogs are chained and dragged behind cars, cats are killed in microwaves, puppies are burned, and animals are beaten, starved, and forced to fight each other to the death. Women and children are trapped in abusive relationships out of fear for their pets' safety.

Our current legislation is woefully inadequate to help these animal victims, to hold the perpetrators accountable, and to prevent the recurrence of these horrific incidents.

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A society that condones suffering diminishes itself. In reality, a lack of effective measures to limit the suffering of animals colludes with the perpetrators of these abuses.

People are appalled when stories of animal cruelty are publicized in the media. Time and time again, animal

abusers are free to reoffend after a few short months, and the public is outraged.

Current conversations at workplaces, schools and social gatherings are full of questions: "How can people do these things? Why don't we do something? What is our government doing? These people get a slap on the wrist. I couldn't sleep last night, thinking about these horrible things. When are we going to change?"

The current laws severely hinder the OSPCA's ability to carry out their mandate to protect animals. Bill 50 is a step toward remedying this situation. The opinions and desires of members of the community who do not have a vested interest in using animals should be given more weight than those in the animal industries. How can anyone in good faith object to more compassionate treatment of animals?

The people of Ontario and their government believe that how we treat animals in Ontario helps define our humanity, morality and compassion as a society. We recognize our responsibility to protect animals in Ontario. I urge this committee to stand behind these noble words. Please pass a strong and effective bill. Help Ontario to a more humane treatment of the animals with whom we share this planet.

The Acting Chair (Mr. David Zimmer): We have eight minutes left for questions, and we'll start with the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for deputing, and thank you for your impassioned words and the work that you do.

We have heard a number of deputants who are concerned about Bill 50 from an animal rights standpoint, people like the Toronto Humane Society, which has a euthanasia rate of 6% versus the OSPCA's euthanasia rate of 50% plus. They're concerned that this bill gives too much power to the OSPCA and, included in section 6, takes away their right to call themselves humane societies. Our interest, in the New Democratic Party, is to make this bill stronger so that it protects more animals and that it does it in a fair and equitable way.

Just to let you know, the way the bill is written can be problematic. There are certain classifications, for example, of animals that aren't covered. Zoo animals are not covered by this; they're not mentioned once. It has been pointed out that animals in research facilities are not covered by this bill. The last deputant brought forward another act that is much more specific in terms of helping animals.

In light of that, and having read Bill 50 in its entirety, in particular we're concerned about section 6, which has nothing to do with animal rights but says that humane societies can't use the word "humane" in their titles, which de facto would strip all humane societies in Ontario, over 200 of them, of their names. They're volunteer organizations. They're not funded by government money, like the OSPCA is: \$7.5 million over two years. Would you be in support of the humane societies keeping their names?

Ms. Dianne Fortney: I certainly cannot offer an expert opinion on section 6 of the bill. I understand that it is problematic, and I understand the concerns of the humane societies. I certainly think a very strong bill can be passed that would address issues of more compassion toward animals, while perhaps revising the problematic section 6.

I would like to speak to some of the comments made by the speaker before me. It's interesting and actually rather disconcerting to me that people whose practices with animals will not be affected by Bill 50 are coming out in full force to ring a bell of alarm about any kind of change. I'm speaking about hunters and people who use animals in agriculture and research. To my understanding, their practices will not be interfered with by Bill 50. I wonder why they are speaking out in full force. I find it very disconcerting when there is a segment of our population, and by far not the majority, whose voices are so loud to prevent any kind of a step forward when certainly anyone who picks up a newspaper or listens to the radio is very aware of the concern of the community at large—concern that in Ontario we are working with legislation that is hundreds of years old and in fact is not protecting animals.

The Acting Chair (Mr. David Zimmer): We're going to move to the Liberals now. Mr. Colle.

Mr. Mike Colle: If I may call you Dianne?

Ms. Dianne Fortney: Yes, please do.

Mr. Mike Colle: Thank you very much for the work that you do.

I know the opposition parties are trying to have it both ways. One of the things that they are objecting to is the increased power given to the OSPCA, especially in terms of warrantless entry. Right now they have to go before a judge, see if the judge will weigh the evidence, whether he'll even hear the presentation of the officer to inspect, for instance, a dog-fighting venue. As you know, they're all over this province and they're legal right now because we don't have any legislation. The opposition is saying that this warrantless entry is not necessary because it takes away rights. What are your feelings about the warrantless entry powers given to animal control officers?

Ms. Dianne Fortney: I am certainly a person who is very interested in protecting rights and civil liberties. I am also aware that innocent creatures, whether they be animals or children, also have rights. It is society's duty to protect the rights of parties that may not be able to speak for themselves. If an OSPCA officer needs to get a warrant for a dog fight, which often would not be taking place during normal business hours—my suspicion would be that since these are rather clandestine, they would be in the evenings or on weekends or whatever—by the time the warrant is obtained, word has gone out, the dogs are dead, the people have left. I trust that we will put faith, training, education and money into the OSPCA officers so that they are competent and adept at their job. So I am in favour of warrantless searches.

Time and time again through my profession I have heard terrible stories of what people have done to animals

and of people who have been traumatized by other people's abuse of animals. It's common knowledge that our legislation has no teeth, although I hate to use that metaphor. It is common knowledge in the general public that they cannot depend on our laws to protect their animals or to protect them if they have a concern for their animals.

Mr. Mike Colle: Just in connection with the work that you do, dogs are given a great deal of attention but cats and kittens are sometimes our forgotten friends out there. I was in a courtroom at Toronto city hall when Judge Ormston deliberated over the Power case.

Ms. Dianne Fortney: Yes, that was horrific. I was there also.

Mr. Mike Colle: As you know—

Ms. Cheri DiNovo: On a point of order, Mr. Chair: I just wanted to object to the characterization of the opposition being against warrantless searches. Certainly the New Democratic Party is not against warrantless searches if the case warrants it. It would be the same for firefighters, for—

Mr. Mike Colle: That's not what you said yesterday.

Ms. Cheri DiNovo: That's not correct.

Mr. Dave Levac: On the same point of order, Mr. Chairman—

The Acting Chair (Mr. David Zimmer): Hold it. That's not a point of order, so Mr. Colle, back to you. You were in the middle of a comment.

Mr. Mike Colle: I didn't recognize you at the time in the city hall courtroom, but I think that that case did demonstrate—although the penalties weren't as severe as the situation warranted, it did give a lot of people a great deal of hope because there was just such public outrage and such public concern that for the first time there were court proceedings that took a case seriously, because—

The Acting Chair (Mr. David Zimmer): And on that note we'll have to stop. You've used your time.

Mr. Mike Colle: That's all right.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation and taking the time to attend today.

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DAVID ENNIS

The Acting Chair (Mr. David Zimmer): Committee members, we'll move to the 11:30 slot now, Ron Lounsbury.

Interjection.

The Acting Chair (Mr. David Zimmer): I'm sorry, 11:15, David Ennis. I didn't realize that you had arrived. My apologies. So here's the drill: You have 15 minutes; I'll give you a three-minute warning just before your time is up. But if you want to enter into a question-and-answer exchange with the members, you'll have to leave whatever time you want at the end; that is, not use up your entire 15 minutes. Okay?

Mr. David Ennis: I appreciate that.

The Acting Chair (Mr. David Zimmer): And if you would identify yourself for the record.

Mr. David Ennis: My name is David Ennis, and I'm here today as a private citizen.

Good morning, folks. It's a pleasure to see you. I want to thank you for the opportunity to speak with you today. I'm speaking as a citizen, but I believe that nobody comes to the table without bias that arises from their personal and professional experiences. To that end, I want you to know that I'm an elementary school principal. I also serve as the chief voluntary officer of a charitable organization called Pawsitive People whose mandate is to teach children social skills through positive experiences with companion animals. If time permits, I'll be glad to chat about that more. I also grew up as a farm boy and my education and my career were financed through income from farming. So an interesting cross-section there.

From these experiences and my exposure to the media and my general reading, I have observed some significant changes in our society over the last number of years and I want to draw them to your attention.

First, we talk a lot about global warming and our carbon footprint, which I believe is too narrow an image for our challenges. I believe that we must think in terms of our ecological footprint, which I would suggest includes all human activity and its impact on the planet. Some examples are overpopulation, over-consumption and the effects of extreme wealth and extreme poverty on our quality of life, including animals.

A second lesson I've learned over the last number of years—this is mostly from my elementary school experience—is the bell curve. Remember the bell curve? I believe it is changing shape from the typical curve about human society and now it's becoming a flattened W—it looks like this. We have at one extreme a large population that is exceptionally talented and committed to creating a better future. I see those children in schools; if you saw them, you would be inspired. At that end, as they grow up, they become the Nelson Mandelas and the Al Gores in life and they do wonderful things. At the other extreme, we have a large population that has completely disconnected from society and poses a great threat to our general welfare. At the extreme end we have people like Paul Bernardo and perhaps we might add on Jesse Power. In the middle is a group that is the flatter part of the W and it is a group that is simply looking for direction and it will shift, in my view, to the dominant population.

The single attribute that I see that makes a difference in these three groups is empathy. The strong, positive group has a natural affinity for empathy; the strong, negative group is devoid of empathy; and the middle group is seeking direction.

In my view, while Bill 50 is fundamentally about creating anti-cruelty legislation, I believe its implementation must be about developing empathy in a population that suffers from too much reality TV and road rage, while stomping about creating an increasingly heavy

ecological footprint. None of us is without some blame but many of us want to help.

I've learned, again as a principal, that government ministries tend to work in isolation and I have learned—resentfully—that when any ministry gets a great idea, it seems to be fair game that our schools are given a heavy burden for getting the message out to society's children. It will come as a surprise to you, then, that I suggest that when the act and regulations are completed, you do all you can to make connections between the welfare of animals and the Ministry of Education's current character development initiative. In other words, bring it on to the schools. This time I forgive you.

I would also suggest that any action that would empower local animal support organizations—you've heard some of these representatives today. Any action that would support them to make a greater collaborative contribution on behalf of animals would be a significant step in the right direction. As it stands now, there is no role for them in this bill. They can be an excellent resource; find a way if you can, please.

More to the details now, I hope you will address the following issues.

Reporting abuse: This again comes from my elementary experience. I find the phrase "reasonable grounds to believe," which permeates the bill as it stands now, is problematic, as people will struggle with the interpretation of the word "believe" and will hesitate to report. This was the original phrase in the Child and Family Services Act. It was later changed to "reasonable grounds to suspect," and it got results. Take it to mind, please, from that experience. I recommend you change that phrase to the same as we have in the Child and Family Services Act on reporting child abuse, same for animals.

I have cautious support for organizations that enable animals to play a role in educating people; that is, animals who are living in a natural environment supported by educational programming that defines their needs and explains how we must manage our ecological footprint on their behalf. This develops empathy and is critical for a healthy and sustainable future for all.

I do have a serious problem when animals are used for entertainment. The likelihood of developing empathy is greatly reduced, and the risks to animals are greatly increased. In this regard, the legislation as I see it is weak in the following ways:

Its authority in relation to other provincial legislation regarding animals is not defined clearly enough for me, doesn't stand alone and doesn't supersede any or all acts.

Clause 11.2(6)(c), the whole section on exemptions for "animals living in prescribed circumstances or conditions," leaves out, in my view, zoos in general—and I would include Marineland, which I visited 10 years ago and have never gone back to; roadside zoos; circuses; standards of care and training practices in any of these settings; and hunting and trapping, farming and research.

If corporations, as defined in the bill, are what is intended for that whole category—the zoos, circuses and

so on—then the regulations must be comprehensive and clear, because as it stands now, they are not.

Finally, there are clause 22(1)(c), “prescribing classes of animals, circumstances and conditions or activities for the purposes of clause 11.2 (6) (c),” and clause 22(1)(d), “exempting any person or class of persons from any provision....” In my view, this buries the toughest challenges facing this bill with the Lieutenant Governor in Council, and therefore these key areas might not be addressed at all, in part or in whole, because the bill states that “the Lieutenant Governor in Council may make regulations,” not “shall make regulations.” If this is the case, isolated cases of animal abuse will be addressed through this bill, but institutionalized cases will not. In my view, that’s turning a blind eye to a lot of animal abuse and greatly undermines the potential of this bill.

I appreciate being given the opportunity to speak. I recognize this standing committee as part of the legislative step between second and third readings. I trust that the act and regulations that emerge will reflect legislators’ commitment on behalf of Ontario to create a more empathetic society with a positive ecological footprint. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. We have about three minutes per caucus, beginning with Mr. Levac for the Liberals.

Mr. Dave Levac: Mr. Ennis, thank you for sharing your experience as a principal. We share a commonality there; I was an elementary school principal. I garnered from your discussion today that a lot of that was gleaned from your observation, as an elementary principal and an elementary teacher, of how kids can teach us things.

Mr. David Ennis: Yes, primarily.

Mr. Dave Levac: The overall intent that you had is that there’s an arc that you’re creating inside of the regulation. You’ve captured it perfectly inasmuch as we will be doing an awful lot of consultation on the regulation side to ensure that what you’re talking about is covered off. I’m optimistic. Others may not be, but I am.

Mr. David Ennis: I recognize the regulations as ultimately where the action is. To that degree, my comments were directed towards the regulations.

1110

Mr. Dave Levac: Great. Having said that, the Lieutenant Governor in Council—those are always kind of generic comments that say “may make,” as opposed to “shall make.” It’s very rare that you’ll end up seeing “shall make,” as opposed to “may make,” because it’s a fluid circumstance to catch all those pieces that you’re talking about.

Your contribution here today is valuable inasmuch as a reminder of the overarching expectation of including the empathy that you’re talking about. I can assure you that with my discussions with the staff, with the people and the stakeholders, it’s quite clear that that’s the overall intention of what the bill is all about. I appreciate your presentation today.

Mr. David Ennis: Thanks for the clarification.

The Acting Chair (Mr. David Zimmer): Thank you, Mr. Dunlop?

Mr. Garfield Dunlop: I have no questions.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo?

Ms. Cheri DiNovo: Thank you, Mr. Ennis, for that. Certainly, we in the New Democratic Party would ring with what you say.

One of the concerns that we heard from deputants earlier yesterday was that the OSPCA would sometimes, because there’s no oversight of that body and no appeal process, take their healthy and loved animals away on the neighbour’s say-so, or because some neighbour complained about a dog barking, and there was no appeal process for them. We heard a couple of real horror stories about animals that were cared for, and the problem that they had in getting them back and clearing their name and everything else. What sort of oversight would you see as a possibility for OSPCA or an appeal process for those who feel that their pets are okay, and that they’ve been targeted by this body that, as I say, doesn’t report to anybody right now, it seems?

Mr. David Ennis: That’s a tricky one. I’m not sure I’m the most qualified to respond. I do know that in your legislation there’s reference to an animal review committee. Perhaps it could be processed that way. The lack of direction, I promise you, will cause failure; I can promise you that.

I think if you keep asking the question from people who have particular expertise not congruent with mine it will give you enough feedback. Clearly, building in an intelligent process will avoid us having American-style yanking of rights from what we value in the Constitution to what they suffer with the Patriot Act. Building in an intelligent process that is fairly light of foot surely would be helpful. That’s as far as I’m prepared to contribute, because I don’t feel I have enough expertise.

Ms. Cheri DiNovo: No problem.

The other concern from the humane societies across the province and other animal rights groups about section 6 is the fact that the OSPCA has said, “We get to use the word ‘humane’ and you don’t.” I was just wondering if you had thought about that at all or had any comment.

Mr. David Ennis: It looks like it’s fairly problematic. I’ve read in the newspapers the opinions that the Liberal Party has attached itself too strongly to the OSPCA; perhaps yes, perhaps no. It seems to me, above all, that you make a determination, fund it, and then you have the right to direct it. Then you will not have the problem to remove groups.

Someone will deal with that. It certainly won’t be from my opinion. I’m the one who’s saying, “Don’t forget the animal rescue groups who do things for nothing who are looking to work in a more collaborative forum.” The more involved you’re going to have people, the better, but ultimately, the regulations will have to determine the line of authority.

Ms. Cheri DiNovo: Thank you. I really appreciated your concern about zoo animals and research animals not included in this bill.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation to the committee today.

Mr. Dave Levac: Mr. Chairman, a point of clarification: For the information of Ms. DiNovo, there is an appeal process that's called the Animal Care Review Board, in case she didn't know.

Ms. Cheri DiNovo: I knew about it. I just didn't think it was an appeal process that was valid, so—

Mr. Dave Levac: Oh, I see.

Mr. Mike Colle: You don't know about it or you do know about it?

Ms. Cheri DiNovo: I do know about it.

RON LOUNSBURY

The Acting Chair (Mr. David Zimmer): We'll now move to the 11:30 slot, Ron Lounsbury. You have 15 minutes for your presentation. I'll give you a three-minute warning as you get to the end. If you want to leave time in your presentation at the end for questions and answers from this committee, bear that in mind; that's your choice.

Mr. Ron Lounsbury: Okay. Thank you very much.

The Acting Chair (Mr. David Zimmer): If you would identify yourself for the record.

Mr. Ron Lounsbury: My name is Ron Lounsbury. I live on a farm between Paris and Brantford. I'm only really objecting to one part of this particular bill. I feel that the SPCA does a good job protecting animals as it is and I don't see the need for large changes in it. They have done some very good work and they have some very good people there, with the laws that we have now.

What I'm particularly objecting to is what I understand are the increased rights of the officers on private property to enter and search without warrants. I could take up the whole 15 minutes giving you examples of extreme situations that happened, and one particular situation that cost me a lot of money. I object to that. We'll wind up with people who perhaps don't understand the situation. I should also add that I have had 50 years' experience training working animals. I have a farm. I have horses and dogs on it now; I have had cattle on it. So I understand it from the layman's point of view. I grew up in the agricultural industry.

What I'm particularly speaking of right now are hunting dogs and horses, but it does apply to cattle and poultry as well.

I had a situation where the humane society entered my property. I was away. I had a 10-year-old son there. They went through my kennel and found nothing. I arrived back two days later and found out what had happened, and two weeks later I was away at another field trial—I field trial hunting dogs all over eastern North America. I went away two weeks later on another trip. When the humane society went through my kennel, looking for who knows what, I didn't complain. I didn't know I had a problem until two weeks later, when I left to go to another field trial in the United States. I noticed that one

of the pups on the ground was ill. It didn't seem normal but didn't seem too bad.

I got a call from my daughter the next morning—I was in the United States—and the dog, the pup, had passed away. She said, "Two more are sick," so I said, "Get them to the vet." She got them to the vet. One died at the vet; the other one cost me \$900 to have it corrected. What I found out later is that whoever came through my kennel—they said they were the SPCA. No, they said they were the humane society; I'm sorry. They had brought parvo into my kennel. They came through my kennel; I wasn't home. There was no warrant. It wouldn't happen—pardon?

Interjection: Brought what into the kennel?

Mr. Ron Lounsbury: Parvo. It's a very infectious disease. It spreads very rapidly, and with young pups on the ground, they die within days. I wound up losing half the litter. I wound up with parvo the second year—I couldn't get rid of it. That was brought in by people coming in without a warrant, and, in my view, without a reason. They found nothing wrong with the kennel. Why they came there, I don't know. My neighbour had the same thing. They found nothing there. I have a next-door neighbour who has poultry. Obviously, everyone's heard about bird flu. People aren't allowed to come tromping through. Anybody who wants to come to my kennel, they ask, they get permission, and they're disinfected before they go in.

I have hunting dogs. I thought that parvo was mostly in the United States, that we didn't have it in Canada. I found out later that, no, it's all over Canada. And it's communicative. People are walking from farm to farm to farm to kennel to kennel to kennel, thinking they are doing some good, thinking that they're protecting animals, but what they are really doing is spreading disease. The same thing applies to poultry and swine operations.

So what I really object to in this is the right of entry of people from—and they could be volunteers. They could have the best intentions in the world but not really know what they're doing. That's my main objection.

The Acting Chair (Mr. David Zimmer): All right. We have about four minutes per caucus. We'll start with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. I appreciate you being here this morning.

I couldn't agree more with you on the point that you bring up. I have a brother-in-law who has a large hog operation, a swine operation, and that's the way it is on his farm. There are signs up everywhere, "Please do not enter," because they're afraid of someone carrying some kind of a germ into the barns that would cause massive deaths for the hogs. No one has brought that up yet at the committee hearings, that I recall anyway, and I think it's a point that we have to be really, really concerned about, because that's a good example of why the warrantless entry would be an issue.

That's really all I have to say on it.

1120

Mr. Ron Lounsbury: I might add that my property is posted. There are signs all over the place: “No Entry.” They walked right through, checked all the kennels. Any time they want to check the kennels, they can check them. But they’d better not come there when I’m not around.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, about three and a half minutes or so.

Ms. Cheri DiNovo: Certainly we’ve heard other deputants who have animals, breed animals, love animals, who have had some real nightmare experiences with OSPCA officers.

Just for the record, I wanted to say that the New Democratic Party is not against warrantless searches per se if the life of the animal is in danger, as we would not be against warrantless searches if the lives of humans are in danger—any being. What we’re against is the undue powers given to OSPCA agents and the OSPCA over and against other organizations that act in the interest of animals. So I really appreciate what you have to say. I appreciate your deputation.

Certainly there needs to be, we think, Ombudsman oversight of the OSPCA. This is an organization that gets taxpayers’ dollars, and a lot of them—\$7.5 million over two years—as contrasted with volunteer organizations. We heard from the deputant before that volunteer organizations need to have more of a voice; I couldn’t agree more.

Thank you very much, Mr. Lounsbury, and I’m very sorry for what you’ve had to live through.

Mr. Ron Lounsbury: The other thing too is, there is conflict in this legislation with existing legislation: the Bill of Rights, for instance, fish and wildlife sort of thing. That’s the main concern. There is obviously the city situation, there’s the country situation. Hunting is legal.

The Acting Chair (Mr. David Zimmer): Mr. Colle, about three and a half minutes.

Mr. Mike Colle: Thank you very much for your very thoughtful presentation and bringing this to our attention. The act basically exempts agricultural practices and exempts ongoing hunting and fishing and angling practices that exist. It doesn’t enter into that area in a natural state or in a traditional agricultural state.

You mentioned the humane society entered your farm.

Mr. Ron Lounsbury: Yes.

Mr. Mike Colle: Which humane society was it?

Mr. Ron Lounsbury: Well, I don’t know because I wasn’t there. I had a 10-year-old son there. He told me that two or three people came in, they went through my kennel. He stood there and he watched. He didn’t object; he’s only 10 years old. They went through the kennel. I really had no objections at the time either. But two weeks later—and I found out from my vet after all this happened; I went through the vet—I found out that parvo has an incubation time of 10 days.

Mr. Mike Colle: No, but where did your puppies end up? Who took them?

Mr. Ron Lounsbury: They didn’t take them. The puppies were on the ground and they left. They went through and obviously found nothing. I never heard from them. But then two weeks later, I was going away on a field trial and I noticed one was sick. I thought, “It’s sick but it was fine yesterday” sort of thing, not thinking about parvo and how this reacts, because I’d heard horror stories about it in the States. So my daughter phoned me the next morning: The puppy was dead. I wound up losing half the litter, as it turned out, and it cost me \$2,000 in vet bills that year and about the same the second year before I got rid of it.

Mr. Mike Colle: But how do you know it was the humane society that—

Mr. Ron Lounsbury: Because they told him that’s who it was. Two women and a man went through, they identified themselves as the humane society, and he said, “Oh, okay.” So Danny watched them. They walked through and they checked all the dogs and they went all through the kennels and they left. I never heard—

Mr. Mike Colle: So they might not have been members of any humane society, then?

Mr. Ron Lounsbury: They might not. I don’t know; I wasn’t there. That’s what I was told. Who else would do it?

Mr. Mike Colle: Again, I just find it very curious that they would go unidentified and—

Mr. Ron Lounsbury: Well, they identified themselves and I guess if I had been there, I would have asked for identification and I wouldn’t have let them do it.

Mr. Mike Colle: Or they might have been misusing the name of the humane society.

Mr. Ron Lounsbury: Well, they could have been, but what it goes to is warrantless entry. That’s what it applies to: people who walk through without a warrant. Now, if they want to come and talk to me, that’s fine. I don’t see any need for them to do it without a warrant. If you’re doing something wrong, you can get a warrant to appear the next day and the evidence is going to be there.

Mr. Mike Colle: No, but the problem is that in many cases the humane society officers or the OSPCA officers can’t get the warrants in time—

Mr. Ron Lounsbury: In time for what?

Mr. Mike Colle: Let’s say there are dogfights taking place. You would have to go to a judge, see if the judge is available. It could be on a Saturday night. By the time you get a hold of the judge, the judge says, “Oh, I’ve got 20 criminal cases I’m dealing with.” That’s the problem. It’s not so much the legitimate farmer. In fact, the act is very specific: “If an inspector or an agent ... has reasonable grounds to believe that there is an animal that is in immediate distress....” They’re not going to just walk through your property and do a general investigation.

Mr. Ron Lounsbury: They did in my case.

Mr. Mike Colle: Yes, but you don’t know who it was. It could have been some people who are off the wall.

The Acting Chair (Mr. David Zimmer): On that note, thank you very much for organizing and taking the time to present today.

LONDON HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): The next presenter is the London Humane Society: Judy Foster, executive director. Ms. Foster, you will have 15 minutes. I'll give you a three-minute warning as you approach the end. If you want to leave a portion of your time slot for a question-and-answer exchange with the members, please do; that's your decision. You may begin.

Ms. Judy Foster: I hope to have a few minutes for questions at the end.

The Acting Chair (Mr. David Zimmer): All right. You leave whatever time you want to leave for Q & As. Identify yourself for Hansard, please.

Ms. Judy Foster: I'm Judy Foster. I'm the executive director of the London Humane Society. We serve London and Middlesex county. We were established in 1899. We do not run a pound facility or animal care facility, as it might be known elsewhere in the province.

First, we do support the intent of the bill for the protection of and prevention of cruelty to animals.

Given the time constraint, I'm going to move quickly through my comments and concerns.

First of all, it's disappointing that affiliate members weren't consulted prior to the bill hitting the floor. We're running community non-profits, operating on community charitable donations, and we believe that we have meaningful contributions to make. We deal with the day-to-day challenges of animal welfare, and we fund the OSPCA activity in our communities, such as London, which brings the question, how is the community to be informed that these new legislative powers are to be enforced by charitable donations? I recognize that this is the status quo, but does the greater public understand that when agents/investigators appear in a police-like uniform and have police powers, they're actually being funded by their local charity—in this instance, the London Humane Society?

I also recognize that we are served by the crown when charges proceed and that limited support comes through the OSPCA.

There have been a number of questions, actually, about the amount of support that flows through to the local societies through the funding. There was just a reference made to the \$7.5 million worth of funding. The way that funding is flowing through right now, it's coming in terms of training support, which covers about 50% of one day of training for the agents and investigators. We don't have an investigator at this point in time on staff, but it's not quite 50% of the expense incurred for that person to attend training. So we're seeing very little of that \$7.5 million.

Further, the OSPCA supports investigations, but that support is limited, and sometimes even major situations don't warrant their involvement with and support of the local humane societies, in terms of executing the work that needs to be done.

I have a few points here related to the increased powers of the bill and the need for some balance with what the bill is proposing.

First of all, there needs to be a plan to manage community expectations. To date, the discussion about the bill has been about how much better the animals are going to be protected and how we're going to be able to prevent ongoing cruelty. However, given static resources and fluctuating donor support, that is going to be challenging to local societies. Also, given the limited amount of money that's flowing through the OSPCA to the affiliates, I don't see that providing any meaningful relief.

Secondly, there is a need for education on the new legislation: What's "standards of care," what's "distress"? We need that on both sides, both internally and for the community, so they understand that the bar has been raised.

Thirdly, there are training needs that are going to have to be addressed. Agents who have served a long time had very limited training to become agents. We're talking about folks who are on staff and have police powers, and now we're increasing those police powers. Training needs have to be addressed.

Fourthly, manpower needs: This bill is going to require an increase in staffing to deal with the charges, the court documents, court time. This is a resource-intensive bill. As I said, we support the intent of the bill, but we also recognize that this is going to require more staffing. That needs to be addressed.

1130

Next, there's going to be a need for increased funds to be raised to pay for all of those things, which puts more pressure on the local charities. There have been references in the documents to this as downloading. Downloading to me would mean that there is transfer of responsibilities from government to government. This is transfer of government to local charity.

Next, management of risk with warrantless entry: I know there's been some discussion about that. The humane society's perspective is that that also means there's increased risk for staff, and we need to be able to manage that and, again, have the appropriate training to do that.

Lastly, there's the need for definitions. With regard to standard-of-care abuse: Is abuse that a vet sees different from abuse as defined by what an OSPCA agent funded by a local charity sees? That's open and needs clarity.

Also, "distress" is fairly simply put in the bill, and that may be good or bad in terms of explaining that to someone who has animals in distress. How are the agents going to be clear to an individual and have the legislation back them up that that animal is in distress?

I'd just like to go back to warrantless entries for a moment. My belief is that this matter needs more scrutiny. Beyond the risk to staff, there needs to be clarification of when this can be done. I think that there's an attempt in the bill to set some parameters, but that specific conditions need to be there as well. Also, in terms of expectation of agents seizing property without a warrant—again, in terms of protecting staff and ensuring that the humane societies, acting as affiliates, are doing the right thing, and that the investigations are proceeding

as they should rather than going back and forth and then just wasting everybody's resources and not achieving the outcome that's desired.

In terms of some specific details related to the bill that I wanted to speak to, I note in the bill that a chief inspector shall be appointed. Again, there are no qualifications set for that position, and as affiliates we experience shifts in direction without rationale and often without any information. I think there's an opportunity to make an improvement here in terms of the parameters of the chief inspector. There's also a note that the chief inspector can fire affiliate staff with this bill. To me, that would be like the Thames Valley director firing the London District Catholic School Board staff. How can that be? It seems like that's a lot of power and certainly that needs to be addressed within that chief inspector's role.

There's accountability with regard to the OSPCA. As an affiliate, some lines would be helpful, to see where the lines of accountability are. As it has been said before, the OSPCA is both the regulator and a competitor to every affiliate. The OSPCA is running a fundraising campaign through the TV right now in our area. Those kinds of things also have to be taken in consideration when you're looking to the humane societies to increase their funding through charitable donations to implement this bill.

Next, I want to talk briefly about the Animal Care Review Board. The bill states that now the board can dictate for a society to care for an animal and leave it on the abuser's property. It can dictate that the society would care for the animal, provide the veterinary care, the food, and whatever else needs to be delivered to that animal to increase its care, but the board can also direct that the animal stay on the property of the abuser. That doesn't make business sense to me, and as well I think there's an opportunity for community confusion. The OSPCA agent funded by the London Humane Society may be doing all of their work, but in fact it looks as if we are not dealing with it because the animals have stayed with the owner. So I think there's an opportunity for some clarification there.

Lastly, section 6: If indeed the material circulated about the OSPCA's ability to remove "humane society" from affiliate names is accurate, we have grave concern. I have made attempts to get clarity on this in advance of today, but my attempts have not been productive and I still don't have a clear answer in terms of what the intent of the bill is with regard to that. If the OSPCA had the ability to remove the name "humane society" from the London Humane Society, it would be crippling and deadly for us and for any other society. I think there needs to be some attention directed to section 6. Get some clarity and have that information shared so that everybody understands what the intent of section 6 is.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two and a half, three minutes, beginning with the NDP.

Ms. Cheri DiNovo: Thank you for your deputation. Certainly I would see that we are in agreement with what you had to say.

One of the deputants brought in the Manitoba act. It's a pretty weighty tome in comparison to Bill 50. Have you looked at the Manitoba act and the Alberta act, and would you see those as better or worse? Do you have any comments about them? Certainly, in terms of the looseness of the definitions in Bill 50, we have an issue with that too. What does "distress" mean, for example? This goes into much greater detail.

Ms. Judy Foster: Absolutely. From my research, which has been limited to this month with regard to defining "distress," Manitoba's seems to be the preferred definition.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Thanks for your presentation, Ms. Foster. Just for a few quick clarifications—you weren't here—and one that's very simple: I've mentioned this before, and some people continue to raise the spectre, this ghost. There will be an amendment to section 6 that leaves the names alone.

Number two, the chief inspector can take away status but cannot fire. That's inside of the legislation. So the chief inspector can take away the status of an inspector but cannot fire the inspector. The intention would be to work with the shelter and the vets and everyone else to improve the circumstances for better care of animals. The hearings will be done. There's a working group that has been created to work on the regulations that you're concerned about, and it will be dealt with in between the two readings of the bill.

Just one really big, general clarification: There's been a lot of talk about the \$7.5 million, how it's distributed and what it's for. Let's be clear: It's a contract with the provincial government to the OSPCA to provide enforcement. So it doesn't give the charities side charity money. It's for enforcement, and the affiliates have access to the same funds. So there's some mischief going on in implying that only one charity group is getting money. It's a contract with the province of Ontario for enforcement purposes, and those people who are trained and are enforcement officers are provided with that money. There's no money given to the charities side and I don't think any group.

Ms. Judy Foster: I think part of what's going on is that that enforcement, though, is being directed to OSPCA branches. The OSPCA is divided into two organizations, the branch organization and the affiliate. The affiliates run as separate franchises, for lack of a better word. The branch is run as company owned. So that money is flowing through to the branches, not through to the affiliates.

Mr. Dave Levac: That's not factual. All people, all organizations, that are affiliates and/or branches of the OSPCA qualify for the enforcement portion as long as they're providing enforcement.

Ms. Judy Foster: So is that just through the regular support that we get?

Mr. Dave Levac: That's through the government's contract with the provider, so that as they're getting the

money, they've got to agree to it—it's a contract—that they're providing that service.

Ms. Judy Foster: Okay. We'll follow up.

Mr. Dave Levac: Yes, please, and quite frankly, it's good to bring this up because notes are being taken throughout this whole process.

The Acting Speaker (Mr. David Zimmer): Mr. Dunlop, you have about two and a half, three minutes.

Mr. Garfield Dunlop: Thank you very much for attending. You dealt with some great points this morning. I'm having a bit of fun with this section 6, because that question was asked in the House, whether the minister would withdraw it. Of course he didn't answer the question. The Toronto Humane Society, as you know, has put out literally tens of thousands of petitions on this and letters and e-mails. I think you guys should have a photo op on this now, maybe a fancy announcement, and say that you're going to withdraw section 6. Isn't it time you did that? Let's spend some money on a photo op and say once and for all, "We're getting rid of section 6." It will disappear. We're not sure what the intent is yet—

Interjection: It was brought up in the hearings.

The Acting Chair (Mr. David Zimmer): Order.

Mr. Garfield Dunlop: It was brought up in the House before the hearings. Thank you very much.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation and attending today.

Ms. Judy Foster: You're welcome.

The Acting Chair (Mr. David Zimmer): The next presenter is the Schulich School of Medicine and Dentistry, the University of Western Ontario, Dr. Jones.

Interjection.

The Acting Chair (Mr. David Zimmer): All right. We'll take a five-minute recess.

The committee recessed from 1139 to 1147.

SCHULICH SCHOOL
OF MEDICINE AND DENTISTRY,
UNIVERSITY OF WESTERN ONTARIO

The Acting Chair (Mr. David Zimmer): The committee will resume. We'll start with the Schulich School of Medicine and Dentistry, University of Western Ontario, Dr. Jones. You will have 15 minutes to present. I'll give you a three-minute warning as you get to the end of your time. You may want to leave time for questions and answers with the committee; that's your choice. If you want to do so, please do. If you would identify yourself for the record.

Dr. Doug Jones: First I'd like to thank you for allowing me this opportunity to address the hearing. My name is Dr. Doug Jones. I am the chair of the medicine, research and society committee of the Schulich School of Medicine and Dentistry, the University of Western Ontario. I'm also representing Dean Carol Herbert, dean of the faculty, who is away from London and can't be here for this meeting.

For the faculty and our committee, we are tasked to monitor the issues that impact the general public and how that impacts on our work. We are the interface between the staff, the faculty and students, and the general public. We're an interface that, because we are a research-intensive institution, is particularly vigilant about any legislation that deals with the use of animals, and it's in this regard that this proposal is really of interest both for us as a school and also as members of the general public.

In considering such a dramatic policy change, it's important to ask some questions that we've asked. We trust you're also considering these questions carefully.

The first important question is with the dramatic change in the responsibilities of a charitable corporation to have policing powers. Why is it necessary to undertake the changes at this time? Are the police unable to fulfill their responsibilities? Is this attempting to bring the Ontario Legislature and legislation into line with other provinces? If so, is it consistent with what has already been done elsewhere? Are we reinventing the wheel in some cases? Also, as this is creating an additional police force, public protection is critical. Are there sufficient guarantees for an open and transparent process? Are there appropriate qualifications for those entrusted with such powers? Is there sufficient accountability for any actions taken? Is there sufficient separation of policing activity from the publicity needed for fundraising for a charitable corporation?

With these principles in mind, I'm going to go over a few specific key points that we've identified in the proposed revision, with some suggestions for inclusions. I prepared 25 copies, that I believe have been distributed to you, of what I'm about to read. You should have those in front of you.

I'm representing the faculty and the dean. With the assistance of legal counsel, we have reviewed the proposed legislation in comparison to some other provincial legislations and have some concerns about what is in front of us. In the sections that are written in, I'll start with section 6, the "chief inspector" section.

There is a lack of accountability and credentialing of the position of the chief inspector and of the appointees of additional inspectors. There must be a well-defined line of authority for, and recognized accreditation of, those who are placed in authority to evaluate the performance of other individuals. In the proposed amendment, such a principle does not exist. There is a chief inspector for whom there are no criteria established as to credentialing, accountability, nor defining the limitations of power to further modify their authority. Similarly, there are no requirements for other inspectors or agents of the corporation involved in such inspections.

We suggest, in section 6 on the chief inspector, that the chief inspector should be a qualified veterinarian, that appointees of additional inspectors should be in accordance with the recommendations of the College of Veterinarians of Ontario or the Canadian Council on Animal Care and, further, that the College of Veterinarians of Ontario should be the overseeing agency for the general inspection process.

In section 11, on prohibitions: Research involving animals, their care and use, as well as the requirements for the housing and transportation of research animals from suppliers are already governed in Canada by federal legislation and overseen by the Canadian Council on Animal Care. With the passing of federal Bill S-213, there have now been increased penalties for cruelty to animals in Canada. In the province of Ontario there is the additional oversight provided by the Animals for Research Act. This context must be considered when evaluating the wording of the proposed amendments to the OSPCA Act. As our research activities are legally bound, and with “colour of right” enshrined in the Ontario Animals for Research Act, any revision to the OSPCA act should specifically state that this is an accepted activity, and have a clause that excludes the activities carried out in accordance with the Animals for Research Act, as amended.

In addition to the sections that are in the act, there are some that we feel are missing: We’re very concerned that there’s no mention in the revision of an oversight body and accountability for this charitable corporation. As a charity, there is very limited ability for public scrutiny of what has been done and of the outcomes and effects on the public of such activities. With this revision, the SPCA is now going to be given new policing powers to enter premises without a warrant, seize property and charge members of the general public for offences etc. There must be a body overseeing their activities which is mandated to receive annual reports of those activities that have been carried out. It must be open and transparent to public scrutiny.

It would be appropriate for the Ontario Legislature to receive such reports of SPCA activities, investigations, enforcement and outcomes, and to be responsible for its oversight. Furthermore, there must be a transparent and independent review and appeal board for actions taken. On that board must be representatives of the veterinary, agricultural and anglers and hunters communities, with particular attention paid to ensuring that peers for those who are charged are on the committee.

In addition, it’s noteworthy that the charity will continue to rely on fundraising to provide its funding as well as the suggested cost recovery for animals seized. Thus, the organization is put in the untenable situation of relying on publicity to assist in its status. As a research-intensive institution, we have had examples where this has led to frivolous activities to gain publicity, rather than acting in the best interests of justice or animal health.

In our own faculty, we were subjected to such frivolous charges when Mr. Peter Hamilton of Lifeforce promulgated charges that one of our researchers, Dr. Bernard Wolfe, and the director of animal care, Dr. William Rapley, were causing harm to one of our research animals. The charges were finally dismissed with Dr. Wolfe and Dr. Rapley acquitted, but with the judge’s concluding statement that, “I cannot leave this trial without making the observation, and I echo the

statement put to this court by Mr. Cherniak”—who was a counsel for the defence and stated that the charges were groundless and without foundation—“that on the evidence that I have heard, the charges brought against these two prominent men in this community were groundless and without any real foundation, and the inference I take from the evidence that I have heard is this trial was brought for other purposes.”

Thus, it is important that this act not allow such frivolous acts, and that there be a clause that frivolous and nuisance complaints, whether directly or acting through a surrogate, are an offence. Such groups are publicity-driven, because they do not need truth, only the opportunity for public propaganda, even if they lose. We have good examples of that. There is such a clause in the Alberta SPCA act.

We trust that the government will act in the best interests of the Ontario public and incorporate some of these suggestions into the revised document for approval. Thank you very much for your time and attention.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two and a half minutes, beginning with the Liberal caucus. Mr. Levac.

Mr. Dave Levac: Thank you very much, Doctor. I appreciate the sound advice that you offer. Within the Animals for Research Act, as you pointed out, in the Ministry of Agriculture the only time that the SPCA inspectors would act is if there is anything being done beyond the standards of practice that are already accepted. Is that understood by you or is there something else that should be done to clarify that? My understanding is that with hunting, angling, research—if they’re covered by other pieces of legislation—the only time that the OSPCA or their agents would act is if those standards were not being met.

Dr. Doug Jones: That is correct, but I think this act should incorporate the statement that that is correct. That’s what we’re suggesting, that there should be a statement in this act to make that very clear, so we don’t have some problem with overlap.

Mr. Dave Levac: We both agree. Thank you very much.

The Acting Chair (Mr. David Zimmer): The Conservative caucus, Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for your presentation, Dr. Jones. You brought up some excellent suggestions here, and I think the government would be wise to listen to some of those in their amendments that will be made for this bill.

Could you elaborate a little bit more, if you’ve got a couple of seconds, on the warrantless entry section of the bill? Just give me a little bit more detail on that from your own opinion.

Dr. Doug Jones: My concern is that there is no mechanism by which you have to go to the courts. In normal police settings, you would have to go to a court to get a warrant to enter a premise. In this case, if you have an overzealous inspector, under the current regulations, even though they may not agree with the owner of the facility,

they can enter the premise without a warrant; that's my understanding of what's there. I think that is a major concern for any member of the public, not just as a facility and medical school. We have a number of us who also are pet owners and have that concern.

Within the bill, there is some concern because of the wording of some of the terms, such as "immediate distress." Being someone in a medical profession, I have some indication of when someone's in distress and when they're put there on purpose. Someone who has not had water or food for 24 hours, as we do in some cases for surgery, is someone who would be physiologically in distress or a stressed situation. In the case of a very small animal, like a mouse, 24 hours is in fact quite a severe problem. For a hunting dog who may not have water for that length of time, it may not be a problem. So it becomes an interpretation of the inspector of when that's a problem. That therefore can be a problem if they don't have to go to a court to get a warrant.

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Mr. Garfield Dunlop: I appreciate your comments. Thank you.

The Acting Chair (Mr. David Zimmer): The NDP, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Dr. Jones, for your deputation. Certainly we think that there should be oversight of the OSPCA. It's de facto, in a sense, a government agency. It has been suggested by other deputants, for example, that they report to a body like the Ombudsman's office or somewhere that people can go to appeal in a hands-off, distant way the actions of the OSPCA. Is that something that you would see as perhaps helping the situation, to have the Ombudsman, for example, have jurisdiction over the OSPCA?

Dr. Doug Jones: I can understand that role, to some extent. The difficulty I would see in this particular case is, you're dealing with some situations in which you would hope there would be people who have knowledge upon which they can base some of their judgments and can do that. The ombudsperson themselves would probably not have some of that expertise. A larger body that would incorporate some of those areas of expertise, whether it be someone from the agricultural community or a veterinarian or the anglers and hunters, I think would help in that initial component, because one of the issues has to deal with how far the charges are going and what amount of time you are then exposing those individuals to if this is not going to be, in reality, a real problem. I think that the ombudsperson certainly should have some oversight, as they do with many of the other activities, but I see that as being very limited in this particular case because of their lack of expertise.

Ms. Cheri DiNovo: One of the problems that has been raised repeatedly regarding the drafting of this legislation is the looseness of definition and the necessity for, for example, what "distress" is. We've been given examples here today of the Manitoba act, and also you've made reference to the situation in Alberta. Have you had a chance to look at the Manitoba or Alberta acts? Do you

see those definitions for animal distress as being adequate?

Dr. Doug Jones: I have a copy of the Manitoba act; I don't have a copy of the Alberta act, so comments I have there come from legal counsel. But I think that their definitions are probably closer to what I would use. In my reading of those, they are more reasonable than what we have at the present time.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to organize your presentation and appear today, Dr. Jones.

Dr. Doug Jones: Thank you.

ONTARIO VETERINARY MEDICAL ASSOCIATION

The Acting Chair (Mr. David Zimmer): Our next presenter is the Ontario Veterinary Medical Association, Angela Cerovic and Dr. Debbie Steowen. You will have 15 minutes for your presentation. I will give you a three-minute warning as you approach the end of it. You may wish to leave time towards the end of your presentation for questions and answers. That's your choice. If you would identify yourself for the record and then begin.

Ms. Angela Cerovic: Thank you. I'm Angela Cerovic, and I'm the Ontario Veterinary Medical Association's manager of government relations. I am pleased to be here today.

I've never been so proud to represent a wonderful professional body, Ontario veterinarians. They become veterinarians because of their love for animals, and they are the animal health care professionals. We appreciate that this bill acknowledges that, and we encourage the government to continue to work with Ontario veterinarians as it adds regulations and makes changes to the bill.

We wholeheartedly support Bill 50, and the recommendations that we have today, which will be presented by Dr. Debbie Steowen, are recommendations to perfect the bill. I am here to assist her with any questions that you may have at the end.

Dr. Debbie Steowen: Thank you, Angela. As Angela has said, we strongly support Bill 50, and we do want to see it become law. Any areas wherein we can assist with this, we'd be pleased to—

The Acting Chair (Mr. David Zimmer): Speak up a little bit, or a little closer to the mic.

Dr. Debbie Steowen: Yes. Any areas where we would be able to assist with making this law the best that it possibly can be, we're happy to participate in that.

We do, in our support, have some suggestions and recommendations that we would like to make to help make this law the best that it possibly can be. We have focused these suggestions around three key areas, or what we might call themes, those being consistency, clarity and accountability. For sure, we do believe that clear and consistent legislation that holds all parties accountable for their responsibilities is what is going to make this legislation successful.

Under the theme of consistency, we have three recommendations.

First, we feel strongly that Bill 50 needs to be considered and become the provincial standard for animal welfare in Ontario. We feel that if there are any superseding bylaws, such as municipal bylaws, this will lead to confusion for veterinarians, since they would have to know the bylaws of each municipality and weigh them against Bill 50. Confusion could lead to reduced compliance.

Secondly, it's very important for everyone to recognize that it is only veterinarians who have the education, skills, tools, knowledge and training to be able to accurately and comprehensively assess whether an animal is in distress. Veterinarians not only have training and education in the physical health and well-being of animals, but also in the psychosocial and emotional health and well-being of animals. Because animals cannot speak for themselves, certainly veterinarians need to take all different aspects of the animal's presentation into account to be able to determine if there's distress there. We recommend, therefore, that no other groups should be granted the authority to make judgment as to whether an animal is in distress or not.

Thirdly, it's very important for veterinarians to clearly understand to whom they need to report their suspicions of animal abuse. With Bill 50, veterinarians will now be mandated to report their suspicions of animal abuse, and it needs to be clear and easy whom they are to call. Certainly, there are many animal welfare groups that are out there—animal shelters, different organizations—and we need to know who has the enforcing ability so we can pick up the phone and make that call. It is very important for members of the public, as well, to have clarity and consistency with that.

Our next theme and category is clarity. It's very important for people's responsibilities across Bill 50 to be made clear. Some areas of the bill refer to existing legislation and/or regulations, and other areas even refer to future legislation, but then other areas don't refer to legislation at all and it leaves a space there and a gap in knowledge as to what's happening. I would suggest that you refer to section 11.2(6), which takes a look at the exemptions for causing animals distress. In that section, in reference to wildlife, this is an exception, yet there is no pointing out as to which legislation one should look at so one knows what can be expected from that person. It also doesn't refer to the existence of any legislation whatsoever. In all areas of this bill where it can refer to existing legislation, this will be very important so that we can have a comprehensive understanding of what our obligations are toward animals and animal welfare for everyone.

Lastly, under the third section, accountability, of course in order for this bill to be successful, we all need to be responsible and accountable in our actions to meet this bill. We believe that different parties who are involved need to be accountable for their actions and there need to be accountability measures put in place.

We'll take a look at each group.

With the first group, the OSPCA, we believe that Bill 50 needs to be expanded to include government oversight of the OSPCA and, thus, concurrent public accountability. Certainly, the OSPCA's responsibilities are being expanded, and they are being given widened enforcement abilities and authority. Within that, as well as the OSPCA being quite diffuse across Ontario, we need to have consistency and responsibility with those actions. At the same time, in order for them to meet their responsibilities, we believe that they do need to have the ongoing and adequate funding so that they can actually perform these responsibilities appropriately. We don't want to see any areas of Ontario where the OSPCA cannot respond in a timely manner. As well, we would like the OSPCA to be mandated, at the same time as serving an order to an individual, to inform that individual that they have the right to appeal to the Animal Care Review Board. We've certainly seen through the Dog Owners' Liability Act that if this information is not given, it leads to significant hardships and sometimes costly consequences to everyone.

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Secondly under accountability, in reference to the Animal Care Review Board, we also recommend that the government oversee the activities of the Animal Care Review Board and also that the Animal Care Review Board make public all of their decisions. At the same time, we recommend that adequate funding be provided to members of the Animal Care Review Board. This will attract and retain the appropriate level of expertise needed so that they can properly uphold their responsibilities and meet their mandate.

Thirdly under accountability, with respect to animal abusers, we do believe that all those who abuse animals, whether they be owners or others, must be held accountable for their actions. Within Bill 50, we strongly support the upgraded fines that you have set and we believe that if these fines are lowered, the strength of this legislation will also be lessened. So we support that you keep to these fines.

As well as having strict punishment, which we do endorse, we also endorse and recommend that the government include rehabilitative measures. Certainly these rehabilitative measures could be in the form of counseling, education and/or training. Those who abuse animals and/or neglect animals can certainly have other issues in their lives and it can be a sign of psychological and even psychiatric problems that, if left unattended, will certainly lead to recidivism, even if a fine is applied. It's very important that we approach this holistically and not ignore that at times there is intervention on the psychological and behavioural pattern level, not just putting a fine in place. We need to recognize too that the link between animal abuse and human-directed violence is very real and if we ignore animal abuse and do not apply rehabilitative measures, the next individual that could be injured could be a human being.

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Dr. Debbie Steowen: Thank you.

Fourth under accountability, with respect to crematoriums—

The Acting Chair (Mr. David Zimmer): I'm sorry; my mistake. It's not three minutes. You've got about five minutes left.

Dr. Debbie Steowen: Five minutes? Thank you so much.

Fourth with respect to accountability, on the part of crematoriums—certainly there was an issue last year in Manitoba wherein there were very unethical business practices on the part of a facility, which led to a public outcry. The public actually interpreted the behaviours of this facility as animal abuse. It was termed as animal abuse despite the fact that these animals were deceased. These animals are beloved members of families who trusted the service that was provided. Currently in Ontario there are no regulations concerning the activities of animal crematoriums, which are both the burial and the cremation of animals, and we would like to see this become regulated in Ontario. We'd like to see the province license these organizations and provide the appropriate regulations to govern them so that they can be undertaking their activities with respect and accountability.

With respect to veterinarians, we welcome becoming mandated reporters. We have been advocating for this for years and we uphold this as a responsibility and obligation that we do want. We certainly are very happy with the fact that it gives us protection at the same time from liability when we're making reports in good faith, and we believe that we can be sentinels for not just animal abuse but other forms of family violence as well, given this new role. We are extremely pleased to have this, and we want this to be retained within Bill 50.

Lastly, with respect to the government, our point that we'd like to put forward is that we would like the government to be accountable on a new level in that we would like the government to create a centralized data management system. This would be a system that would account for all of the different types and forms of animal abuse. We would look at the incidence of the abuse, the nature of it, the location of it, who was the perpetrator or perpetrators and also make links and check to see if any other acts of violence have occurred with this individual—whether that be in the form of family violence, child abuse, spousal assault or other forms of violence in society. This database will serve to provide us with a greater understanding of animal abuse and its links to human-directed violence so that we can ultimately better approach this from a preventive perspective, rather than just intervention.

We believe that our government is actually in a very well-positioned place to be able to contribute towards improving our neighbourhoods and our communities. What I mean by improving is both civilizing and humanizing, so this is an amazing opportunity that you have with this bill.

That brings us to a close. I would like to say again that we do believe that clear and consistent legislation that holds all parties accountable for their responsibilities in

this will certainly lead to success in this much-needed animal health welfare legislation. Thank you so much.

The Acting Chair (Mr. David Zimmer): Very briefly—a minute per caucus, beginning with Mr. Dunlop.

Mr. Garfield Dunlop: I was curious when the previous presenter, Dr. Jones, suggested that the chief inspector be a veterinarian. I was wondering if you would comment on that.

Dr. Debbie Steowen: That's very interesting. I think having that depth of knowledge within that position could certainly enrich the decision-making and the guidance provided.

Ms. Cheri DiNovo: Thank you very much for that wise and well-thought-out presentation. Certainly it sounds absolutely doable within the context of this bill.

One of the concerns that we've heard and that we bring with us is about clarity of definitions, for example, around distress. I'm going to ask you the same question I asked the former deputant around the Manitoba act, where they do define animal distress: Have you seen that, and does that sound like a good definition to you?

Dr. Debbie Steowen: I have not seen it, so I'm afraid I can't comment on that. I believe our OVMA stance is that we really do not believe that the terminology should be too well defined, because the narrowing of the definitions can sometimes inadvertently lead to exclusions.

Ms. Cheri DiNovo: It's a very good point, and it hearkens back to your point about oversight of the Animal Care Review Board and also the OSPCA.

Mr. Reza Moridi: Thank you very much, Dr. Steowen, for this excellent presentation. You talked about the enforceability of the bill. I was wondering if you have any particular suggestions in relation to the OSPCA and the power which has been given to the OSPCA in the bill.

Dr. Debbie Steowen: Could you please clarify?

Mr. Reza Moridi: You spoke about the enforceability of the bill. There are provisions in the bill about the OSPCA. Do you have any particular suggestions on that to strengthen the power given to the OSPCA?

Ms. Angela Cerovic: We are happy that the OSPCA has the ability to do more.

The Acting Chair (Mr. David Zimmer): I'm sorry, could you speak up?

Mr. Reza Moridi: Are you happy with the authority in the bill?

Ms. Angela Cerovic: Yes. I think it is necessary that they be given more authority to do more, but at the same time, that's why it's important that the accountability is in place for them: so that they are accountable for their actions in their new role.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation today and attending.

BLAIN LEWIS

The Acting Chair (Mr. David Zimmer): Blain Lewis? Mr. Lewis, you will have 15 minutes for your

presentation. I'll give you a three-minute warning as you get towards the end of it. You may or may not want to leave time for questions from the committee members. That's your choice, all right? If you would identify yourself for the record.

Mr. Blain Lewis: I'm Blain Lewis.

The Acting Chair (Mr. David Zimmer): The floor is yours.

Mr. Blain Lewis: I don't know if I'm ready for this. If Bill 50 gets passed as it is, it will be a tragedy. By giving the SPCA agents the power to come onto your property without a warrant, as a government, you will be helping to cause pain and frustration for a lot of people.

1220

Some of the SPCA agents already think they have more power than God. They harass, bully and nitpick at people. Their attitude is that they were given that power by the government and can do as they want. They are accountable to no one but themselves. They go into people's houses and search and look into everything, whether it has anything to do with what they are investigating or not. They think they know more about your animals than you do, no matter how many years you have been interacting and looking after them.

In their investigation papers, they even go so far as to report on people's housekeeping and whether they had dirty dishes in the sink, never saying at what time of the day they are there, or, for that matter, how long they had been holding these people up from doing their jobs.

Some agents have also been known to make up reasons to stop and interfere with people and animals. Could you please tell me how going out to shop, work or socialize can amount to abandonment of your animals? People have come back home from doing just that and found abandonment papers put on their front doors and have had total strangers wander over their property while they were gone. When they have invaded your home, you have a totally different attitude about this agency than if you were sitting at home reading the paper about the abused animals that they had to rescue and are going to give another chance at life.

Most people that they have visited have never had orders written up on them, nor do you hear about the animals that they've been ordered by the appeal board to send back. All the public hears about on the news or in the papers are the ones that are taken away by the SPCA, not the ones that are given back to their owners.

By giving them more power than a police officer—who, by the way, has a lot more training—there are bound to be more animals taken, and for less reason, than are already being taken. With the power to invade without a warrant, there will be no thought of the Canadian Charter of Rights.

As the act is written, it is at the discretion of the agent. But not all people think alike. So everything in the bill will be interpreted differently at all times. Should horses have halters on at all times or is it just for the convenience of the SPCA so they can catch them? Why do dog houses have to be raised six inches off the ground?

Why must outdoor cages be raked daily? The SPCA has been known to take pictures of dirty dishes in places where dogs have not been for several months. Dogs are not safe in a four inch by two inch wire run because the males can breed females through the wire. Why is hay build-up not acceptable at one facility and is at another? Three to four feet high—they think that is a good place for an animal to lay. Ice-free water at all times: How can that be in the wintertime? A driving shed is a dangerous place for cats.

As for giving the OSPCA more power by, as you are saying, strengthening the cruelty laws, it would be better to look into what the OSPCA is doing with the power it already has been given. The agents that we have come into contact with already abuse that power by the way they treat the people they are investigating. There may well be reason for raising the penalties, but only if those charged are charged for legitimate reasons. They intimidate and they will not answer questions put to them by whoever they are investigating.

It would be better if you made changes in the way that the OSPCA agents are trained and what they are taught. I am sure it must take more than two weeks to understand the regulations that they are supposed to be upholding. They should also be taught how to relate to people in a pleasant way. I would like to see them put in a situation in which they put other people. Instead of using strong-arm tactics, there must be a more diplomatic way to resolve a situation.

As you may have already realized, we have not had a good relationship with the OSPCA. In the years we have been bothered by the society, it has not been pleasant. The society, I've been told, was started to help people with problems and issues of having an animal. All we have seen is sarcasm and threats. We were actually told by one agent that if he wanted our registered longhorn bull castrated, it would be castrated. That is the amount of power they think they have.

If you ask anyone who has ever had a visit from them, you would never hear them say that they wanted another visit. They have enough power now; they need to be under some regulation. They should not have total police powers.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per caucus, beginning with the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you, Mr. Lewis, for deputing. It has been suggested by the government that you do have an appeal process when the OSPCA does something egregious, and that is to go to the Animal Care Review Board. What would you say to that?

Mr. Blain Lewis: I'm aware of that.

Ms. Cheri DiNovo: Does that work for you? Is that not a place to go?

Mr. Blain Lewis: Yes, it has worked—

Ms. Cheri DiNovo: It has? Okay.

Mr. Blain Lewis: —but I know that for other people it has not worked.

Ms. Cheri DiNovo: Okay. Thank you.

The Acting Chair (Mr. David Zimmer): Mr. Levac, two minutes.

Mr. Dave Levac: Thank you very much, Mr. Lewis, for your deputation. It sounds like some of the things you had to go through are very disturbing for your family and yourself.

You've just indicated that using the Animal Care Review Board was successful and meaningful. By way of information, somewhere around 16,000 complaints have come in annually, and I think it's about 200 or so where they do take the animals, and about a handful go to the Animal Care Review Board, in comparison with the 16,000 complaints that come through. It would be ridiculous for anyone to sit here and say that there hasn't been some misuse of some of those powers. If there's evidence of that, we need to root that out. I fully support your concern about that and I would hope we take that into consideration when we do the training, and aspects that need to be sensitive to the circumstances. If they are not, we need to have that power to root out the ones who are not as compliant as you'd care for your animals. You know examples that we would talk about. Pit bull dogfighting, cockfighting, illegal activities with animals, puppy mills, those types of things: Not one single person has said, "We want to keep those things." So I hope you understand that that's the purpose of this exercise.

1230

Mr. Blain Lewis: Yes. Okay, now you say a puppy mill. What is the difference in a puppy mill or a sheep mill or a cat mill?

Mr. Dave Levac: It depends on the care and control and the types of activity—

Mr. Blain Lewis: I just don't like that word "puppy mill."

Mr. Dave Levac: Very fair—an illegal dog-manufacturing place. I try to find the right words but I appreciate your sensitivity to it.

The Acting Chair (Mr. David Zimmer): All right. Thank you, Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much, Mr. Lewis. I appreciate your comments and your presentation. We've had others similar to the type of comments you've made, and I'm hoping that when we make amendments and make regulations to this piece of legislation, your kind of comments will be listened to. I appreciate that very much.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to attend today and organize your presentation.

WINDSOR ANIMAL ACTION GROUP

The Acting Chair (Mr. David Zimmer): The Windsor Animal Action Group, Jennie Berkeley. Ms. Berkeley, you have 15 minutes. I'll give you a three-minute warning as you get to the end of your presentation. You may want to leave time for some questions

by members of the committee, but that's your choice. All right?

Ms. Jennie Berkeley: Okay.

The Acting Chair (Mr. David Zimmer): And if you would identify yourself for the Hansard record.

Ms. Jennie Berkeley: Yes. My name is Jennie Berkeley and I'm a representative of the Windsor Animal Action Group. I'll just get my papers ready. I've dropped off the copies of my statement already and I have one picture that I wanted to show to the committee during my presentation.

Good afternoon, Chair and committee members. Again, my name is Jennie Berkeley, a representative of the Windsor Animal Action Group, an animal advocacy group involved in outreach, education and awareness campaigns for animal issues.

I am here today to express strong support for Bill 50, the Provincial Animal Welfare Act. This is an excellent bill which will go a long way towards improving the welfare of all animals in Ontario. It is a vast improvement over the old OSPCA Act, as it makes the provincial laws more punitive by increasing OSPCA powers, widening the definition of cruelty and delivering harsher penalties such as lifetime bans. This new bill will take Ontario from worst to first in terms of animal protection legislation in Canada.

My particular interest in Bill 50 regards the expanded OSPCA investigative authority at places where animals are kept for entertainment and exhibition, such as zoos, roadside zoos, menageries and circuses. The travelling circus is an example of an unregulated captive facility plagued by poor conditions and multiple animal welfare concerns. Circus environments are not meeting the wild animals' physical, social and psychological needs, and animals are suffering as a result.

In the wild, animals such as elephants, big cats and bears live in rich, complex habitats. These are large, active animals, and by nature they hunt, forage and roam many miles over a vast terrain. They form intricate social structures, which for elephants last a lifetime. Yet in the circus, their natural activities, instincts and even basic movements are deprived as they spend nine tenths of their time confined to cages, chains and transport trailers.

The first aspect I will discuss are the living conditions: For animals such as bears and big cats, the same "beast wagon" or transport cage is used for travelling and temporary housing at circus venues. These mobile cages are often so small that the animal cannot properly stand up or turn around. The animal is forced to eat, sleep and relieve itself in the same small pen. Apart from rehearsal or the short performance, a circus animal is imprisoned for its entire life in this same tiny enclosure. Food and fresh water are not always readily available. Due to space limitations, often unsuitable species pairings, such as predator and prey, share proximity.

At circus sites, the elephants are chained in leg irons or tethered to stakes 90% of the time. The only exception is during the quick performance. They are chained by one front leg and one back leg and can only take one step

forward and one step back. Often they are chained on hard pavement. Sometimes they are given a little freedom in very small, electrically fenced pens, but this depends on schedule and location suitability. I do have a large poster of a chained elephant and I've left it at the back of the room. Maybe I can bring it up at the end of my presentation. That's the one, yes. Is it necessary—

The Acting Chair (Mr. David Zimmer): That's fine. It's on the back of your material.

Ms. Jennie Berkeley: All right.

Travelling conditions, the second aspect: Circuses and travelling menageries travel constantly. A gruelling, non-stop pace occurs as they cover thousands of miles, visiting an endless array of towns. Animals are transported in poorly ventilated, unheated trailers and are left to stand in their own waste for hours. Food and water are often withheld during the travelling. Safety and containment of the animal are precarious, at best, in these vehicles. The intense confinement associated with circuses' constant travelling and temporary housing accommodations creates physical and psychological trauma for animals. Rough and continuous travel is unhealthy, uncomfortable and stressful for animals, and crowded, unclean quarters can also lead to ill health and disease. The daily intensive confinement and lack of exercise produces physical problems such as musculoskeletal disorders, sores and even elevated heart and cortisol rates. For elephants, the immobilized lifetime state of chaining on concrete results in painful and sometimes life-threatening foot conditions. For all animals, the emotional stress associated with confinement leads to apathy, frustration, increased aggression and the developments of neuroses evidenced by stereotypic behaviours such as pacing, rocking and head bobbing in elephants.

Third aspect, training: Circuses' most serious animal welfare violations involve harsh training measures and tools used in performances. The wild and exotic animals used in circuses do not possess the domestic animals' traits of docility and reliability and they are not easily controlled or trained. Impatient circus trainers frequently resort to brutality against animals to achieve the desired performance. While circuses remain secretive about life-behind-the-scenes training, animal welfare organizations and bystanders have documented numerous instances of animal cruelty. Many circuses use violent and physically abusive methods such as beatings and electrical prods to train animals at a young age. Cruelty inflicted upon animals is revealed by the tools found in a travelling circus, such as whips, electric prods, tight collars and muzzles. All these features act as visual cues and reminders to animals that if they don't perform, they will be hurt and punished. Psychologically, a life of abuse leads to stress, depression, learned helplessness and fear or aggression toward humans. Physically, beatings and jabs produce permanent external and internal injuries, gaping wounds, bruises and sometimes death.

Public safety concerns of the circus: Circuses' impoverished surroundings and abusive training methods

are not only cruel, but they constitute a public safety threat. Wild animals are always unpredictable, but stressed and abused animals are more likely to rampage, destroy property and injure or kill humans. In North America alone there have been dozens of documented cases of circus animal attacks causing human injury and death. Zoocheck's report found the following Ontario incidents on record:

In November 1993 in Toronto, Ontario, a keeper at the Metro Toronto Zoo was gored through the abdomen by an elephant.

In March 1991 in Oshawa, Ontario, a 450-pound tiger featured in Jane Jones Exotic Circus leapt on passers-by on two different occasions.

In July 1990 in Mississauga, Ontario, a 600-pound tiger escaped for 10 minutes from the Shrine Circus.

In August 1988 in Mississauga, Ontario, a brown bear at a Moscow Circus matinee performance bolted into the audience.

Circuses are committing abuses and simultaneously endangering public safety because there are no adequate animal laws governing their activities. There is almost no oversight of circuses by regulating agencies, and circuses don't need licences to operate. The best way to curtail the misuse and mistreatment of animals is through stronger legislation. Bill 50 intends to protect animals in captive situations with new standards of care, and it gives OSPCA officers the tools to react to cruelty and distress. However, to live up to the promise, it is important to take proactive, pre-emptive approaches as well.

We need to proactively promote animal welfare in unregulated places such as circuses by preventing suffering before it occurs. For this reason, specific and comprehensive regulations and standards for circuses should be implemented to prevent bad operators from setting up in the first place.

Here are a few suggestions. Goal of the system: (1) to develop a regulatory framework which ensures humane conditions for animals; (2) to ensure that every circus has evidence to prove its adequate arrangements for the welfare of animals.

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Ms. Jennie Berkeley: Yes, thank you.

The standards could be based on a model similar to Nova Scotia's circus standards. This would include permit regulations and a licensing system for all circus exhibitors. A brief general outline of such a model may contain the following requirements:

(1) Import permit application requirements. This could include established standards with a list of all animals and activities; copies of all health certificates and medical records and federal import/export permits; inspection reports for US-based exhibitors performing in Ontario; and lists on type and size of transportation and housing displays.

There should be a suitability-of-species clause. The overseeing authority will determine which species can safely and humanely be included in a travelling circus. A

consideration should be made for prohibitions on elephants, bears and big cats.

(2) Responsibilities of circus proprietors:

(a) Display sites—this is very important: A ban on elephant chaining similar to Nova Scotia's standards should be mandated. Temporary housing conditions must meet determined minimum display enclosure size standards for each species. Display sites must not be located on sealed surfaces.

I'm going to go through this list quickly to complete this on time.

(b) Animal care: Respect for animals must be encouraged at all times; shelter and water available.

(c) Safety: There must be a recognized safety and recapture plan; mobile communications; escape/recapture plan; provisions for swinging gates and illuminated rings; barriers.

(d) Standards on transportation housing: separate standards for each species according to its needs; ventilated trailers; mandatory stops—12-hour rest periods every 24-hour travelling period; a rest stop every two hours to inspect animals.

(e) Training: no training method which causes pain or stress; ban on jumps through fire by big cats; prohibition on the use of fire in animal training or tricks for all animals; training be done with positive reinforcement only, no physical punishment; consideration for a ban on bull hooks and other sharp weapons.

(f) Types of tricks: No behaviour shall be encouraged which strains the limitations of an animal; animals must not be forced to perform, no matter what the reason.

(g) Veterinarian care: Regular veterinary checkups are mandatory.

The Acting Chair (Mr. David Zimmer): All right, we'll have to stop there. That's your 15 minutes. Thank you very much for organizing your presentation and attending today.

Ms. Jennie Berkeley: Thank you very much.

The Acting Chair (Mr. David Zimmer): The committee will recess until 2 o'clock.

The committee recessed from 1244 to 1357.

The Acting Chair (Mr. David Zimmer): Welcome to the afternoon session of the justice committee.

Mr. Dave Levac: Point of order, Mr. Chairman—I will be brief. I discovered through a conversation that there may be three staff members who do not have transportation between London and Ottawa. I would move and request, and I've spoken to the opposition members and the clerk, that provisions be made in consultation with the clerk so that the members be allowed to travel on the plane that's already been chartered and that has seats to accommodate them.

The Acting Chair (Mr. David Zimmer): All right. Further debate, anybody?

Interjection.

Mr. Dave Levac: Staff—no, I've talked to the members.

The Acting Chair (Mr. David Zimmer): All right. I'll ask the clerk to attend to that administrative detail. Thank you.

CLAYTON CONLAN

The Acting Chair (Mr. David Zimmer): The 2 o'clock session of the justice committee: Clayton Conlan. Mr. Conlan, you have 15 minutes. I'll give you three minutes as a warning as you get towards the end of your presentation. If you want to leave time within your 15 minutes for questions from the committee, that's your option.

Mr. Clayton Conlan: Thank you, sir. Good afternoon. Thank you for allowing me to speak to this important bill. I'm grateful for the opportunity. Each honourable member of the committee has a copy of the outline of my presentation, and I took the liberty of attaching to the outline a copy of my CV just so that you know a little bit more about me.

In the time that I have, I would like to touch on six areas. The first area deals with subsection 1(1) of the bill and in particular the proposed definition of the term "distress." I have respectfully suggested alternative wording for that definition. It's outlined on page 1 of the outline of my presentation. I have suggested that the definition read as follows:

"'Distress' means:

"(i) lacking adequate food, water or shelter;

"(ii) being sick or injured;

"(iii) being in pain or suffering; and/or

"(iv) being subject to undue or unnecessary hardship or neglect."

This, in my respectful submission, is a clearer definition than that provided in the bill.

It's been my experience, over the last 10 years or so as a prosecutor and defence counsel in criminal and provincial offence cases, that those involved in the court system tend to work best when definitions are broken down into subclauses. They are often easier to read when they're written that way and they're easier to interpret. That's one of the reasons why I have set out the definition as I have.

You will notice that I substituted the word "adequate" for the word "proper." I did that for two reasons. In my opinion, the word "proper" is a little more subjective than the word "adequate." The word "adequate," at least to me, and I think to most judicial officers, implies a certain minimum acceptable standard. That's what I think the legislation ought to be aimed at preserving, and that's why I have substituted that word.

You will also notice that I deleted the word "care" from the definition. That respectful suggestion is because, in my opinion, the word "care," in addition to being highly subjective, adds nothing really meaningful to the definition. If an animal is receiving adequate food, water, shelter and medical attention, which the balance of the definition covers, then I think it's a given that the animal is receiving adequate care, whatever that means.

So in my opinion, the word “care” is redundant and should be deleted from the definition.

I also took out the words “abused” and “privation.” The reason why I took out the word “abused” is, again, because I think it’s unnecessary, with respect. If an animal is receiving inadequate food, inadequate water, inadequate shelter, inadequate medical attention and/or is subject to undue or unnecessary hardship or neglect, then it is, I think, by definition, being abused in some way. I don’t think the word “abused” adds anything meaningful to the definition, and that’s why I have taken it out.

The word “privation” I also think is a little unnecessary, but I have another reason for taking that word out. I recognize that all of us here at the committee may know what that word means. I suspect that there are several people who are owners or custodians of animals or people involved in these cases who will be unsure as to the meaning of that word. It’s a highly technical word. It’s not a common word that we use in language. I think it’s unnecessary, and that’s why I have taken it out.

The second area that I wish to comment on briefly is subsection 7(1) of the bill, which sets out that “for the purposes of the enforcement of this act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the society has and may exercise any of the powers of a police officer.”

With respect, I think that that clause is ill-advised, and I say that for this reason: Police officers have extensive training. Police officers are subject to rather well-entrenched rules as to their conduct and powers. Those rules are found in the Criminal Code of Canada, they’re found in other legislation such as the Police Services Act, and they’re found in the common law as judges make decisions interpreting various provisions of legislation. None of that applies, at least not to the same degree, to OSPCA officers. I think it would be potentially dangerous to give, *carte blanche*, OSPCA officers the same powers as a police officer.

I will give one example as an illustration. Police officers have the power to detain individuals, physically and involuntarily, for investigation purposes. I’m not sure if it’s intended by the wording of section 7(1) to grant OSPCA officers that same power, but that’s what it says. So if it’s not amended, then OSPCA officers will, without restraints and without weapons, be able to physically detain an individual on or off his or her property for investigation purposes. I think that would be imprudent. I would encourage the committee to consider an amendment to that provision of the bill.

The next area I wish to comment on is in sections 8 and 18 of the bill, and in particular the term “standards of care.” In my respectful submission, it is very important that regulations be in place at the time the new act is proclaimed in force, giving guidance as to what that term means. I don’t necessarily have an objection to the term; it’s that I think it would be a mistake to leave it up to judicial officers, OSPCA agents and owners and custodians of animals to guess at what the term “stan-

dards of care” means. It should be outlined in some detail in regulations so that everybody is certain as to its meaning.

The fourth area I wish to comment on is section 9 of the bill, and in particular the powers of the OSPCA to enter into buildings with or without a warrant to conduct searches. First of all, I want to commend the drafters of the bill in clarifying some areas that have been of concern to judges and justices of the peace; that is, what are the parameters under which OSPCA personnel can enter into a building without a warrant? So in some respects I’m very happy with the wording of the bill.

I do have a couple of suggestions, with respect—the proposed subsection 12(6) uses the term “reasonable grounds.” It may seem like just semantics, but I hope to show you that it’s not. I would suggest that term be replaced with the words “reasonable and probable grounds.” The reason for that is because I see no justification for departing from the rather well-entrenched term “reasonable and probable grounds” that we’ve been using in criminal law and charter jurisprudence for many, many years. That’s the term that governs searches by police officers and other state actors. I see no reason why we should drop the words “and probable.” It should have the same words in this legislation to be consistent.

The second comment I have is the use of the word “persons” in subsections 12(1) and 12(6). I’m not sure who else the drafters of this term had in mind would be participating in searches besides OSPCA personnel, a vet or more than one vet, and perhaps a police officer or more than one police officer for security purposes. So I’m having a hard time figuring out whom the term “persons” refers to. I don’t really think the term should be in there at all. I see no reason why anybody should be entering a building to participate in a search other than the persons I already named.

I don’t think the term “persons” is useful. It is inconsistent with basic principles of criminal law. When a justice of any court or a justice of the peace grants a search warrant to a police officer, for example, it’s only police officers who can participate in the search. It’s not up to the police to decide who else they can bring into the building. So I don’t see why it should be up to the OSPCA to decide who else they can bring into a building to conduct a search other than a vet or vets, and perhaps a police officer or police officers for security purposes and to maintain the peace.

1410

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Mr. Clayton Conlan: Thank you, sir.

I also think it’s important that the legislation specifically provide that a search of a dwelling must be with a warrant. That’s implied because of the use of the words “other than a dwelling,” but I think that it should be positively stated in the legislation that the search of a dwelling must be by warrant.

The last area that I want to comment on is section 16, which provides for the penalties. I do think it’s time that

the penalties be revisited, because it's been a number of years, but I think that this is imbalanced, with respect. Provincial offences are generally considered to be less serious than criminal charges. That's normally reflected in penalties, particularly in jail time. Sometimes, provincial offences attract higher fines, but almost never do they attract longer jail sentences. Under the Criminal Code, the new provisions, the maximum sentence is 18 months in jail where the crown proceeds summarily, which is 99% of the cases. This provides for a penitentiary jail sentence. I think that's a little harsh. It should be more in line with the maximum penalties on summary conviction.

The very last point that I wish to make is not covered in the bill. I would encourage the legislators to consider recording of Animal Care Review Board hearings. I've always been a little bewildered as to why they're not recorded. Almost every other tribunal that I've appeared before over the last 10 or so years is recorded in some way, even if informally by way of a tape recorder. It would be a good idea to do that here. It protects the record for the litigants and it provides for a greater disposition of judicial reviews.

Thanks again. I think it's important that we all debate this bill, and I want to thank you for giving me the opportunity. It's been my pleasure to appear.

The Acting Chair (Mr. David Zimmer): We have about 15 seconds left, so I'll thank you on behalf of the committee, although I have to note on your resumé that in 1999, you were tied for the highest mark in the public law examination of the bar admission course. That's a course that I taught in 1999.

Mr. Clayton Conlan: I didn't plan that, but it's nice to know. It's nice to come under my time, too. I think it's the first time a lawyer has ever come under time, so thanks.

Mr. Mike Colle: You weren't billing for this; that's—

Mr. Clayton Conlan: No, I wasn't.

The Acting Chair (Mr. David Zimmer): I was part of the teaching team on the bar admission course, so I know what a difficult course that was.

Mr. Clayton Conlan: Thanks very much.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to come over from Owen Sound. I appreciate it.

Mr. Clayton Conlan: It's my pleasure. Thank you.

MARGARET KER

The Acting Chair (Mr. David Zimmer): Margaret Ker? Come up. Ms. Ker, you'll have 15 minutes. I'll give you a three-minute warning when your time is about to expire. If you would like to leave time for questions within your 15-minute presentation, that's your choice. Could you identify yourself for the record?

Ms. Margaret Ker: Good afternoon. My name is Margaret Ker. I'm a retired teacher, I'm a hunter and I own pets and horses. I've lived in Middlesex and Elgin counties. Thank you very much for this opportunity to

comment on the Provincial Animal Welfare Act, Bill 50, which amends the Ontario Society for the Prevention of Cruelty to Animals Act.

The Provincial Animal Welfare Act is commendable in its efforts to protect domestic and farm animals in Ontario by regulating their welfare and to eliminate the abhorrent practices of dogfighting and cockfighting, which are illegally staged to promote profit by gambling. However, there are areas in Bill 50 that concern me, and I would humbly request that the minister re-examine these areas with a view to improving their precision.

Some of the language in the bill, I feel, is vague and requires clarification. The powers granted to the inspectors and agents of the society seem imbalanced with its accountability to the public. Municipal bylaws should be harmonized with OSPCA regulations, and legal hunting and fishing, licensed and monitored by the Ministry of Natural Resources, should be clearly the sole mandate of the Ministry of Natural Resources.

I'm going to go into these points. I will be sending the committee a copy of my remarks but I don't have one for you here today.

Areas of clarification that I think should be addressed: Under "Interpretation," 1(1), the act says, "'Distress' means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect...."

Hunting and fishing are legal rights in Ontario. The Ministry of Natural Resources enforces rules and regulations which determine the hunting seasons and the practices of hunting. Subsection 11.2(1) in this act says, "No person shall cause an animal to be in distress." I feel this might be interpreted and could be seen to apply to hunting. Yet 11.2(1) states that the previous subsection does not apply to "native wildlife and fish in the wild in prescribed circumstances or conditions."

The phrase "circumstances or conditions" is too vague. To avoid any possible conflict and misunderstanding of its intention, the words "circumstances or conditions" I would suggest should be replaced to read, "11.2(1) does not apply to fish and wildlife being lawfully hunted in accordance with provincial laws and regulations." Such a change would ensure that the jurisdictions of the OSPCA and the MNR are clear and separate.

Under the heading of "Conflict with municipal by-laws," section 21, the act states, "In the event of a conflict between a provision of this act or of a regulation made under this act and of a municipal bylaw pertaining to the welfare of or the prevention of cruelty to animals, the provision that affords the greater protection to animals shall prevail." This strikes me as rather odd, because surely the policy of having municipal laws harmonized with the act would create a consistent set of regulations, not a patchwork quilt that would vary from municipality to municipality. If that were so, I could see a situation where charges could be brought against persons in different municipalities, and they would not be

dealt with equitably. This would reduce the possibilities of people being convicted in one area and perhaps escaping through a legal loophole in another for the same offence. Conversely, if the bylaws were written with an animal rights bias in a municipality, there would exist the possibility, again, of unequal judgment across the province for similar offences. Mandating each municipality to conform to OSPCA standards would prevent these circumstances, and I urge the minister to consider this.

Under the topic of qualifications and powers of inspectors and agents, 6.1(1), the act states, "The society shall appoint an employee of the society as the chief inspector." I'm not aware of—and I don't know where the public would find—where the concrete qualifications are stated about the training and the experience required for this very important position. Specific qualifications must be expected of a person to whom the province would extend police powers. For example, is there a background check for criminal records? Does the employee have extensive veterinary knowledge? Is that a prerequisite? Personally, I feel the position should be filled by a qualified veterinarian, but that's just my opinion. Does this employee have extensive legal training? This person in whom the public will place so much trust must be observably qualified for the position.

Under subsection 7(1) it says, "Subsection 11(1) of the act is repealed and the following substituted:

"Inspectors and agents
Powers of police officer

"(1) For the purposes of the enforcement of this act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the society has and may exercise any of the powers of a police officer."

1420

The act goes on to pass that power on down to inspectors and agents of affiliated societies who have been appointed by the chief inspector. They may exercise powers and perform any of the duties of the inspector or the agent. In other words, they would have full police powers too.

I find that this is a very shocking suggestion, really. Giving police powers to SPCA inspectors is not necessary. We have police officers who can be called upon to accompany agents and inspectors. It leads me to ask, is there a problem right now with OSPCA and police co-operation? If that is the case, then the solution is to resolve that problem, not empower people with inadequate training to do a policeman's job.

Any person who has police powers should have commensurate police training and be accountable for their actions in the same way that police are accountable for theirs. How would the society plan to be transparent in its use of these powers if they were granted them? I would suggest that an annual report to the provincial Legislature with details of searches, charges, convictions and appeals would satisfy this concern.

Thank you very much for allowing me to appear before your committee today. I will look forward to

preparing my remarks and having them in to your committee by the deadline.

The Acting Chair (Mr. David Zimmer): We have about two minutes per party for questions, beginning with the Conservatives.

Mr. Robert Bailey: Yes, thank you for your submission today. Do you feel that the act as written, without the changes that both you and other people have recommended, might be subject to charter challenges where it applies to individuals?

Ms. Margaret Ker: I'm not a lawyer. I'm sorry; I can't answer that question.

Mr. Robert Bailey: All right. I'm not either. That's all.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your submission. It's very congruent with some other deputations that we've heard in terms of your concerns about the powers of the OSPCA and the lack of oversight and training. I'm particularly interested in both you and another deputant today bringing up the issue of training where police powers are given. Clearly, police training needs to be given as well. Thank you for that.

The Acting Chair (Mr. David Zimmer): Mr. Colle.

Mr. Mike Colle: It's an interesting question you posed about the harmonization of municipal powers and OSPCA bylaws. The approach that section 20 has taken here is that whichever set of laws provides stronger protection for animal welfare would be applied. Your recommendation is that we encourage through legislation the harmonization of municipal and OSPCA bylaws. I think it might make life easier in the long run. The only problem is getting there, because we're talking about 400 municipalities with quite a variance of animal protection bylaws or offshoots of animal protection—animal custodial care and noise bylaws.

That's the dilemma: By the time you get to harmonization—I know that in the city of Toronto, 10 years later, they're still trying to harmonize the six sets of bylaws between the former six municipalities that make up the megacity. I think they've gotten halfway through. That's the question I pose to you. I don't know whether that helps. I think it's a good suggestion, but how do you get there?

Ms. Margaret Ker: I recognize that it would be a big job, but I still think it would really make this legislation stronger as an end result.

Mr. Mike Colle: Meanwhile, we're saying that if there is a municipal bylaw that's stronger than the OSPCA, we leave that applying.

Ms. Margaret Ker: I think again that that's a bit of a fuzzy area. I think some of those issues might be open to interpretation. If everyone is working under the same basic structure, then that ensures the aims that this act is heading for.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to present to this committee.

Ms. Margaret Ker: You're very welcome.

AINSLIE WILLOCK

The Acting Chair (Mr. David Zimmer): Ainslie Willock? You have 15 minutes to present. I'll give you a warning about three minutes before your time is up. If you want to leave time for questions from the committee members, please do. That's your choice.

Ms. Ainslie Willock: Thank you very much. My name is Ainslie Willock, and I'd like to thank the Chair and the committee members for this opportunity to speak with you about Bill 50 and its impact on the welfare of animals. I'm here as an individual but I've worked in the animal protection field for over 25 years: everything from working to stop the seal hunt to campaigning to stop the slaughter of cormorants here on the Great Lakes. I work locally, provincially, nationally and internationally.

I'm here because I think that every resident of Ontario, in fact every Canadian, expects a very high level of animal welfare for all animals that live here. It's the only decent thing to do. In fact, it's the government's responsibility to provide leadership on this important issue to Ontario voters.

As I have a fair bit of experience, knowing what actually happens to animals in our society, I know that the amount of cruelty to animals is simply astounding. The fact that most people choose not to know about it is, I can only suspect, simply a coping mechanism as they abdicate their responsibility to the government. The government clearly is informed about the cruelty and has a responsibility to ensure that each and every animal in care has the right to what is known and recognized internationally as the five freedoms for animal welfare. I'm pretty sure you've been told about these before: freedom from hunger and thirst; freedom from thermal and physical discomfort; freedom from pain, injury and disease; freedom from fear and stress; and freedom to express normal behaviour.

I'm not a lawyer and I don't draft laws or regulations, but I can read them and I can get a pretty good idea of what it will mean for the animals. There are some very good things in Bill 50. There would be a provincial route to preventing cruelty to animals rather than having to go the federal route. That would be a big help. That would be progressive.

It looks like if the government in power wanted to protect an animal from cruelty, it could do so under Bill 50. I said, "wanted to protect an animal." I phrased it that way because most of this bill, as I read it, is about protecting people and industries that use animals. I say this because Bill 50 exempts "native wildlife and fish in the wild," which would be hunters, trappers and fishermen; "agricultural animal care, management or husbandry," which would be all farmers; "a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities," which sounds like any animal user. The vast majority of animals in the province are not our pets. They're not found in dog-fighting rings, puppy mills or used as working police animals.

The exemptions go on and on, to the point that you begin to think that this bill actually, if passed, would result in the protection of animals going backwards rather than forward. It appears to be regressive. What kind of bill creates two standards for the same act? As I see it, I could be prosecuted for an act under this bill, but a farmer, hunter, fisherman, trapper or researcher would not be prosecuted should they abuse an animal. In fact, they would be protected from prosecution under the same bill. This double standard seems to me to be unfair to ordinary residents and certainly sanctions cruelty to animals whenever it is convenient for a user group to do so, whether for economic reasons or some other faulty rationale. That's not the kind of anti-cruelty bill that I could or would support.

Why isn't Ontario taking the best approaches and laws presently in Canada and abroad and creating one for Ontario that is truly progressive and meets the needs of Ontario residents and animals? Is the government so afraid of the extent of the cruelty and the impact on the animal use industries that it thinks it needs to exempt them from prosecution and being held accountable? Does the government want to ensure that animals aren't recognized in law as sentient beings deserving of protection? If this is the case, then the existing cruelty is far more pervasive than what I know about.

1430

I ask you to take out all of the exemptions. If this were done, the bill would be a step forward for Ontario's animals and residents. It would then live up to what the Globe and Mail said in an editorial on July 19: "Feeling, sentient beings should indeed be treated" in law "as what they are"—sentient beings.

As one of the reasons for putting Bill 50 forward was to protect native wildlife from cruelty in captive facilities, I ask you why Bill 50 provides no protection for these animals, as they are exempted from care under this bill.

Lastly, I'd like to speak to the fact that Bill 50 prohibits the use of the two words "humane society" unless you are an OSPCA member or affiliate. I understand that the Legislature has actually said that they are going to be looking at this section and reworking it. I once worked for the Toronto Humane Society. I was there for their 100th celebration, and it was a real education to know that children's aid societies, for instance, evolved out of what were known as humanitarian organizations. So I think that those two words, "humane society," are rightfully used by many different organizations and it's part of how we evolved as a society.

In my handout to you, I provided background information from the British Society of Animal Science regarding the internationally accepted concept of the five freedoms for animal welfare that I've mentioned in the presentation. I think these five freedoms should be the basis for creating a bill to truly provide animal welfare for Ontario's wild, native, farm, zoo, research and companion animals. Anything less than this is unacceptable in today's world and represents a backward movement at

a time when at least some of the world, particularly in Europe, is moving forward.

Please remove all exemptions from Bill 50 and please ensure that regulations, soon to be drafted, will truly protect Ontario's animals from cruelty and not exempt user groups.

Thank you again for this opportunity to speak with you. I hope you find my comments helpful. I truly hope that exemptions listed in the present Bill 50 will be removed to provide much-needed legislation to protect animals.

Please don't hesitate to ask me any questions, and I'll see if I can answer them.

The Acting Chair (Mr. David Zimmer): We have about three minutes per caucus now, starting with the NDP, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your presentation. I found it very interesting.

Certainly we, in the NDP, support removing section 6. There's no place for it in an animal rights bill. It has nothing to do with animals, except the two-legged variety, so it should come out.

I thought what you had to say about exemptions was interesting, so I certainly think that's worth looking at. That has been one of our concerns, in terms of the looseness of the language in the bill. I know that we're looking at regulations, but as someone else has pointed out, maybe some of those regulations need to be in the bill if we're going to be tighter about our language.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Thank you for your passion about animals; I appreciate it very much. I sense more than just simply this presentation, so thank you very much.

You're aware that the bill itself—not this bill, but the original bill—has not been updated for about 90 years? We're trying to update that.

Ms. Ainslie Willock: Yes, and I understand that it's a difficult process. At the same time, what you actually read in it, to me, is very disturbing.

Mr. Dave Levac: I'd like to offer you some thoughts about your concerns about the wildlife, agriculture, prescribed classes of animals. All of those particular areas that you're concerned about do have codes of behaviour and standards of care within other ministries. There are other expectations in which those particular animals are watched. The idea of Bill 50 or any kind of OSPCA act is to go beyond that. If they do not meet those standards of care, then they still have the capacity—they're not exempted from the rule. If they're breaching their own codes, their own standards and the rules that are set out for their care, the SPCA has the authority and the power and will exercise the investigative powers that are being given to them.

Ms. Ainslie Willock: A number of us have been reviewing those different codes and recommendations and the different laws, and I believe that you'll be receiving a report summarizing those concerns. We believe that they are not at all adequate to meet needs.

Mr. Dave Levac: Perfect. That's the type of debate that we should be having to build the best possible bill that we can. I appreciate your concerns.

Regarding section 6, to reconfirm with you, yes, there will be some modification made to protect the names.

Ms. Ainslie Willock: Thank you.

Mr. Mike Colle: Mr. Chair, do I have time for a question?

The Acting Chair (Mr. David Zimmer): Yes, you have a minute left in your time.

Mr. Mike Colle: I know the bill is certainly far from everything we would all want, but on the other hand, there are some pretty strong, very progressive parts of the bill.

I'd say one aspect of it, too, which has never been addressed before in Ontario, is the animal fighting. Right now, as you know, in the province of Ontario, basically it's a free-for-all. Anybody can train, make money, sell implements and use animals to train other animals to fight. Right now, there's no provision. This bill, for the first time, has put in sanctions and deals with this incredible activity that takes place for profit across this province.

I know there are other parts of the bill you may think should be stronger or there shouldn't be exemptions, but how can you have total despair with the bill when this is the first time this area's been broached by this provincial government in 90 years?

Ms. Ainslie Willock: No, I'm truly thrilled with many portions of the bill, especially the dogfighting and the fact that I understand that puppy mill animals would not be given back to their original owners. There are some really, really strong points in this bill, but that doesn't mean I can turn my back on all the other animals in this province.

The Acting Chair (Mr. David Zimmer): And on that note, we'll have to move to—

Mr. Mike Colle: No, and I appreciate that—

The Acting Chair (Mr. David Zimmer): Mr. Bailey, three minutes. Mr. Bailey is from the Conservative caucus.

Mr. Robert Bailey: I have one question, Ms. Willock. Thanks for your presentation. Can you name a jurisdiction in North America or in Europe where what you're asking for already takes place? Is there somewhere where—

Ms. Ainslie Willock: That report that you're going to be receiving is actually going to be summarizing many other jurisdictions and what they have looked at doing. It won't be comprehensive enough, but you know what? There actually was a review by a lawyer in the States that was reviewing all around the world. That is part of that document, and you'll be receiving it.

Mr. Robert Bailey: Okay, thank you.

Ms. Ainslie Willock: Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation before the committee.

CAMBRIDGE AND DISTRICT
HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): Committee members, we're going to move to the 3:30 slot now, Cambridge and District Humane Society, Bonnie Deekon. Ms. Deekon, you'll have 15 minutes. I'll give you a warning when you have about three minutes left in your presentation. You may want to leave time for questions from the committee within your allotted time. That's your decision. All right?

Ms. Bonnie Deekon: Thank you kindly.

The Acting Chair (Mr. David Zimmer): And if you'd identify yourself for the record.

Ms. Bonnie Deekon: My name is Bonnie Deekon. I'm the executive director of the Cambridge and District Humane Society. I have sat on the board of the OSPCA. One of the problems—and left about three years ago from the OSPCA. That does not mean that the Ontario SPCA is not our founding group, because it certainly is.

The Cambridge and District Humane Society is presently a member in good standing with the OSPCA. We are known as an affiliate, which means we are fortunate to have the financial support and trust of many concerned citizens in our community. It is with that trust that has been given to us that we speak today not only for our board of directors, our employees and our shelter but also for the citizens who contacted us in reference to Bill 50 concerns.

Our particular shelter has been in existence since March 1955 and has charitable and municipal recognition as the Cambridge and District Humane Society. On September 25, 1992, the board of directors of the OSPCA recognized us as an affiliate based on bylaw number two, which we received and complied with at that time.

Our concerns at this time with reference to Bill 50, section 11.4: A few years ago, as an agent for the Cambridge and District Humane Society, I had the pleasure of a behind-the-scenes tour of the Toronto Zoo for training purposes. I believe it was one day in length. It didn't take a very big brain to realize that most agents and inspectors of the OSPCA do not have the background or the training to fully understand what these animals need, nor do our shelters have the ability to house or care for this type of animal. The Cambridge and District Humane Society houses approximately 3,500 animals in a year, and we are stretched to do this. We do have a member of our staff who is knowledgeable in reptiles and fish, and certainly we have more than enough staff to handle our dogs, cats, rabbits and small others. However if this bill passes, we could have an untrained agent or inspector who thinks we should do an inspection of an area that we are not familiar with, such as a zoo or an animal exhibit like the African Lion Safari.

1440

The Canadian Association of Zoos and Aquariums are more than qualified to police their own members. Either make an exception for these groups in the bill or, better

still, send a member of this group to the OSPCA board, or at the very least to the Animal Care Review Board.

We have all seen bad roadside zoos, and certainly this bill could help. However, it must be executed with due diligence. We believe that the thousands of hours of schooling and training that exotic handlers go through cannot be given or imparted to our agents in one or two weeks of training. Thus, the need for any agent or inspector to have the necessary backup prior to entering these areas, along with a CAZA representative, a Ministry of Natural Resources representative and, of course, a warrant, should be mandatory.

We, as animal caregivers, need to be certain that all of our concerns are addressed prior to this bill being passed, and unfortunately this section is too far out of most agents' and inspectors' realms without proper backup. Most often, the agents and inspectors out in the field are young, and perhaps not always physically fit. What happens if an owner has a weapon and a definite desire to have us off their property? It may be too late. At least, if we have a warrant and backup, we have some protection. Let us be certain that this section, as it pertains to zoos and animal exhibits, gets revamped. Can you imagine a warrantless entry in an area that may be housing dog-fighting? Will Bill 50 give the OSPCA agents and inspectors the authority to enter municipal pounds, or perhaps a shelter that does not belong to the OSPCA, to check on the care and housing of the animals?

The average police officer takes three to six months of training prior to getting out into the public and usually two years before they are able to make an arrest. We, at the present time, train our agents for two weeks, and that's only about two years old. Prior to that it took two days, and then we went up to one week. Now we're at two weeks. There are still some of the old staff around who were trained for only two days, and although they return for training at least once a year for one or two days, this does not make them police officers.

Recently our agent underwent training in the use of the baton and pepper spray, and was measured for a bulletproof vest. Obviously the head office of the OSPCA believes that there may be a risk for our investigators. Let us not add to that risk with warrants not being needed.

In order to be approved as an affiliate, as I mentioned, we had to sign an agreement with the OSPCA, and among other items in this agreement, article 9 states: "Shelters must be well-ventilated, have plenty of light, and be heated to 60 degrees. Outside runs and shade must be provided." Nowhere in this agreement does it state the size the runs should be, and nowhere does it state what a cat area or a reptile area should look like. The OSPCA has many shelters under their umbrella, and we would guess that not one of them has the same standards, so how can we impose standards on zoos or exhibits unless we have them too?

Having visited many Canadian and American shelters, I can say without hesitation that we need to clean up our own acts first. When Canadian shelters get overloaded,

they tend to use proper-sized dog crates or cat carriers. What happens if an investigator or agent decides to enter and do an inspection that day? Would this type of confinement pass? I would hope not.

The final concern of the Cambridge and District Humane Society is, of course, section 6 of Bill 50. We do realize it was in section 10 of the present act, but if we are amending, let's get it right. Legacies and donors know us as the Cambridge and District Humane Society and, because we will be grandfathered, we should be able to keep our name. Do we intend to leave the OSPCA? Definitely, not unless, after this presentation, they decide to withdraw our affiliation. Remember that there are no real written standards. If we were removed, they could come into our city and name a branch the Cambridge humane society. What, then, happens to all the goodwill that we have developed in our community that may bring us donations and legacies?

This bill has so many good items. We need to get it totally right, with all stakeholders in agreement, before we ask the legislative committee to pass it for final reading. May we offer our sincere thank you to the Honourable Rick Bartolucci and the Honourable David Zimmer, both very strong advocates for animal protection and welfare, in caring enough to bring these amendments to the act.

In conclusion, may we respectfully request that this bill go back to the drawing board with all concerned stakeholders in attendance, such as CAZA, the Ministry of the Natural Resources, veterinarians, the farming community and any others concerned about animal citizens, before we speak for them.

Thank you to all who have provided us with this opportunity to voice our concerns. Hopefully, this may be resolved to everyone's satisfaction, but more importantly, that we may give all animals a forever home. Our help is their only hope.

The Acting Chair (Mr. David Zimmer): Thank you very much. About two and a half minutes per caucus, beginning with the Liberals, Mr. Levac.

Mr. Dave Levac: Thanks very much for your presentation. I have a few "Are you aware?" questions to make sure that we're on the same wavelength.

Are you aware that CAZA has agreed to training, and will purchase that training through the SPCA, regarding the concern about zoos and roadside zoos and what they're looking at? I'm just going to list them so you can deal with them. Are you aware that the stakeholders have been involved in the creation of this bill from the very beginning? So if you're asking us to go back to the beginning, we're going back to the same people we're consulting. And are you aware that some of the assumptions you've made about the legislation in terms of what powers and authorities are already there or not there or assumptions you've made need to be clarified as opposed to assuming they're not there?

Ms. Bonnie Deekon: Am I aware? Yes, sir.

Mr. Dave Levac: Okay. Finally, for section 6, which you are concerned about, you may not have been here

when we announced there will be an amendment to section 6—

Ms. Bonnie Deekon: No, I was not, sir.

Mr. Dave Levac:—regarding the names.

Ms. Bonnie Deekon: I spoke with Mike Takacs of the African Lion Safari, and his concerns certainly as are as grave as our concerns. The African Lion Safari has been a very strong supporter of the Cambridge and District Humane Society. Just in the past few days there has been a circus in our town and concerned citizens have been notifying us of problems that they feel have arisen from the circus, not from the African Lion Safari. One of them was an elephant crying. We called out to the head trainer, Charlie, and asked him about this one. He was able to even identify the time frame when what the citizen was concerned about took place.

What I'm saying is that what we want—I know that CAZA is more than willing to help us, but I don't think that our agents could be trained well enough to be the people unless they are entering with a warrant and with the protection of all of the other parties.

Mr. Dave Levac: Thanks for your input. I appreciate it.

The Acting Chair (Mr. David Zimmer): The Conservative caucus, Mr. Bailey; two and a half minutes.

Mr. Robert Bailey: Thank you, Ms. Deekon, for your presentation. You brought up the issue of concern for your staff and other staff who would possibly have to attend to situations. Could you expand on that a little more, about the warrantless entry?

Ms. Bonnie Deekon: From our point of view, I have one agent who works in my building. We never send her out without a warrant if we know of something. For instance, there was a recent drug dealer situation where we had to enter because the little dog had five broken ribs, and we had to return that dog, obviously, to the owner. We've since monitored it. We did place her in a very bad situation, but she did have a warrant and she did have police protection. I just worry about her being out there without police protection.

Mr. Robert Bailey: I agree. That's all.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, on behalf of the NDP.

Ms. Cheri DiNovo: Thank you very much for that presentation. It was most informative. It really was interesting to hear from the agent's point of view the danger of warrantless entries, unless the life of the animal or somebody is at risk and they have to. So number one, that.

The other aspect, hearing about the training of OSPCA, which I've been asking about since the beginning—if we're going to give police powers to OSPCA agents, then we have to ensure that they've got all of the training that goes along with that. You've pointed out, I think very ably, the training that goes into identifying all sorts of problems with all sorts of different animals in different settings. That's a real concern here. An oversight of the OSPCA is a concern so that appeal processes can be put into place too, so thank you.

1450

You should know that we've been fighting from the beginning, along with Tim Trow of the Toronto Humane Society and other humane societies, to get rid of section 6, so we'll definitely fight to ensure that that promise is kept and that we get rid of that in the clause-by-clause. Again, thank you so much. It's the first deputant I've seen speaking from within the OSPCA and I wish we'd hear more. Thank you.

Ms. Bonnie Deekon: Thank you kindly.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and thank you for coming all the way from Cambridge.

May I ask, is Hamilton Hunt here? Vicki Henshaw? Then members, we'll move to the 4 o'clock slot, Anne and Fred Probst.

Mr. Levac?

Mr. Dave Levac: Mr. Chairman, hearing some of the concerns that are raised about warrantless entry, in case it has not happened, I've secured a briefing, if the opposition members would like a briefing on the specifics in a more detailed fashion, to provide you with some background information on when and how it can be used, because I think it's very germane to the discussion and to ensure that we have the right information to share it with everybody publicly, so that when it does come up we can have the same information. I don't want to talk about it unless you're comfortable on the opposition benches—to have an understanding and a briefing of that. If that's appropriate, I would make that offer and then make arrangements for the opposition to request from the ministry staff to do that.

The Acting Chair (Mr. David Zimmer): All right. I'll leave you to take that up with the parliamentary assistants.

ANNE PROBST

The Acting Chair (Mr. David Zimmer): Anne and Fred Probst? You'll have 15 minutes for your presentation. I'll give you a heads-up when you've got about three minutes left. You may want to leave time for questions from the committee but that's your choice. Thank you.

Ms. Anne Probst: My name is Anne Probst. My husband wasn't able to be here today, but I'm speaking on behalf of my husband and my three young sons, aged nine, 12 and 14.

We live on a farm with both livestock and companion animals. Our introduction to the enforcement of animal welfare laws in Ontario was through the seizure of our puppy by the Ontario SPCA. Our 12-week-old puppy had a broken front leg. We had our puppy examined by a vet, and we chose to go one step further and seek a second opinion. As we were going through this process, Ontario SPCA investigators arrived at our house with regards to our puppy, giving us an order with a half-hour compliance time. They then seized our puppy, with threats of criminal charges. This seizure went forward based on

telephone conversations with the original vet clinic where the puppy had been seen. No physical exam of the puppy had been done by the original vet clinic in six days, and no physical exam or observation was made of the puppy by the OSPCA investigator at the time of seizure.

This investigation by the Ontario SPCA also went beyond our puppy to include our livestock and other small animals, amounting to large veterinarian bills in order to confirm the well health of all of our animals. These intimidation tactics all caused unnecessary costs, stress and anxiety, as later in the Animal Care Review Board hearing it was brought forth by the Ontario SPCA that there were no issues regarding any other animals in our care.

Throughout these events, we believe that the Ontario SPCA officer was unreasonable, threatening and demeaning. Once our puppy was seized, we had no rights to anything with regard to the care and concern of our puppy. We appealed our case to the Animal Care Review Board, where it was decided that there was no evidence of the puppy being in pain, and that we were given an impossible compliance time. Therefore, there was no basis for the seizure to have occurred.

Further to our appeal, we wrote a letter to the chief inspector of the Ontario SPCA stating our concerns with regard to the investigation and actions of the attending officer. No accountability was acknowledged for the wrongdoing that was done to our family. The way the current system is set up, Ontario SPCA employees can do whatever they feel is in the best interest of the animal, with no accountability for their actions. This ordeal has resulted in serious stress, financially, physically and mentally, to all of my family members. Had Bill 50 been in effect at the time, the situation would have been much worse, as the Ontario SPCA would have had full authority to search the house, in addition to the farm outbuildings and farm property.

Following our letter to the chief inspector of the Ontario SPCA, we followed up our concerns of accountability, or lack thereof, with the Minister of Community Safety and Correctional Services at the time, the Honourable Monte Kwinter. The only reply we received was correspondence acknowledging receipt of our letter and assurance of further correspondence, which never followed. One other individual we know of did receive a response, stating: "The OSPCA is an independently operated charitable organization that plays an important role in protecting animals. The OSPCA Act authorizes the OSPCA to enforce any law in Ontario pertaining to the welfare of animals." From our seizure and further investigation, we have learned that the OSPCA enforces laws through their act and are not accountable to the public in any way.

Less than two years ago, the Ontario SPCA did an excellent job of providing their private organization's position on issues regarding animal welfare on their website. Their position statement read as follows:

"The object of the society, as established by the Ontario SPCA Act ... is to facilitate and provide for the

prevention of cruelty to animals and their protection therefrom. The following animal welfare position statements have evolved over the years as the society reacted to events involving animals and responded to queries concerning the 'society's position.' These animal welfare position statements are the result of extensive queries and correspondence amongst our members' societies, individual members and our staff. They were subjected to extensive debate in committee and by the board of directors. These position statements reflect positions that the society would wish everyone followed, although it is acknowledged that there are activities which are permitted under law, or lack of law, which the Ontario SPCA does not approve. The society's basic premise is that no activity should take place that places any animal in distress. Until a law or regulation is passed that prohibits placing animals in distress, we can only deplore the activity and campaign against such activities but will not take any unlawful act to interfere. However, any activity that involves cruelty to animals will be investigated and appropriate charges will be laid if justified. These position statements reflect the society's goals which it is hoped may be attained in time."

Among the many position statements that would be of great concern to farmers is that the OSPCA does not find acceptable the practices of tattooing, ear tagging, castrating, dehorning, debeaking or even intensive livestock farming practices. This is most disturbing, considering our biosecurity issues today and mad cow disease. A cow is not allowed to leave your property without its ear being tagged.

We do not believe that these statements represent the public at large. Furthermore, these statements can no longer be found on their website.

This private, charitable organization has received over \$7.5 million in funding from the provincial government over the last two years. This being the case, how can government funds be allocated without any oversight from the province? How can this be possible in a free and democratic society—that there is a private organization with its own private agenda which receives government funding, yet is not accountable to the public?

The introduction of Bill 50 brings forth several points of concern with respect to animal welfare and its governance by the Ontario SPCA. The wording of Bill 50 is subjective. For example, what is "adequate," and who makes this decision? Ontario SPCA inspectors attend calls with uniformed police officers. Is this intimidation necessary, and at whose cost is this investigation being carried out?

Of particular concern are the issues of police powers and accountability. The Ontario SPCA is a private organization with its own agenda. An agency like this should not be given police powers, because of bias and conflict of interest with regard to enforcement. Ontario Court Justice Anton Zuraw, with respect to a case in Hamilton in 2006, said that he was troubled by the perception of bias and conflict of interest by the agency. Bill 50 would grant increased opportunities for bias and

conflict in the enforcement of animal welfare laws by the Ontario SPCA.

Under Bill 50, the police powers of the Ontario SPCA would be increased. Furthermore, the Ontario SPCA inspectors would continue to have and exercise any powers of a police officer without any governance or accountability. This would include the right to warrantless entry anywhere except a residence or veterinarian's office. In a country that considers itself a free and democratic society and has a Charter of Rights and Freedoms that includes no unreasonable search and seizure, one cannot have laws that permit warrantless entry and give out warrants on reasonable beliefs rather than actual observations. This is further troubling as documented cases of abuse and breaches of the Charter of Rights by the Ontario SPCA have been brought to the attention of the provincial government as far back as 1989, when the Ontario Federation of Agriculture officially demanded that the province remove Ontario SPCA police powers.

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In 2006, 29 of 36 members of the board of directors of the Ontario SPCA publicly resigned and made the same request to the government. Garnet Lasby, resigned treasurer of the Ontario SPCA, states, "The OSPCA should be involved in welfare of animals and education, not in criminal investigations and prosecutions." There have been many allegations of OSPCA abuse of police powers, which are the result of increased militancy displayed by the investigators and agents.

In conclusion, our family feels that a private charitable organization has no business being given police powers. Before any additional legislation such as Bill 50 can be considered, the Ontario SPCA must be fully transparent and accountable to the public. The Ontario SPCA should concern themselves with public education and welfare of animals, but policy making, enforcement and animal care standards should be left up to an organization that is directly accountable to the public. There is an absolute need for legislatively enshrined public accountability of the Ontario SPCA. Legislation must be changed to hold the Ontario SPCA accountable forever.

Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. About two minutes to each caucus, beginning with the Conservatives.

Mr. Robert Bailey: You mentioned that you went to the tribunal. Someone else brought up in a submission earlier today that there were no written minutes. Did you find that to be the case too? Or is that—

Ms. Anne Probst: Actually, in our case, there were written minutes, and we had to buy them.

Mr. Robert Bailey: Okay. But you were able to see the proceedings and all of the—that helped you with your case, and if you wanted to appeal it.

Ms. Anne Probst: Yes.

Mr. Robert Bailey: Is there an avenue of appeal—I assume that there is—from the tribunal after they've ruled? Is there another level of appeal after that, do you know?

Ms. Anne Probst: We didn't go any further.

Mr. Robert Bailey: You didn't go that route?

Ms. Anne Probst: No.

Mr. Robert Bailey: Okay. Thank you.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, NDP.

Ms. Cheri DiNovo: Thank you very much for your deputation. It's a common theme. We heard many horror stories yesterday about the OSPCA overstepping their bounds and, in fact, to the detriment of the animals and not in favour of animals at all. Clearly, this is an agency that needs accountability, that needs oversight. I've been saying this since the beginning of these hearings, and we'll try to struggle to get that oversight. There are many ways in which we can provide that oversight, so rest assured that I'll do my best, certainly in light of your comments, which were excellent. Thank you.

Ms. Anne Probst: Thank you.

The Acting Chair (Mr. David Zimmer): Dr. Moridi.

Mr. Reza Moridi: Thank you, Ms. Probst, for an excellent presentation. You talked quite a bit about the accountability of the OSPCA. I wonder if you could please elaborate a little bit more on that. How can the OSPCA be more accountable, in your view?

Ms. Anne Probst: In my case, it was found that a wrongdoing was done and it was just left. There was no contact by the SPCA, there was no—I had three police officers at my house at the time that the dog was seized, who stood there helpless as the SPCA investigator stated acts and sections. This is the way it was. That was very disturbing because police officers are there to help protect your rights and your freedoms, and that didn't take place. That was very disturbing to me.

Mr. Reza Moridi: Thank you.

The Acting Chair (Mr. David Zimmer): You have about a minute left, Mr. Levac.

Mr. Dave Levac: Thank you for your deputation and concerns raised about the bill. You brought up a point that's been brought up a couple of times, and I was curious, so I got some clarity on this. You indicated that you were aware that 20—did you say 28 out of 39 members resigned?

Ms. Anne Probst: Twenty-six.

Mr. Dave Levac: Twenty-six out of 39 members resigned. My understanding was that it was about eight people, and specifically, of the other members who did resign, which didn't total 28, it was for a different reason than the one stated, regarding the powers. It was because they wanted the government to give more money to the SPCA.

Ms. Anne Probst: That's not my understanding.

Mr. Dave Levac: Okay. What I will do, for your benefit and for those who have brought this to the table a couple of times, is that I will seek the actual number, seek clarity, and make sure that people have the correct information so that it doesn't become an unspoken truth.

Ms. Anne Probst: Okay, thank you. I have one other brief statement. Could I read it? It's very brief.

The Acting Chair (Mr. David Zimmer): Yes. You didn't use up all of your time, so go ahead. You've got a couple of minutes.

Ms. Anne Probst: I have an excerpt from an Ontario Court of Justice ruling dated April 2005, citation ONCJ 119.

Five years ago this week, the Ontario SPCA seized a small herd of rare-breed Peruvian horses from Cindy Pauliuk, an internationally recognized expert and Peruvian horse historian. The 10 horses, collectively valued at \$100,000, were held for two weeks and returned to Ms. Pauliuk after payment of \$7,662.13.

Six months later, Ms. Pauliuk was charged with one count of animal cruelty under the Criminal Code of Canada. Here are Justice Zuraw's words:

"The defence characterizes the seizure as a 'rush to judgment' by an overzealous SPCA seeking publicity to aid in its canvassing for funds" with "flowery public releases, which included requests for money" and "instant interviews with local media...."

The Ontario SPCA "relies heavily on the publicity it can glean from high profile seizures and charges. Indeed, there is a communications branch tasked with this. It is a not-for-profit organization and a registered charity. Without publicity and high profile charges, the funds the SPCA needs to operate would no doubt dry up...."

"Bearing the foregoing in mind, it would be more than appropriate to have transparent policies and procedures that prohibit bias and conflict; indeed it would appear to be imperative...."

"It goes without saying that a strong and active enforcement of animal cruelty laws must be maintained. But I would be naive to suggest that the current setup could not foster the perception in reasonable, open-minded people, that bias may exist and that conflicts will result...."

"The perception of bias that looms"—

The Acting Chair (Mr. David Zimmer): Excuse me. I do have to stop you because you're beyond your—

Ms. Anne Probst: I have one paragraph. Can I just finish?

The Acting Chair (Mr. David Zimmer): If you hand the document in, we'll distribute it amongst ourselves. But I have to be fair to all of the participants who have to operate within the time frames.

Ms. Anne Probst: I appreciate that. Thank you. Thank you for your time.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to organize your presentation and attending before the committee. If you speak to the clerk, she'll see that we get that document.

Ms. Anne Probst: Okay, thank you.

ELIZABETH HOWLETT

The Acting Chair (Mr. David Zimmer): We'll go to the 3:45 slot now, members, Elizabeth Howlett. Ms. Howlett, you'll have 15 minutes. I will give you a three-minute warning when your time is about to expire. You

may want to leave time at the end of your presentation for questions from the committee members, but that's your choice.

Ms. Elizabeth Howlett: Mine is very general.

The Acting Chair (Mr. David Zimmer): All right. And if you would identify yourself for the Hansard record.

Ms. Elizabeth Howlett: My name is Elizabeth Howlett. I'm pleased to be here today.

By introduction, I'm a hobby farmer, in particular horses; a pet owner of dogs and cats; a hunter; and a concerned citizen based on my lifetime involvement with animals and hunting.

There are several areas of the proposed legislation that I'm concerned about and would like to speak to. There appears to be a conflict with legislation licensing and regulating all forms of hunting, the Fish and Wildlife Conservation Act and regulations. Hunting is a right under the laws of Ontario: the Heritage Hunting and Fishing Act and the Fish and Wildlife Conservation Act. Regulations are comprehensive, and enforcement is by conservation officers appointed by the Ministry of Natural Resources.

Hunting by nature can be perceived to cause distress, a term used in the document, and would attract prohibition in the proposed subsection 11.2(1): "No person shall cause an animal to be in distress." Proposed section 11.2 would appear to exempt hunting. Also, section 11.2 does not apply to native wildlife and fish in prescribed circumstances or conditions. However, section 22 leaves the definition of wildlife and circumstances and conditions to an exercise of the power to regulate under the OSPCA Act, and thus opens conflict with hunting regulations. The obvious correction would be to change the wording to state that this does not apply to wildlife being lawfully hunted in accordance with the provincial laws and regulations. I feel that hunting dogs and hunting raptors should also be exempt, as the intent is to prohibit cockfights and dogfights, not lawful hunting.

1510

The second point I have is the act's intention to confer police powers on inspectors and agents of the OSPCA. I feel that this is unnecessary and is subject to misuse and should be guarded against. Furthermore, the powers granted to the OSPCA should be restricted—

Interruption.

Ms. Elizabeth Howlett: I couldn't find it when I left. I searched my purse. I'm sorry. It's going to stop in a minute. Isn't this embarrassing. There it is.

The powers granted to the OSPCA should be restricted by removing the powers granted in section 11.4 to enter any place without a warrant unless an animal has been observed directly and in immediate distress. It should clearly define the types of establishments that are subject to inspection without evidence of distress to exclude private establishments, including kennels that keep dogs for private use and not for commercial breeding. It should require inspectors and agents to be appointed not by the OSPCA itself, but by the government.

Section 6.1: Remove the amendment that would include inspectors and agents of all other societies affiliated with the society. Require inspectors and agents to be appropriately qualified and trained in animal care as well as law enforcement procedures and policies and to also be subject to background checks to ensure they do not hold secret agendas, including animal rights agendas.

Bill 50 applies to domestic animals and states that native wildlife is excluded. This must be clear and must apply to the OSPCA itself. The OSPCA website clearly condemns hunting of wildlife for sport, which is lawful, regulated and accepted in Ontario. The OSPCA should not interfere with issues that affect native wildlife that are covered by the Ministry of Natural Resources. The OSPCA is a government-funded organization that is mandated to enforce the laws of the province and therefore should support all laws, including the right to hunt and fish. It follows that ministry officials, including inspectors of the OSPCA and their agents, should be carefully screened to ensure they do not adhere to or support specific animal rights agendas.

Government agencies charged with the duty of protecting animals from abuse and neglect should represent the views of society as a whole, including farmers, researchers, hunters and private citizens. Protecting animals is extremely important; however, the pursuit of animal welfare must never supersede the human rights accorded to members of our society under the Charter of Rights and Freedoms.

The other area I would like to comment on, and see that it is definitely excluded, is the use of animals in research, which is regulated by the Animals for Research Act. The Fish and Wildlife Conservation Act exempts medical research using animals. Similarly, the OSPCA Act should specifically exempt medical research using animals.

Those are my comments.

The Acting Chair (Mr. David Zimmer): Three minutes per caucus now, beginning with the NDP.

Ms. Cheri DiNovo: Thank you, Ms. Howlett. Certainly you're not alone. We've heard similar concerns from other deputants. As you've probably just heard me express to the last deputant, one of the concerns is this unregulated body that doesn't seem to be transparent or have necessary oversight. So certainly, we'll be looking into that. Thank you very much for coming out and sharing your concerns with us.

Ms. Elizabeth Howlett: Thank you.

The Acting Chair (Mr. David Zimmer): For the Liberals?

Mr. Mike Colle: Thank you, Ms. Howlett, for your presentation. You said that you're a hunter. What do you hunt, if I may ask?

Ms. Elizabeth Howlett: Fox and coyote.

Mr. Mike Colle: How do you hunt them?

Ms. Elizabeth Howlett: Traditional fox hunting: horses, hounds; the hounds pursue the fox or the coyote in the wild. We're licensed under the Ministry of Natural Resources.

Mr. Mike Colle: Okay, thank you. We had another deputant just before you who said that she was against the exemption for hunting and for medical research; that we had too many exemptions. Now you're saying that these exemptions don't exist. I'm not quite sure—

Ms. Elizabeth Howlett: I feel the two things that need to be very specifically clarified in the amendments are that animals in medical research are governed by a separate act, and this act should—

Mr. Mike Colle: That's in the legislation, where it says that.

Ms. Elizabeth Howlett: All right, so I may—

Mr. Mike Colle: And the act of 1972.

Ms. Elizabeth Howlett: I just want to be sure that's very clear in any of these amendments. The other, of course, is that hunting and fishing is specifically governed under another act and should not be under the auspices of this act.

Mr. Mike Colle: The other thing that you've mentioned, and others have mentioned, is about police powers being granted to OSPCA officers. I think they've had those powers since 1919. Are you saying we should now remove those?

Ms. Elizabeth Howlett: I guess it's unclear to me, and perhaps to others—but to me, police powers to an officer of the OSPCA is a pretty scary thought. They're not trained police officers.

Mr. Mike Colle: They've had it for 90 years.

Ms. Elizabeth Howlett: Have they? I stand to be corrected, but I still find it appalling.

Mr. Mike Colle: There are a number of people in Ontario right now who are engaging in animal fighting.

Ms. Elizabeth Howlett: There are people in animal fighting, of course, which basically the intention of this act is for, and I realize that. We don't want to have cockfights and dogfights and such.

Mr. Mike Colle: I'm just saying in terms of sanctions against that, how would you stop that if you didn't have police powers?

Ms. Elizabeth Howlett: I think that police powers should be in the hands of the police, not in the hands of an officer of the OSPCA who has had no training in police enforcement.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Conservatives.

Mr. Robert Bailey: Thank you for your submission today, Ms. Howlett. I, too, have some concerns—and I'm not as knowledgeable of the act, obviously, as some members, but I know it's a concern that I've heard since I've been here, and before today—about the warrantless entry which may be up for review.

About the police powers, I have family members who are members of different police forces, the OPP being one. I know the extensive training they go into prior to being allowed to do any—upwards of a year or more before you're even allowed to go out and be on your own and do enforcement. So that's certainly something that I know our caucus will be looking at, along with the rest of the committee.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to come to present to this committee.

Is Vicki Henshaw here? Kathleen Lomack?

Committee members, we have one presenter left, then, at 4:45, Mr. Rod Preece. Perhaps Ms. Lomack will show up. We'll adjourn now until—

Mr. Mike Colle: Is Mr. Preece here?

The Acting Chair (Mr. David Zimmer): No, I don't see him.

Mr. Robert Bailey: Mr. Chairman, was this document—

Mr. Mike Colle: That was the add-on she had at the end.

The Acting Chair (Mr. David Zimmer): Yes, from Ms. Probst.

We'll recess until 4:15, and we may end up recessing until 4:45 after that, but for now we're recessed until 4:15. That's an hour, almost.

The committee recessed from 1521 to 1534.

ROD PREECE

The Acting Chair (Mr. David Zimmer): Mr. Rod Preece? Mr. Preece was scheduled to present at 4:45, but he's here early and we've got time. Thank you very much for agreeing to present early. I should say Professor Preece.

Dr. Rod Preece: Ex-Professor Preece.

The Acting Chair (Mr. David Zimmer): You're a retired professor of political science.

Dr. Rod Preece: Emeritus, yes.

The Acting Chair (Mr. David Zimmer): You'll have 15 minutes to present. I'll give you a three-minute warning when your time is about to expire. You may or may not want to leave time at the end of your presentation to take questions from the members, but that's your decision. All right?

Dr. Rod Preece: First, I would like to congratulate the framers of the bill on the production of a progressive and far-sighted document which will vastly improve matters in Ontario. I do, however, have a few reservations about the bill's procedural aspects, and I'm sure you've heard many similar comments during your hearings.

The bill treats the branches and affiliates of the OSPCA as though they were akin. In fact, both historically and presently, branches and affiliates are quite separate entities, with vastly different histories and powers. In short, the affiliates have been independent entities for many decades, and in some instances, well over a century. They are independently financed. They function with their own policies and procedures except in matters pertaining to animal cruelty investigations. The branches, on the other hand, are financed through the OSPCA and must adopt the policies and procedures laid down by the OSPCA. The present bill would effectively obliterate or at least minimize some of these important distinctions.

My primary concern is, as with so many others, section 6 of the bill, which prevents any organization

from using the name “humane society,” “SPCA” etc., unless it is the OSPCA itself or an affiliated society. I recognize the value of encouraging a significant degree of unity among animal protection groups in the province and I welcome the bill’s attempt to address this issue, but in my view the bill goes a little too far.

Were the OSPCA to disaffiliate any presently affiliated society on grounds however valid or on grounds however spurious, it would, by the very act of disaffiliation, deprive the right of the disaffiliated society to use the name under which it has operated for well over a century. That name is essential to the society. It is a name by which it is recognized, supported and funded in its local community, be it Toronto, London, Sarnia, Kitchener-Waterloo or any of the other nine affiliate societies.

Some 20 years ago, when I was a director of the OSPCA and shortly before I became chair of the OSPCA, the OSPCA disaffiliated the Toronto Humane Society. The grounds for the disaffiliation were largely ideological and partly a clash of personalities. Under the present bill, the disaffiliation would automatically have deprived the Toronto Humane Society of a right to operate under the name by which it has been recognized and funded for well over a century. Its very identity would have been threatened, and it would have ceased to be entitled to operate as the Toronto Humane Society as long as the OSPCA so chose.

For many years, the Guelph and the Windsor humane societies chose not to affiliate with the OSPCA. In their belief, their past experience with the OSPCA was one of an attempt to control and dominate them. Under the present bill, these societies, by choosing not to affiliate with the OSPCA, would have lost the right to the name by which they are known in their respective cities. By choosing not to affiliate with the OSPCA, they would have lost the right to the name by which they have been known for many decades. That name not only identifies them, but effectively describes the function they seek to perform. The present bill effectively removes the right to choose independence from the OSPCA.

1540

I would suggest there’s a ready remedy for these, to my mind, deficiencies in the bill. I would propose that two new parts be added to section 6. First, I would suggest a grandfather clause for affiliated societies in existence at the time of the passage of the legislation. Disaffiliation from the OSPCA would then not debar those societies from using their historical names. Secondly, I would suggest there should be a right of appeal from the OSPCA to some independent body in matters of affiliation and disaffiliation, so that the applicant society might not be disaffiliated on illegitimate grounds.

A candidate society should only be subject to rejection if, say, there are grounds to believe the society would disobey the animal welfare act, or would not act in the interest of animals, or it covers territory already covered by another society. A society should only be subject to

disaffiliation if it wilfully contravenes the animal welfare act or acts in a manner harmful to the interests of animals within the parameters of the act.

I’ll leave it there. I’m pleased to answer any questions you may have.

The Acting Chair (Mr. David Zimmer): All right. We have a little more than three minutes per caucus and we’ll start with the Liberal caucus.

Mr. Dave Levac: Thank you very much, Professor. I appreciate very much, first of all, your willingness to be here early and depute early and, second of all, your very sound ideas. So that you’re aware, you were not here when we indicated that there will be some amendments to section 6 to maintain the integrity of the naming in the organizations.

Dr. Rod Preece: Good.

Mr. Dave Levac: There was enough of a discussion across the province that saw the need for clarity on section 6. I liked your amendments, and they’ll be heard by the clerks and the people who take those notes. I appreciate it very much.

One of the things that keeps coming up in terms of section 6 is a power struggle versus a naming struggle. In your opinion, being exposed to the organization the way you have been, is there any sense of detail of some of this power or money struggle that you’re aware of?

Dr. Rod Preece: There has been a struggle ever since I’ve been involved with the OSPCA and local humane societies, which goes back some 30 years. Sometimes they are largely matters of personality, but they are very largely matters of independence. The question is, if money is provided by the province to the OSPCA for animal cruelty investigations, how can one be sure that it will pass on to those—the affiliates, many of which are in fact administering those events.

The struggles, the contests within the humane society, have been very largely ideological: those who think of themselves in terms of animal rights, those who think of themselves in terms of animal welfare. I think they are valid and important distinctions, but I don’t think they have a role in the function of humane societies as such. The ideological debate can go on well outside those parameters.

I don’t see any easy way of attempting to limit them. There are problems. For example, and again this is about some 20 years ago, a society applied for affiliation—it was a time that I was chair of the OSPCA—which consisted almost entirely of trappers, and of course, trapping is legal. I’m not sure which civil service position he held, but a person of considerable force in the administration at that time tried to persuade us very strongly to accept their affiliation simply on the grounds that what they were doing was legal. I accept the force of that argument. I still was very loath to allow a society consisting of trappers to affiliate with the OSPCA. Nonetheless there is a lot to be said that, provided that activities are lawful within prevailing acts, they should be entitled to do so provided that they do not have an overlap in their jurisdiction with other societies. Ideologically, obviously people with a

real concern for animal welfare are not likely to accept those kinds of things.

Twenty years ago, the Toronto Humane Society was a very radical society with a radical board proposing very radical things. The OSPCA at that time was a very welfare-oriented society and eventually disaffiliated the Toronto Humane Society on grounds that were not to do with law but had almost entirely to do with total disagreement about relative merits of the positions they espoused. For that reason, I think it important that a board such as the animal welfare committee be something that can be appealed to in questions either of affiliation or disaffiliation, and that the grounds on which affiliation might be rejected or disaffiliation might be enjoined should be spelled out very clearly so that it cannot simply be a matter of the whim of the OSPCA.

Mr. Dave Levac: Thank you.

The Acting Chair (Mr. David Zimmer): We'll move to the Conservatives now.

Mr. Robert Bailey: Thank you, Dr. Preece, for your presentation today. I have no further questions. I enjoyed your presentation very much, and the information on the history of the associations, for someone new like me, was very informative. Thank you.

Dr. Rod Preece: Thank you.

The Acting Chair (Mr. David Zimmer): And to the NDP.

Ms. Cheri DiNovo: Thank you, Professor Preece, for your deputation today. I've received probably hundreds of e-mails asking that section 6 be removed in its entirety. You're suggesting a grandfather clause. Is there a reason why you would add to section 6, in a sense, instead of deleting it?

Dr. Rod Preece: The two things I want to add I think are both very important. First, I think the committee is very wise to attempt to create some unity in the province and to prevent some society calling itself a humane society, appealing for funds as a humane society, when in fact it has very little to do with being a humane society. I certainly don't object to there being lots of such groups around which are not humane societies and which do very useful work, but I don't think they should be entitled to the name "humane society." For that reason, a grandfather clause would ensure that all the present affiliated societies with those names will be protected.

Ms. Cheri DiNovo: Thank you very much for that.

The Acting Chair (Mr. David Zimmer): Thank you very much for presenting to the committee and for agreeing to go early.

1550

KATHLEEN LOMACK

The Acting Chair (Mr. David Zimmer): I'll call on Kathleen Lomack. Ms. Lomack is in the 4:15 slot, members. Ms. Lomack, the process is that you will have 15 minutes for your presentation. I'll give you a three-minute warning when your time is about to expire. You may wish to leave time at the end of your submission for

questions from the committee, but that's your decision. And if you'll identify yourself for the record.

Ms. Kathleen Lomack: My name is Kathleen Lomack. I live here in London, Ontario. I'm not affiliated with any groups. I'm just a concerned citizen here today.

I am so pleased to be selected to make a presentation to you, the Standing Committee on Justice Policy, especially given that this is such an important piece of legislation that has been so long overdue. I am thrilled to see that no one has turned this into a partisan issue, but rather one of looking to finally make things right with respect to the way animals are treated in the province.

My first response to what I had read about Bill 50 was one of unabashed enthusiasm and commendation for all those behind the initiative. In reading the preamble for this bill, I could not agree more with each and every one of the sentences. The thought that after 89 years, this province would soon have a bill in place that should prove to bring Ontario in line with other jurisdictions in Canada with respect to the subject of appropriate animal welfare policy was warming to myself and others within my community, to say the least. The untold animal suffering that has taken place while we have waited almost 90 years for this progressive legislative change to come to fruition will never be explainable or excusable, and to this end, it is so far beyond the time to move forward without further delay.

First off, if I may, I would like to speak to the topic of the new inspection powers. Sanctioning the OSPCA with the authority to inspect premises other than homes when there are reasonable grounds to suspect abuse is a significant stride in the right direction for a society that purports itself to be a caring one towards animals. It is unfathomable to believe that anything less than the ability for the OSPCA to enter a premises, other than a home, without a warrant would be contemplated in the context of amending legislation connected to the lives of animals, and I am pleased that this clarification has been added. I would not expect that there would be any instances where this authority would be abused and hope that there is no one who will suggest that this would be a concern of theirs.

The move to permit the seizure of the remains of dead animals where there is suspicion that something beyond natural causes has contributed to the death of the animal and further investigation is required makes perfect sense and is appreciated by the animal advocacy community.

The further expansion of the authority to remove and retain an animal when charges have been laid and there is cause to believe harm may come to the animal establishes a degree of cautionary protection that has not been afforded to these innocent creatures ever before in Ontario.

I would also like to comment on the language that speaks to the new provincial offences planned to be created for animal cruelty allegations. This is long overdue and it would be my expectation that at some point in time others will look back in history and wonder as to how we survived without this sort of legal

framework for so many years. Each and every one of the newly created provincial offences listed in the literature provided will be appreciated by those in the business of prosecution and enforcement of offences against animals. The changes stipulated in the new Provincial Animal Welfare Act, 2008, with respect to the fines that can be levied against those charged with animal abuse are definitely a step in the right direction. I am hopeful that as time passes, judges will gravitate toward handing out what I believe our society accepts as appropriate fines for abusive actions.

I must also say that I appreciate the clarity in the definition of the word “distress” as it relates to the issue of animal welfare in the context of this piece of legislation. I should hope that having clear definitions such as this, rather than ambiguous ones, will be helpful for many who are covered under this bill. It would be my expectation that the hunting and angling community would have no issue with this rational definition, and providing anything other than what has been expressed would be a step backwards. I can’t say that I am completely in favour of some of the exceptions mentioned to apply to wildlife and agriculture, but I do understand that this amendment is a significant leap forward.

I would, however, like to speak to a few of the problems that exist in the province with respect to animal care that are not encompassed in the amendments. Bill 50 seems to only partially address some of the abuse that I have witnessed in these facilities commonly referred to as roadside zoos. The tools given to the officers in charge of enforcement are a big improvement when there is obvious suffering. However, what I am concerned about—and I believe that this concern is shared across the province—is that relatively little, if anything, is being contemplated that will serve to proactively prevent animal abuse in the first place. If something could be incorporated during the development of Bill 50 to address this concern, this would be the most efficient and appropriate way to deal with this problem. If I may, I would like to put to you a few suggestions.

A provincial requirement for all individuals or businesses that own, display or keep wild animals in captivity to be licensed would be a major step in the right direction. We have had so many problems in this city and area over the years that can be attributed to inappropriate or unqualified owners of these facilities and ineffective or non-existent bylaws. This has proven to be an international embarrassment to the city of London, and this recommendation, should you choose to act on it, should serve to militate against this problem in the future. This licensing could fall under the Ministry of Community Safety and Correctional Services in the interests of keeping efficiency in mind. It is unbelievable that no licence is required for this sort of a business today, given the risks to the public and the concern for proper and appropriate care for the animals.

The prerequisites for the zoo licence would be in compliance with this non-exhaustive list of requirements:

- submission of a detailed business plan;
- information about the design of the facility;

- the species to be kept;
- details indicating the design and construction of the enclosures;
- outline of the animal management practices;
- how important duties would be assigned to staff and an indication of their workload;
- details regarding the safety features to protect staff, visitors and neighbours;
- the formal training credentials of the keepers and custodians needed to be available and posted. The requirement would be for each of the specific species categories that they were to be in charge of;
- approved funding plan for a minimum of five years, with designated timelines for plan updates;
- liability insurance, which must be in place for up to \$7 million. This must be proven in order to renew a licence;
- emergency plan for the dispersal of animals in the event of a failure of the operation; and
- commitments to care of the animals within the standards that we should hope will be developed for the industry.

My hope and expectation would be that when the Ministry of Community Safety and Correctional Services sets out to enact policy, should you agree that this should fall within their jurisdiction, they will turn to one of the models that have been suggested by others in the zoo animal advocacy realm, such as Zoocheck.

In the interests of public safety, I would hope that, through consultation with those connected to the animal advocacy groups, clear regulations, standards and measures could be put into place to protect all those who would come in contact with wild animals.

It is my understanding that when polls have been taken on the subject of licensing for those who are in charge of captive animals, the public has been overwhelmingly supportive of the concept. I am of the belief that incorporating provisions such as I am suggesting would constitute appropriate due diligence, given the increased level of safety that would flow out of such a requirement against the backdrop of what we know at this point in time can happen when things go awry in some of these facilities.

I fully look forward to observing you all as you do your important committee work on this bill, and if there is anything I can do to help, please feel free to contact me. I believe that what you are doing will be—and is being—supported by the larger community, and as such, I am confident that we will see this bill move through the final reading with an expediency that we are not accustomed to witnessing.

Thanks so much for your time, from myself and all of the voiceless animals that I feel I represent.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per caucus, beginning with the Conservatives.

Mr. Robert Bailey: Thank you for your presentation today, Ms. Lomack. You talked about the roadside zoos and the insurance issue. Is that an item where you feel

that there has not been enough thought in the past, as far as the insurance and liability issues?

Ms. Kathleen Lomack: Yes, I do. There are so many incidents where people have been attacked by the animals when they haven't been in adequate cages that are safe enough for the visitors and the animals themselves. Yes, I feel strongly about that.

Mr. Robert Bailey: Thank you. That's all.

Ms. Cheri DiNovo: Thank you for your concern and the work that you're doing here even just in deputing. Thank you for that.

Just to be very clear, our concerns from the NDP about this bill are to strengthen it in terms of animal welfare. One of those concerns you just heard us addressing around section 6 was really a turf warfare section and had nothing to do with animal rights.

The other is in terms of the enforcement of animal rights. The concern there is that animal rights be protected from OSPCA officers, if necessary, so that there be some kind of appeal process, an oversight process of what OSPCA officers do. Those are our major concerns and that's how we're moving forward. We've heard some other elements, too, that should be looked at. Again, you mentioned a few of those. So thank you for deputing.

Ms. Kathleen Lomack: You're welcome.

Mr. Mike Colle: Thank you very much for the heartfelt presentation. It has been 90 years and, over the last two days, there have been a lot of people attacking the SPCA, attacking inspectors and saying that their powers of policing should be removed from them; they've had that for 90 years. We've heard people say that the right for inspectors to go, without warrant, in special circumstances with animals should not be there.

So still, there are a lot of people who want to weaken this bill. I think you are prudent to understand that we have a fight ahead of us. There's all kinds of scare-mongering about a threat to agriculture, a threat to fishing and a threat to hunting. This is about better animal welfare. We've waited 90 years; it's about time. I'm glad that you have the commitment and the intelligence to give us some guidance. Thank you so much.

Ms. Kathleen Lomack: You're welcome.

The Acting Chair (Mr. David Zimmer): Thank you very much for presenting to this committee today.

Just one last call: Hamilton Hunt? Vicki Henshaw?

This committee is adjourned until tomorrow at 9:15. Thank you.

The committee adjourned at 1602.

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