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**Official Report
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(Hansard)**

Thursday 24 July 2008

**Journal
des débats
(Hansard)**

Jeudi 24 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

Président : Lorenzo Berardinetti
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
JUSTICE POLICY**

**COMITÉ PERMANENT
DE LA JUSTICE**

Thursday 24 July 2008

Jeudi 24 juillet 2008

The committee met at 0858 in the Ottawa Marriott Hotel, Ottawa.

**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.

**GLENGARRY LANDOWNERS'
ASSOCIATION**

The Acting Chair (Mr. David Zimmer): Good morning, everybody. Welcome to the Standing Committee on Justice Policy hearings on Bill 50. The 9 o'clock slot: the Glengarry Landowners' Association, Ian Cumming. Come forward.

Mr. Cumming, you will have 20 minutes to present. As you approach the five-minute mark, I'll give you a warning that you've got five minutes left. You may or may not wish to leave time for questions from the committee members, but that's your decision.

Mr. Ian Cumming: I'm the furthest from a politician that you ever saw, so there will be a lot of time for questions.

The Acting Chair (Mr. David Zimmer): All right. Please introduce yourself for the record, then we'll get started.

Mr. Ian Cumming: My name is Ian Cumming. I'm president of the Glengarry landowners, the historic county near here. I'm also a full-time dairy farmer. The oldest house in Ontario was built by my ancestors. I'm also, in the interest of full disclosure, a columnist-journalist with the Ontario Farmer, which is the largest farm paper in Ontario, out of London, but that's not why I'm here today. Surveys show that I'm probably their best-read columnist; I have a Don Cherry rant of 750 words every week.

Last fall, in a hotel meeting room here in Ottawa, a couple of hundred people from around the world gathered for an international farm animal welfare conference. There were respected animal welfare scientists, many whom I knew because my wife, Dr. Alison Taylor,

has a Ph.D. in animal welfare, has taught at the University of Guelph and has worked for Agriculture Canada in its fine research. She now works for the University of Guelph at home, in a research capacity. There were others representing groups on the extreme animal rights fringe, many government and industry officials, and a small group of actual farmers that you could count on one hand, out of the 200. Interestingly, over the two-day event of speaker after speaker on farm animal welfare, not one actual farmer from Canada or anywhere in the world was asked to speak. Others already knew, apparently, what should be done about farm animal welfare, just as it appears that the drafters of this OSPCA Bill 50 knew what was best without farmer input.

I'm not going to go over the points of law on this. I'm sure you've heard that from many people, and I've done that in articles in the Ontario Farmer. I think what I want to give to you is a sense of people who live on the gravel roads, on the back roads, and the inherent fears of and unfairness of what is being proposed here. Even the fact that these hearings were held during haying and when the wheat is being combined, and the fall conference last year was held when corn and beans were being taken off—perhaps none of that was deliberate, but it does show the isolation and ignorance and irrelevance held of farmers.

One of the most disconcerting speeches of that conference last fall was given by Hugh Coghill in his capacity as head of enforcement for the OSPCA. The whole conference was videotaped, so I urge you to obtain a copy of the conference, and especially Coghill's speech, to verify what I'm about to tell you and which I reported at the time in the Ontario Farmer.

In speaking to that audience last fall, many who held modern agriculture in arrogant contempt, some having outright hatred, and all being somewhat or totally ignorant of farming, Coghill got peals of laughter when he said in his speech that he would like to take a farmer, shove him in a pig crate in the back of a pickup truck and take him for a ride. Bear in mind that this is who you're giving increased powers to.

My reporting of that statement made in front of 200 people was printed the next week in Ontario Farmer and was rebutted in print soon after by Coghill, who did not say he didn't say that but said my reporting of it was taken out of context and so people should not believe what I wrote. I simply urge each and every one of you to

watch the entire video of his speech and decide for yourself in what context it was said.

Urban society, apparently, does not share my outrage or fear as a farmer. As my editor noted at the time, it would have been a firing offence at the least, with legal repercussions at the most, if that had been said about anyone else other than farmers. Think about if a policeman had said that about a certain ethnic group, like my daughter whom we've adopted from China, or my little daughter whom we're about to adopt from Ethiopia—if someone used the N-word? And when some of you yell at Randy Hillier in the Legislature that he's a hick, that's the same as insulting an ethnic group to me, because that's who we are. In the deepest feeling people have, Bill 50 was drafted by decent people with the same inherent prejudice against agriculture as southern people drafted Jim Crow laws: You do not understand, you think you know what is best, and there's that inherent smugness.

Livestock farms are where the action is for the OSPCA. They tell their enforcement employees that, which is why a long-time respected farmer and mayor, Carl Noble, who sat on the provincial OSPCA board, quit, when he saw the animal rights attitude prevail over the legitimate animal welfare issue. The fact that inspectors wanted and got bulletproof vests and handcuffs troubled him.

Look at the dramatic rise in on-farm visits, in conjunction with the dramatic increase in provincial funding, while the number of livestock farms plummeted. Over 37,000 dairy farms existed in Ontario when I went to high school; today there are 4,000, yet we have way, way more inspectors. The county agriculture offices are closed, I understand, with rural funding now going to conservation authorities and OSPCA buildings, with those employees having to justify their existence.

Today, on my farms there are 185 head of dairy cattle, about 200 head of sheep, and in my wife's domain—these really make money—20 goats, three donkeys, one ox, seven pigs, five rabbits, four guinea pigs, four finches, five cats, two dogs and two llamas—and oh yes, two geese, eight ducks, seven hens, and one guinea hen.

Chances are pretty good you'll find a cow with a mild limp; there was one last night going through the milking parlour. There's a pig receiving medical treatment this week, while a breeding ram has developed pink eye. One of the cats ate nine baby ducklings, and coyotes bother the sheep. My son and I shot 45 coyotes last winter. Under these regulations as written, these suffering animals, plus the wild barn cats not under my wife's domain, whose sole purpose is to keep the rats down, or the guard dog living with the sheep that's trained to kill coyotes, can result in charges against me and my family. Yet semi-wild dogs and cats on a farm, which serve an economic purpose to keep them that way, can result in charges against farmers for keeping them like that, as they have for generations. You might snort in derision and say, "No, charges will not be laid in these instances," yet documented cases, which the press has covered, show

that that's exactly what's happening, and will occur even more with these regulations.

In western Ontario, a sobbing lady once called me because an inspector had seized their pet dog, with the police in tow, which had hurt its leg about an hour before in an accident. The farming couple had gone down to the clinic. They wanted \$1,600 to fix the leg, but the border was closed. They had a beef farm and they had no money, and so they were sitting there holding it in their arms and waiting for their own on-farm vet to arrive to give them a second opinion.

The same inspector also invaded privacy under the charter—so a court determined—with no one home, searching out a pony in the back of a barn that had long hooves that needed trimming. She laid charges. Do you charge parents because their kids' toenails are too long? Yet under these new regulations, that court-determined charter violation of searching a premises without permission is now legal for OSPCA inspectors to do.

When people used to call me like that, I would tell them to go to the animal review board, and everyone who had called had had animals seized, but under these new regulations, the animal review board, which had twice ruled against this inspector and provided some semblance of justice, will now be redundant when the animal has been merely seized. Are the police never wrong, so that they are not subject to justice? If that's a crock, then why are OSPCA inspectors and agents not subject to the same process?

There was a horse seized recently on Manitoulin Island last week because there were burrs in its mane. There was a lame cow near Ottawa, in Phil McNeely's riding, given antibiotics and then put in the small front pasture so that she could recuperate on the comfort of soft ground versus cement, and then the farmer went to the field to make hay. The cow—yes, in pain, but treated and certain to recover, as we would from a sprained ankle, over a week or two—was shot that afternoon by an OSPCA inspector and the farmer charged. The inspector had left a note on the milk bulk tank that morning instructing the farmer to treat the cow—is there an instant cure for lameness in cows or humans?—but he never saw it, being in the field all day.

My brother's children's horse came up with a mild limp, was treated and then put out into the front pasture to recuperate. The OSPCA inspector came roaring up his driveway, and he narrowly escaped charges and the horse being seized, locating the vet just before he went on holiday to verify, with documentation, that he had been there to treat the horse.

This legislation also enables the OSPCA to now stop and seize trucks. It states it specifically. So the next time that a renowned cattle dealer like Frank McMahon buys cattle from me for the US, any OSPCA inspector can, under this law, seize the truck and cattle before they hit the border. Have any of you ridden in a cattle truck? The heat, the bumps, the profound weight loss after only 100 miles? That would be illegal under this legislation. They can now sit at any county fair, cattle dealers' yard or sale

barn and lay charges. You have expanded the scope of law to allow that. If not, then specify it.

I auctioned at a high-class dairy cattle auction in Phil McNeely's riding last Saturday. A buyer from Illinois spent \$23,500 for two head and another from Oklahoma spent \$20,000 for two. We are finally making money again with an open border since November; why in blazes would you pass legislation to stop that? Just how profoundly ignorant about farm economic reality are you? The difference between doing that auction and going, "\$9,000 and \$9,500 and \$10,000 and \$10,500" and just rolling, versus, "Give me \$1,500 and a quarter now"—and maybe she'd go for \$1,600. That's the difference between a closed border and allowing a free flow of animals, and now you want to stop that.

It's not always nice what we do to livestock, so get used to it. Trucking to Oklahoma and Illinois is hard on animals. When your food safety inspectors shut down a slaughter facility in western Ontario a few years ago because of alleged bad meat, which turned out to be totally false, a famous CBC reporter drove into Johnny Walker's yard—the biggest dairy farm, cattle export and poultry producer in Canada. He's in Steve Peters's riding.

0910

The sweet reporter in breathless voice waited for the camera to roll and repeated the alleged abuses that had occurred in the slaughter facility down the road and asked Johnny what he thought about the owner, Butch Clare—a great man, tough as nails, who, incidentally, you financially ruined with no proof.

"Well," Johnny drawled—and excuse this statement, but it's what he said—"you don't hire a nun to run a whorehouse." The camera was lowered; the shocked reporter left. But Johnny was right: The idealism of slaughtering livestock didn't square with the reality.

As a result of what has happened and will happen with this legislation, the cozy little front corral on my farm now sits empty. Cars used to slow and stop so their kids could watch a cow calve and then the calf wobble onto its legs. A sick or injured animal that needed the soft ground and isolation from competing animals at the feed bunk to fully recover also used to be in there—no more. On my farm, indeed now on nearly all farms, they stay inside on the cement, out of sight of those, even on the gravel concessions, who do not understand and so will report to those who will gladly lay charges with the joy of a zealot—and they can report and be anonymous and not have to face the music if they've been wrong.

The ironic thing, folks: Just as we spent five-figure money on high hoes and bulldozers to level our bush and every scenic tree on the farm this spring to not be caught under your new Species at Risk Act, farm animal welfare is worse off because of the abusive powers of this law than without it.

When you give expanded powers to someone who on the record states he would like to stuff a farmer into a pig crate and take him for a ride, you can be assured that

farmers will fight back with a vengeance that will not be pretty to see, and fight we will. Thank you.

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

Mr. Robert W. Runciman: I apologize for being a little bit late. I got caught in a traffic jam, which I should have predicted.

I represent a riding that has a large rural component and I very much appreciate the concerns you've put on the record today. I didn't notice in your presentation about warrantless entry, and that's certainly a significant concern as well. I know in the rural part of this province—and this has been a concern for many, many years prior to the introduction of this legislation—the zealotry, if I can use this word, of some inspectors in terms of the way they've approached rural Ontario. This puts another tool in the tool kit that I think raises a real concern.

I introduced private member's legislation a year or two ago about coming in with tougher penalties in terms of dealing with household pets—cats and dogs, essentially—and I alerted the Minister of Community Safety at the time that prior to putting your toe into this water, you have to ensure that you should be conducting extensive consultations with those in rural Ontario, because I know the concerns that have been out there for so many years and the lack of understanding and appreciation of the challenges that we face in the farming community. I'd just like to hear your comments with respect to the enhanced ability with respect to lack of a warrant to enter property; that should be a major concern of all Ontarians.

Mr. Ian Cumming: It is, and I think I referred to it in that—before, when there was an Animal Care Review Board and court cases against a certain inspector who had gone on and, against the charter, had invaded privacy. I remember writing about the court case, and she was legitimately charged and so on and suffered the consequences. Then you notice in the revised version, this new version, that they did enhance that she would have that right to go behind that barn and look for that horse and so on and so forth if she suspected. Of course she suspects, because he or she has been called to go there.

If we hadn't suffered this on a number of occasions and having to take actions—the landowner movement would not have even begun if this wasn't happening. And it's so hard: well-intentioned, urban people and the perception—if you were here for the beginning, my wife comes from a totally different world than I that understands this other part and the way we have—so farmers just take their own steps to combat it. We keep our cattle hidden behind the walls. Pasturing's supposed to be the best thing you can do; I doubt if 2% of dairy farmers pasture any more, because somebody can drive by now and say, "Oh, there's a limping cow."

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

Ms. Cheri DiNovo: Thank you, Mr. Cumming, for deputing before us this morning. I just wanted to ask a

couple of questions. The government has said in drafting this bill, and I'm sure you've read it, that the animal review board would still be there ruling. You've said that—

Mr. Ian Cumming: Not if an animal has been seized. Everyone in the past who had called me—as a journalist, they look for someone to call—their animals had been seized. So if an inspector has seized an animal—you can read it; it's there in black and white—then you are not subject to going in front of the Animal Care Review Board. Well, if your animal hasn't been seized, there's no damned reason to go in front of the Animal Care Review Board.

Ms. Cheri DiNovo: Okay. I will certainly reread that section. It's not my understanding, but I will reread it.

The other thing the government would say is that there is an exemption for farm animals in Bill 50. Accepted farm practices would be exempt from this bill. You obviously aren't happy with that.

Mr. Ian Cumming: Tell that to the guy who's got a criminal charge against him in Phil McNeely's riding who had his cow shot. Tell that to my brother, who, if he hadn't caught the vet who was just ready to leave to go on an airplane, would have also had a charge against him. I can line up those who had charges against them from me to that door, because what are considered normal farm practices to me are not considered normal.

If you put in the definition of abuse or suffering, and someone—if I truck a cow from here to Oklahoma, my God, she's going to be in bad shape when she gets out the other way, and one's on its way now. But the point I'm trying to make is that I accept that; I know that. An inspector who comes from the animal rights world rather than—I mean, ask these ones behind me today how many cows they've milked. Ask them the difference between a beef cow and a cow for beef. Ask them to list the six dairy breeds that exist in Canada. They know nothing—nothing—and it's frightening.

Ms. Cheri DiNovo: The other thing we've heard—I'm just asking for them; I'm not saying I agree with these things, I'm just asking you for your comment upon them—is that not all farmers object to Bill 50, that there is a significant number of farmers who would welcome inspection, for example, of their—

Mr. Ian Cumming: Name one, name two. I would like to know.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Liberals. Mr. Levac, you've got two minutes.

Mr. Dave Levac: Thank you for your presentation, sir. The purpose of these committees is to hear those stories, to hear those concerns and issues. Up to this point, from your presentation, I gather that the present situation is what's not acceptable, and that with the introduction of Bill 50, you believe that it'll be even worse.

Mr. Ian Cumming: Well, my Momma taught me how to read the English language, and what you put in there is worse.

Mr. Dave Levac: Okay. Are you aware that the ministry consulted with the Ontario Federation of Agriculture and the Ontario Farm Animal Council?

Mr. Ian Cumming: Exactly. I interviewed Kelly Daynard, and she listed all the concerns. I did an article on her and interviewed her for the Ontario Farmer, last week or the week before last—I forget which—and she listed all the same concerns, which she does more politely, I guess, than what I've brought out: warrantless entry and things not verified.

You can look at me and be reasonable, and everybody here can be reasonable. Phil McNeely knows agriculture, except for pig farming; he gets a little excited about that. The point is that we can agree on what's reasonable here today, but it's these people behind whom you've given this broad scope to to make the definition. You've given them real powers that are—

Mr. Dave Levac: When you talk about seizure, my understanding is, and I will look into it as well, that the Animal Care Review Board does do those cases and has had appeals with people who have had their animals seized.

Mr. Ian Cumming: Exactly. But, once again, knowing how to read the English language, read your legislation. It says in there in specifically that that is now redundant if an animal has been seized.

Mr. Dave Levac: The review is redundant?

Mr. Ian Cumming: Redundant if an animal has been seized.

Mr. Dave Levac: We'll look into that, absolutely.

Mr. Ian Cumming: Well, it's there, in the English language. Does somebody have a copy?

The Acting Chair (Mr. David Zimmer): On that note, we've used up the 20 minutes. Thank you very much for attending before the committee, organizing your presentation and sharing your thoughts with us on this issue.

Mr. Ian Cumming: Thank you very much.

Mr. Lou Rinaldi: Chair, on a point of order: I noticed this morning—and maybe I should've noticed before, but just for an explanation—that we have 20-minute presentations today. All other presentations were 15 minutes. I'm just wondering if we could have some type of—for the public.

0920

The Acting Chair (Mr. David Zimmer): The sub-committee report said that if we had a certain threshold of people, we'd lower it to 15, and if we had more time, we'd increase it to 20. We have more time; it's been increased to 20 for today only.

Mr. Lou Rinaldi: Obviously I wasn't paying attention. Thank you.

PETER BENNISON

LYNNE BOWKER

The Acting Chair (Mr. David Zimmer): Peter Bennison and Lynne Bowker? Come forward and have a seat up here. You have 20 minutes for your presentation.

I'll give you a five-minute warning as you approach the end of the 20. You may wish to leave time for questions from this committee, but that's your decision. Would you introduce yourself for the record, please?

Mr. Peter Bennison: Certainly. I'll go first: My name is Peter Bennison. I'm appearing as a private citizen. I don't have any affiliation with any organization or journalistic set-up.

The Acting Chair (Mr. David Zimmer): And would you introduce yourself?

Ms. Lynne Bowker: I'm Lynne Bowker. I'm Peter's wife, and I'm a tenured associate professor at the University of Ottawa, although I'm not here representing them today. I'm here also as a private citizen.

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

Mr. Peter Bennison: Thank you for letting us speak today. I just want to outline where we're coming from. Back in the spring, Bill S-203 at the federal level passed third reading. We felt that it was sort of a poor substitute for the amendments to the federal Criminal Code to actually represent the interests of animals. We had tried to organize a letter-writing campaign to the various MPs, the Senate and the House of Commons. We got some responses back—some thoughtful, some not—and a lot of non-responses. I felt, and I believe we felt, that we'd like to engage the process a little more. So when we saw on the CPAC channel that Bill 50 was having committee hearings this summer, we registered. We hope that the outcome of our submission today will be a little more effective in helping the legislation reach a final state that's suitable for everyone's interests in Ontario.

To begin with, I just want to go through the bill. You can see the points I have in front of you there. After reading the bill and trying to understand the issues around animal welfare, I feel that I have a few comments that are valid and worthy of record.

Point 1 states that I think that this is a good bill. It defines animal distress and it sets the maximum penalties correctly. My slight concern is that subsections 11.1(1) and 11.2(1) may be a little too broad—and perhaps the previous speaker might have been speaking to that. I'm not a legal expert, but maybe adding an extra dimension around wilful acts or negligence explicitly might help with allaying some of the concerns of certain communities.

The prohibition on animal fighting I think is bang on. I'm quite pleased with that. It's well written, and unfortunately it's very germane to the current state of society, so I'm pleased that's there. Especially, the banning on equipment is also a very insightful element.

The provision on ownership restrictions, up to a lifetime ban: That's very explicit. I think that will be a very useful tool.

On to point 4: I don't want to set up as a counterpoint to Mr. Cumming, but I think, as I read it, the bill does exclude specifically the distressed animal in animal husbandry and agriculture. Even the previous speaker indicated that commercial agriculture can cause distress

to these animals. It's too complex to deal with in this legislation, so for the purposes of trying to pass it, this is a wise exclusion.

The exception to wildlife I'm less happy about, mainly because of a fairly specific circumstance which maybe can be dealt with, which is that it creates a loophole so that if someone wantonly tortures a raccoon, say, or wildlife—the way I understand it, it seems like that could be excluded simply because the animal is something that's wildlife and not a domestic pet or something.

But saying all that, I recognize that I'm part of a broader community. Agriculture is obviously an important element of the Ontario economy; so is hunting and fishing, for not only members of Ontario but also First Nations. Out of respect for those fellow citizens, I agree with this exclusion, but I ask the committee to consider adding an additional clause around wanton torture of wildlife, just to clarify.

My last specific point is around the issuing of warrants. Again, being no expert, I think it seems to clarify the issue of when warrants are issued, when they can be issued over telewarrants, and when they are done when the animal's in immediate danger. I suppose, in any sort of non-codified legislative set-up where law is written and the interpretation of it is held to judges and justices of the peace, this is something that will have to evolve over time in terms of what's accepted as best practice in animal husbandry from a legal perspective. I think the system needs to be let to run its course. If the excesses that have been identified before the committee this morning are true, then it's really up to the justice system to establish that body of case law that indicates, "Hey, it is not right to do this." Unfortunately, that's something that has to evolve over time, like any legislation.

In conclusion, I think it represents an important step in updating legislation to reflect prevailing attitudes of many Ontarians. In my limited experience, when we've been socializing and talking amongst our friends and colleagues, many people we talk to are surprised that a lot of these provisions weren't already enforced. So I think this shows that this is more of a lagging adjustment than a leading one, and is therefore quite suitable for consideration.

Ms. Lynne Bowker: Hi. I just wanted to add a few comments to those made by Peter. First of all, thank you for giving us the opportunity to address the committee on the subject of animal welfare legislation and, specifically, on Bill 50. As I mentioned, I'm here today in my capacity as a citizen of Ontario and also as a concerned parent of two young children.

I'm becoming increasingly distressed by the attitude of indifference to animal suffering and abuse that I think is on the rise in our society. Something that the previous speaker said stayed with me. I realize that he was talking in the context of agriculture, farm animals and livestock, but he said something to the effect of—and I'm paraphrasing because I don't have his exact words—the way we treat animals isn't nice, so get used to it.

I think there's been a little bit too much of "getting used to" the way that we treat animals in our society. I do

think that there's a big difference between accepted animal husbandry practices and things like dragging a dog behind a car; putting a cat in a microwave; weighting a dog down with barbells and throwing him into a river; throwing a cat from a moving car; lighting a dog on fire; beating a cat to death with a tire iron; starving a horse; throwing a puppy against a wall; and, something that happened here in Ottawa not too long ago, tying a dog in the stairwell of an apartment building and leaving it to starve to death over a period of weeks. These are all things that have happened—not all in Ontario, but all in Canada—over the past couple of years, things that have been reported on the news. They're not isolated incidents anymore. I think we'd like to believe that they were isolated incidents, but they're not. It's just becoming part of our culture of indifference.

I think that this is not a place that I'm proud to live in when I see that this legislation hasn't been updated for almost 100 years in any substantial way. I think it's well beyond time that we get to that. So I'm extremely pleased that the committee is reviewing Bill 50 with a view to updating these laws, and I think it's very welcome.

In my opinion, Bill 50 has a lot of strengths to it. Some of the provisions that I was very happy to see include the provisions to outlaw animal fighting and the training of animals to fight. I'm happy to see a significant increase in penalties for people who do break the laws. I was also happy to see that veterinarians are now required to report suspected cases of abuse, although I do think probably some guidelines or clarifications as to what could constitute abuse might be welcomed by the veterinary community. I'm happy with those changes, and I hope the committee would retain those items, but I do think there are some problem areas in the proposed bill that warrant further examination and modification by the committee.

0930

One of the areas that concerned me—and I'm not a lawyer, I'm not a legal expert, so this is just an average person reading the bill and my interpretation of it—was section 6, which restricts the use of terms such as “humane society” and “society for the prevention of cruelty to animals.” I question whether it's really under the mandate of the provincial government to legislate the use of such a name. I'm not really sure that this is appropriate, and I don't see how this is really relevant to the greater purpose of the bill, which is the protection of animals and the prevention of cruelty. So I would really strongly urge the committee to rethink section 6 and whether that really needs to be there in order to move this legislation forward.

Another concern that I have is that while I'm quite in favour of giving additional powers to animal inspectors, because I think at the moment they really don't have the power that they need to enforce and prevent some of these situations, I do think that we need to be careful. When you give power, you also need to have some controls in place. I think that might be one thing that's missing and something that could possibly be given

greater consideration: to have some kind of overseer for the SPCA so that there's a check in place so that they don't get out of control with power—not insinuating that they would, but to prevent that possibility.

Another concern that I have is that if the inspectors are given greater power, presumably they will be carrying out more inspections, presumably they will be attempting to enforce these laws, but since most of these organizations run on donations from private citizens, I'm wondering how these extra costs are going to be borne and whether or not there should be some budget line attached to this. It's not really fair to say, “Well, you have the authority now to do this,” but to not have the practical means to actually carry it out.

The final point that I wanted to comment on was one gap that I see in this proposed legislation. I realize that it is a huge step forward and maybe it's not possible to cover everything at once, but there did seem to me to be one area where it could be expanded, and that was the situation of what was sometimes referred to as roadside zoos or these kinds of collections of animals that are not approved by the zoo and aquarium association. A lot of these animals are suffering, I think, in really appalling conditions. There was, from my reading of the Hansards, a private member's bill that was put forward in 2006 but which did not actually get passed into legislation, and I wonder if the committee might find it beneficial to take another look at that legislation that was proposed—it was Bill 154, introduced by David Zimmer in October 2006—and to see whether some of those ideas could also be incorporated into Bill 50 in order to close what I see as a little gap in that legislation.

In summary, I feel that Bill 50 does in fact represent a step forward with regard to improving animal welfare in Ontario. I think it's maybe not as strong as it could be or should be, but I do think it's a step in the right direction. I really hope that the committee will give full and careful consideration to fixing some of the shortcomings and gaps. I think this committee really has an opportunity to stand up and say, “It's time to put an end to animal cruelty in Ontario,” and I thank you for being here to consider that.

The Acting Chair (Mr. David Zimmer): We've got about two minutes per party, beginning with the NDP.

Ms. Cheri DiNovo: Thank you for deputing. I found what you had to say very wise and certainly along the lines of the way we're going in the New Democratic Party.

I have a couple of questions, based on the previous deputations.

I agree that section 6 should go, but it has been said to us that the first part of section 6 needs to stay so that those, for example, impersonating OSPCA officers won't gain entry. I was wondering if you could respond to that.

I'll fire three questions at you, so you can respond to them all.

Certainly we've heard, and I think rightly so, that there needs to be some sort of oversight of the OSPCA, especially with their increased powers. In terms of the

zoo issue—and we were supporters of Mr. Zimmer’s bill—I have heard compelling evidence that to include the word “zoo” would actually weaken this bill, that because they call them “educational institutions” or something else, really what you want is the power to inspect, that that enhanced power would then include the intent of Mr. Zimmer’s bill. I wanted to hear you comment on that.

Ms. Lynne Bowker: As far as the issue of confusion or misrepresentation, I’m not sure. Personally, I don’t find this a very realistic argument. I think the inspectors are probably given some form of identification that they can show, and really, how likely is it that somebody would impersonate an inspector when they could certainly report to an actual inspector? I just don’t find that a very credible argument. I think the risk for confusion is extremely low, and that it does more harm than good. It maybe has a good intention, but I don’t find that to be a credible argument and I would really be in favour of removing section 6 from the bill.

I agree with some form of oversight for increased power, but I’m not sure what your question was with regard to that.

Ms. Cheri DiNovo: For example, would Ombudsman oversight be an appropriate way to go? We have an Ombudsman in Ontario; would Ombudsman oversight of the OSPCA be the way to go?

The Acting Chair (Mr. David Zimmer): Just very briefly, because we have to move on.

Ms. Lynne Bowker: Actually, to be honest, I’m not sure what form it should take, but my concern was that there didn’t seem to be any included in the legislation. I think you are probably better positioned than me to decide the form it should take, but there should be something.

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

Mr. Phil McNeely: This is my first part of these hearings, but I understand that at an earlier hearing we’ve urged that the committee strike section 6 from Bill 50. That’s already been mentioned by—

Mr. Dave Levac: Amend.

Mr. Phil McNeely: To amend.

On section 6, this is something that from personal experience back a few years is really important to me. I’d like to see parts of section 6 which were there, and I would hope that we could maintain the intent of section 6 to ensure that only the animal welfare organizations that provide real services to the public and animals can use the name “humane society.” The experience was very troubling and very costly at the time. Most people when they see “humane society” have a different context for it. I hope we can come up with a mechanism that ensures this happens. Do you have any suggestions on how this could be achieved, to make sure we keep the real organizations?

Ms. Lynne Bowker: I agree with you that the intent should be preserved, and I think the intent is good. But I’m not sure that legislating a name will achieve that

intent. The affiliation can still be there—the requirement for affiliation and the requirement to meet certain criteria to be an animal welfare society. My problem is really with the label, the name, that it has to be attached to the name. I don’t think that is actually moving forward the intent in the way that you would hope.

Mr. Peter Bennison: I think that a definition of what constitutes a humane society would be a much better indicator as opposed to just zeroing in on the name. That would tend to bloat out the section, because if you don’t meet the terms, then obviously a local SPCA which is doing really well and doing good work but doesn’t have the facilities or resources to meet that standard would then be stripped of its name.

My position around striking is that it does seem to be a point of controversy. I suppose legislation does get passed all the time with controversial elements that not everyone agrees on, but it did seem to be, within the context of promoting welfare and updating very old legislation, a little incongruous with everything else. Not to say that it isn’t an important issue, but maybe it could be addressed in a subsequent piece of legislation.

The Acting Chair (Mr. David Zimmer): On that note, we’ll move to the Conservatives. Mr. Runciman, about two minutes.

Mr. Robert W. Runciman: Thank you for your presentation. I’m glad to hear that section 6 is going to be amended, because that was one of the areas where the minister was sticking his toe into a long-standing competition—perhaps that’s the right word—between the OSPCA and especially the Toronto Humane Society. My wife and I have been contributors to both, so we can claim neutrality on that one, over the years. But I take issue a bit with your comments related to warrantless entry and letting the courts determine what’s appropriate through case law. I think most Canadians, especially in terms of criminal law and the interpretation of the courts, are pretty upset with some of the conclusions of the courts with respect to that area of the law, and I think, in terms of the Legislature and the Parliament of Canada, we should be as clear as we possibly can be in terms of what the intent of the Legislature is in the final drafting of any legislation. I’ve expressed my concern and my party’s concern with respect to warrantless entry and the impact that could have, especially in rural Ontario.

0940

I just wanted to mention your comment about the increasing abuse of animals. Certainly that’s a concern of mine. I introduced private member’s legislation dealing with cats and dogs. But I think you know that there’s perhaps increased awareness and concern. I remember when I was in the Solicitor General’s office, the most calls I ever received were when a lady dragged a dog behind a car as punishment. I think more and more people are concerned and are reporting these kinds of incidents. I feel pretty good about the way people—I know when I introduced my bill, and I’m sure Mr. Zimmer had the same reaction with his legislation—genuinely care. I guess the concern, representing a rural riding, is that we

don't go overboard—and fewer and fewer people. You mentioned the farming community's comments here.

I go into a barn and I see very few cows going out into the pasture anymore because of modern farming on these large-scale farms, and it does bother me, and I'm sure it bothers the farming community as well. But part of that concern, of course, is the interpretation, the misunderstanding, of people who don't have any awareness or understanding of what goes on in farming today. Perhaps that's a weakness or a failure of our education system as well to get people more engaged in farming, what it means to farm and how important it is to all of us so that we can continue to maintain a healthy rural part of this province.

The Acting Chair (Mr. David Zimmer): Thank you very much. We've gone slightly over the 20 minutes. Thank you very much for taking the time to appear before the committee and organizing your presentation.

Ms. Lynne Bowker: Thank you. If I could just make a very brief comment: I agree with you that people do care, but in our conversations people are surprised. They think this legislation already exists. I also agree with your point about education, and as an educator myself, I certainly believe in the power of education, and I think we all need to do better in that regard.

The Acting Chair (Mr. David Zimmer): Thank you very much.

OTTAWA HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): Committee members, we're going to move to the 10:40 slot, the Ottawa Humane Society, Connie Mallory and Miriam Smith. You have 20 minutes for your presentation. I'll give you a five-minute warning as you approach the end of that time. You may or may not want to leave time for questions from the members of the committee, but that's your choice. If you will introduce yourselves for the Hansard record.

Ms. Connie Mallory: Thank you, Mr. Chair and members of the committee, for allowing us to express our approval and enthusiasm for changes to this act. My name is Connie Mallory. I am the senior inspector for eastern Ontario. I have worked with the SPCA for 14 years, first as a shelter manager doing investigations, and then moving on to senior inspector. My previous work history is that of working in a veterinary clinic, a mixed animal and small animal practice, for 14 years. I have worked on a dairy farm. I was the herds person for several years, managing the milking herd, and much to the comments of our earlier speaker, I have milked cows, many of them, so I'm very familiar with livestock.

As the senior inspector I've also, through the course of my careers, coached young equestrians and have trained horses. So I'm well-versed on horses, and they're becoming a very large part of our community pets, you might say. As a senior inspector and manager of the investigations in eastern Ontario, I continue to take training seminars and courses to improve my ability in that capacity.

Significant changes have not been made to this piece of legislation in 90 years, and I am excited at the prospect of change. Now we have a bill that I believe the vast majority of Ontarians approve of and support. Enhancing animal protection by improving the OSPCA Act will not only improve animal welfare in this province, it will also raise the bar for other provinces in Canada.

In the current legislation, only people who breed animals for the purpose of sale are subject to provincial offence charges under the act. All other animal owners who fail to provide the necessary food, water and care, or standards of care, are subject to Criminal Code charges; they are tried in the same court as murderers. They will receive, if found guilty, a criminal record, and it could potentially ruin their life. They are not able to travel outside of Ontario, or Canada, and your job scope is very limited if you have a criminal charge and a criminal offence against your name. Many people we investigate are those who are in need of help, but they don't know where to turn. They have limited financial resources and get in over their heads, and animals suffer and die needlessly. Are these people criminals? I think there's a better way that we can handle these situations. Currently our only course of action is to lay a Criminal Code charge. In many cases, if we don't lay the charge out of empathy toward the people we are investigating, often-times the police will lay it.

Bill 50 gives the Ontario SPCA investigators an effective tool to punish as well as help. It allows for a penalty that will prohibit people from owning animals or limit the number of animals that they can responsibly care for. This too will give investigators an opportunity to educate animal owners on responsible animal care, and Criminal Code charges could and should be reserved for heinous crimes against animals.

Under current legislation, if an animal is removed under the authority of the OSPCA Act, animals must be returned back to their owner once the animal is no longer in distress. How awful would that have been for the dog named A.K., who had his ears horrifically removed by his owner to make him look a little bit more aggressive? Fortunately for that dog, the owner chose to surrender the dog to the society, and we were able to provide the necessary care for it. If Bill 50 passes, it will give the OSPCA an opportunity to apply to a judge to have the animal remain under the care of the OSPCA until the investigation is concluded or the case has been heard in the courts.

An earlier speaker said that if we remove animals, the ACRB no longer has jurisdiction of that removal. We are still accountable for the actions that we take, and unless we lay a charge or go to a judge to obtain an order to have that dog remain in our custody, it will still go through the Animal Care Review Board if the owner of the animal feels that he has been unjustly treated. It would be nice if some of our critics would actually have a look at this bill and read it thoroughly so that they understand what exactly it says in there.

Do we make mistakes as investigators? Absolutely. To err is human. However we, as an organization, have

learned from the mistakes of officers by improving and intensifying training given to new and existing investigators to prevent those mistakes from happening again. New agents must complete 10 days of extensive training and 30 days of online training given by M.D. Burgess and Associates. M.D. Burgess and Associates is a renowned training company that is known in nine countries. It is a multi-faceted, privately owned company that operates both independently and in strategic partnership with colleges and traditional training agencies as well as government agencies. Next year, the OSPCA is looking at expanding our training of new agents to four weeks, similar to that that is undertaken by special constables.

0950

We've heard today about warrantless entries. We as investigators do have the right now to actually enter a property if we see an animal in immediate distress. I'd like to comment on an experience that I had a number of years ago with a woman who was in a women's shelter. She was there for safe haven from being beaten by her spouse. She called and asked me if I would go and check on her dog, so I went to the property. My authority is to knock on the door, which I did. If I see an animal in distress, I can deal with it. On that particular day, I did not see the dog. But on Monday morning, when I arrived at work, after I'd called her and said, "I'm sorry, I don't see your dog. He must be fine," I received a call from the Ontario Provincial Police, who asked me if we had room in our morgue to store a dog. I started asking him the description of this dog, only to find out that this was the very same dog that was found in a garage on this woman's property that had been brutally mutilated with a knife and castrated. Would I have been able to help that dog if I'd had the ability to go into the garage, if I had reasonable concern to determine if that animal was in distress? At that time, I did not. Would I have been able to save it? I'm not sure. But having known the situation that that woman had experienced, it would have been nice for me to actually check that out, to see if there was a dog in the garage and to determine if it was safe or needed any extra care.

The investigations department has been very proactive in building a strong force of investigators, resulting in Ontario being amongst the most highly trained and professional animal welfare inspectorates in Canada. Currently, the SPCA offers 50 additional training days to existing inspectors and investigators from the staff of OFAC—the Ontario Farm Animal Council—OMAFRA, M.D. Burgess and Associates, active police officers and professors from Algonquin College in the aspects of justice and criminal training. We are actively working with OMAFRA, the Ontario agriculture and food ministry, to develop an auditable curriculum that will be offered to investigators for livestock training.

In 2007, Ontario SPCA inspectors responded to over 16,000 complaints, including 1,428 farm animal complaints, issuing 2,581 orders, executing 148 search warrants and laying 254 Criminal Code charges. These

numbers alone tell me that our investigators are taking an educational approach to animal welfare and compliance.

Our mission is to facilitate and provide for province-wide leadership on matters relating to the prevention of cruelty to animals. The word "prevention" is in our act. Bill 50 will give us the ability to prevent people from causing and permitting distress to animals, prevent people from having more animals than they can responsibly care for, prevent an animal from suffering—with the ability to inspect if we have reasonable grounds for believing that an animal may be in distress—and prevent animal cruelty through education.

I'd like to thank all of those who have contributed to this bill to improve animal welfare. I'm really excited about moving forward and making the changes that are necessary for animal welfare.

I'll turn it over to Inspector Smith.

Ms. Miriam Smith: My name is Miriam Smith. I'm employed at the Ottawa Humane Society and have been since 1989. I am currently the manager of emergency animal protection services at the humane society.

First of all, let me say that I am in support of Bill 50 and the changes to the OSPCA Act. I commend the individuals who have obviously put in a lot of work on the proposed changes to the OSPCA Act. As most of you know, it has been some time since there were any substantial changes.

Just to give you a bit of background on myself, I've been an OSPCA inspector for the past seven years, and for the 10 years prior to that I was an agent of the OSPCA. Over the past 17 years as an investigator, if you can imagine, I have seen quite a bit. I've investigated cruelty and neglect in all kinds of animals, anything from guinea pigs to species that were sometimes unidentifiable at the time of initial contact. I'm going to walk you through a couple of descriptions of dog situations that we have had. Obviously, over the 17 years I could walk you through quite a few unfortunate situations.

This particular dog that came in to us could not be examined or even assessed by a veterinarian because it was so neglected. The matting of its fur was so bad, with ground-in dirt, urine and feces, that a veterinarian was even unable to assess the dog's condition at the time without being groomed, and by "grooming" I mean totally shaven down. The dog was weighed before and after the grooming, and the hair, feces, urine and dirt all weighed about a third of the dog's total weight beforehand. So if you can imagine carrying around an extra third of your body weight unnecessarily—

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

Ms. Miriam Smith: Thank you.

The dog also had sores around its neck that you would not have noticed otherwise.

I have seen a dog that was allowed to die by its owner, and initially you could not tell the head from the tail due to its condition. It had mouth sores, rotten and broken teeth, feces and urine ground into the fur, extensive matting of the fur, its nails were so long that some had

grown back around into its pads, and a smell so strong that it would make most people sick.

Both of these animals were family pets. Would you say these animals were in distress? Are these owners criminals? Should these owners be charged under the Criminal Code of Canada? Should these owners be allowed to let their animals be neglected without any consequences?

Currently, we have to provide wilful intent in order to charge owners under the Criminal Code of Canada. With the new provisions of Bill 50, there will be provincial offences and penalties within the act itself to address these matters that are less criminal. In almost all cases of livestock, we currently utilize the codes of practice put together by the industry, for the industry. We utilize experts within OMAFRA as well as veterinarians for those cases requiring them.

As an agent and now inspector, I have taken an oath as an OSPCA investigator to fully enforce the OSPCA Act. Within this oath I have sworn that, should an animal be found in distress within the meaning of the act, I will ensure that the animal is supplied with the necessary food, care and treatment to relieve its distress; issue an order or remove the animal or have the animal euthanized; and, should there be reasonable grounds for believing an animal is in distress in any place, I will make every lawful attempt to obtain entry, including applying to a justice of the peace for a search warrant as provided within the OSPCA Act.

In the past 19 years at the Ottawa Humane Society we have only been requested to sit before the Animal Care Review Board once, and our removal order was ruled to be justified. Since then, we have modified procedures to assist us in our investigations. We are constantly learning, as each separate animal industry is constantly changing. We hold a high standard for our inspectors and agents, and every time we respond to situations, we always ensure that we are abiding by the oath of the OSPCA agent or inspector. We question everything that we do to ensure we are abiding by the law. That includes that people's rights are not being violated, that the animal is in immediate distress and that, without our intervention, the animal will suffer.

Ultimately, it is in the best interest of the animals that we make changes to the current OSPCA Act to ensure that all animals are treated humanely, no matter their use. Bill 50 will start to address those issues. The Ottawa Humane Society always tries to prevent cruelty through education, and opts for court proceeding only as a last resort. Thank you very much.

The Acting Chair (Mr. David Zimmer): We have about a minute per caucus, starting with the Conservatives.

Mr. Robert W. Runciman: Since you're the only folks from the enforcement side appearing here today, I guess I'm curious: In terms of the warrantless entry, what time is involved, on average—either through telewarrant or through an appearance before a JP—for that process? What's the minimum standard of evidence required to

have a warrant issued? How does that minimum standard stack up against what your colleague mentioned is a reasonable concern?

Ms. Miriam Smith: I have been to the justice of the peace to obtain a search warrant. We have to provide all the information that there are reasonable grounds that an animal is in distress. I have waited up to seven hours for a search warrant. It can be rather challenging. One of the things where warrantless entry would be beneficial is for a case where we might know that there may be kittens or puppies locked in the trunk of a vehicle. We can't see them there, and currently we have no authorization to open the trunk of the car to remove those animals. If it would take us six or seven hours to meet with the justice of the peace, in that time frame, if those kittens or puppies are in the trunk of the car, they would be suffering terribly and possibly may not even be alive. That would be my example where warrantless entry would be very beneficial.

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

Ms. Cheri DiNovo: Thank you for your deputation; it was heartfelt. And thank you for what you do for animal welfare. We have no question with what you do; it's more with the oversight of your board of directors, probably, and section 6, which may prevent other humane societies from doing what you do. So to extend animal welfare is our aim, and strengthening Bill 50 here.

One of the concerns that has been raised by the OSPCA—not you, but the people who you report to—is that the bylaws are kept secret and people can't have access to them. I'm wondering if you know anything about that—again, it's not your issue per se—and why, as a public charity, that can't be accommodated?

Ms. Connie Mallory: I'm not really sure why that can't be accommodated. Our CEO and the chief inspector, I believe, are presenting on Friday. I hate to pass the buck onto them, but I think that that would be the best course of action.

Ms. Cheri DiNovo: Absolutely. Again, it's just that section 6 that's a little egregious, but thank you again for what you do.

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

Mr. Dave Levac: Thank you. Just three quick points: Number one, we've indicated several times, and continue to do so, that section 6 will be amended.

Number two, warrantless entry: You brought us some clarity, Inspector, and I appreciate that—that it already exists; it's not new. There are three reasons: One is permission from the owner; two, to determine if the previously issued compliance orders have been obeyed; and three, which is the one that is being changed from "observe" to given "reasonable grounds." So those are the two changes, and the example you gave is a perfect one: If you can't see the animal, you can't go in. Now you can, if you have reasonable grounds to believe that

there's—and we'll still have to show it to the test of the criminal courts, if it does get that far.

The third thing that I wanted to know is, the previous inspector who was in charge of a region indicated that—we heard deputation that there were a few people who were overzealous. Do you review your inspectors? Do you guide them, help them, modify their behaviour if they go over the line?

Ms. Connie Mallory: Absolutely. I believe that getting together as a group—in my particular region, we meet on a regular basis and discuss cases and challenges. I also meet one on one with an investigator who may not have acted appropriately. I believe in putting the best face of the Ontario SPCA out there, and I expect that of the enforcement people who I manage.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and thank you for taking the time to organize it and present it today.

INTERNATIONAL FUND FOR ANIMAL WELFARE

The Acting Chair (Mr. David Zimmer): Committee members, we'll move to the 10:20 a.m. slot, the International Fund for Animal Welfare, Kim Elmslie and Barb Cartwright. You will have 20 minutes to present. I'll give you a five-minute warning as you approach the end of your time. You may want to leave time for questions from the committee, but that's your decision. If you'll identify yourself for the Hansard record.

Ms. Barb Cartwright: Chair and committee members, thank you for the opportunity to appear before you today to present to you on Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act. My name is Barbara Cartwright, and I'm the campaigns manager for the International Fund for Animal Welfare. I'm co-presenting with my colleague, Kim Elmslie.

The mission of the International Fund for Animal Welfare, or IFAW, as we are known, is to improve the welfare of wild and domestic animals throughout the world by reducing commercial exploitation of animals, protecting wildlife habitats and assisting animals in distress. IFAW seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance both the welfare and well-being of animals and people. IFAW has more than two million supporters and is staffed by 300 experienced campaigners, legal and political experts, and acclaimed scientists in 16 offices around the world. IFAW has more than 45,000 supporters here in Canada.

IFAW supports the intent of Bill 50. The bill endeavours to protect animals from cruelty by creating legislation that will encompass and protect all animals from distress by creating new powers for the SPCA officers and by increasing penalties. Additionally, Bill 50 strives to provide better welfare for animals by proposing minimum standards of care for all animals.

In order to truly understand the importance of this new legislation for the province of Ontario, I feel that it is

important to also understand the deficiencies in our federal animal cruelty legislation. Canada's federal legislation has not been substantially updated since 1892, with the notable exception of a recent amendment to the penalties section of the code in the form of Bill S-203, a private senator's bill that was widely dismissed by animal protection groups and strongly opposed by the vast majority of Canadians for its failure to increase conviction rates.

Our current federal legislation is so riddled with inadequacies and loopholes that less than 1% of complaints about cruelty to animals lead to successful convictions. Often, provincial legislation is the only tool that cruelty investigators and officers have to punish those who commit horrific acts of cruelty. It is unlikely that our federal legislation will be effectively or substantially modernized any time soon. Therefore, it is important, now more than ever, that we have strong provincial legislation. I would now like to turn it over to my colleague Kim Elmslie, who is IFAW's campaigner on animal cruelty issues.

Ms. Kim Elmslie: Thank you. To give you a greater context on how weak our federal legislation is, I'd like to provide you with an overview of a report that IFAW recently completed, titled *Falling Behind: An International Comparison of Canada's Cruelty Legislation*. In this report, we compared Canada's animal cruelty legislation to 13 other countries around the world, including Austria, Croatia, Great Britain, Germany, Malaysia, New Zealand, Norway, the Philippines, Poland, Portugal, South Africa, Switzerland and Ukraine.

The report revealed some startling facts, including: Canada is the only country that makes it virtually impossible to prosecute cases of neglect; Canada ranked at the bottom of all the comparisons we had made; Canada is alone in offering virtually no protection for wild and stray animals; Canada is the only country that does not provide protection for animals being trained to fight each other.

Effectively updating the legislation in Ontario will provide our provincial courts and police with clear means to prosecute, convict and potentially mitigate acts of unacceptable animal cruelty that can't be prosecuted under our deeply flawed federal legislation. It will also allow politicians to respond to the overwhelming majority of Ontarians, representing all political parties, who are outraged by heinous acts of animal cruelty. Finally, modern and effective legislation to protect all animals will bring Ontario up to standard on the global stage.

An example is animal fighting. Federally, it is a crime to be present at an animal fight. However, due to outdated loopholes in the legislation, the breeding, training and profiting from animal fighting are still considered legal activities. Michael Vick would not have faced charges in Canada. Within Bill 50, Ontario would close the loopholes left open by the federal level by criminalizing the training or permitting of animals to fight other animals and to own or possess equipment or structures used in animal fighting.

Of the 14 countries we surveyed in our report, Great Britain's Animal Welfare Act provides one of the most progressive stances to discourage animal fighting and the training of animals to be aggressive. Section 8 of the act—this is the UK act—makes it an offence for a person to cause an animal fight; to take money for admission; to publicize or promote; to inform another person; to be in possession of something used for an animal fight; to keep and train animals for fighting; to keep a premises for animal fighting; and to be present at an animal fight. Additionally, the act also makes it an offence to, without lawful excuse, supply a video of an animal fight, knowingly publish a video of an animal fight, knowingly show a video of an animal fight or possess a video of an animal fight. Criminalizing the training of animals to fight each other is also present in legislation in Austria, Croatia, Germany, New Zealand and Ukraine, among others.

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Most notably, IFAW supports the step forward that Bill 50 is taking for animal welfare in Ontario through the recognition that there are minimal standards of care that should be met when animals are in our care. Ontario is in good company. The trend in all 13 countries we studied within our international report was to ensure that a minimum duty of care is met for those who care for animals. Ontario would be following this global trend.

For example, in New Zealand, the Animal Welfare Act states that all those who keep or are in charge of an animal must take all steps that are reasonable to ensure the physical health and behavioural needs of animals are met both with good practice and scientific knowledge.

Globally, there is an increasing trend in the political prioritization of animal welfare. Over the last few decades, countries from all over the world have created legislation that moves animals out of the realm of property, as they are designated in Canada, and recognizes them as beings which require minimum standards of protection. The concept of animal welfare addresses the obligation we have to ensure good stewardship for the animals that we make use of.

IFAW recommends that the five freedoms of animal welfare be used as a regulatory framework for setting standards of care. The five freedoms are freedom from thirst and hunger; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviour; and freedom from fear and distress.

I'll now turn the presentation back over to my colleague Barb Cartwright.

Ms. Barb Cartwright: IFAW does have some concerns with the wording of Bill 50. The new section 10 has been amended to prohibit "any corporation or other entity that is not the society" from having the authority to use the name "humane society," "society for the prevention of cruelty to animals" or "SPCA," or their equivalent in any language. Whereas it is assumed that the intent of this amendment is to prevent unscrupulous individuals or organizations from falsely portraying themselves as a humane society, we also believe that it could have

unintended consequences for legitimate animal welfare and protection organizations that are not affiliated with the OSPCA. For instance, the French translation of IFAW is "Fonds international pour la protection des animaux."

IFAW is also concerned that all animals in Ontario be protected from acts of cruelty and neglect, including wildlife. Therefore, we are concerned about the ambiguity of the second paragraph of the explanatory note, which states: "The offences of causing or permitting distress to an animal do not apply in respect of native wildlife and fish in the wild." This is also found in clause 11.2(6)(a) of the bill. This would appear to afford wildlife in Ontario no protection from acts of cruelty. There are numerous examples in which those who commit acts of cruelty against wild animals go unpunished merely because of the fact that the animals they injured were wild. For example, a man in Quebec dragged a young bear from its mother, beat it, held it under water and drove over it with his Jet Ski. Although the story received international outrage, the man was never charged with cruelty. In 2006, a Newfoundland man ran over a moose with a snowmobile and killed it with an axe. When the moose had wandered onto the groomed path, the man plowed into it several times until its hind legs were broken, and then jumped on top of the animal, which struggled to escape, and killed it with an axe. Although the act was called horrendous and heinous, the man was only convicted of harassing wildlife with a snowmobile and hunting big game without a licence. He wasn't charged with animal cruelty. IFAW believes that all animals, including wildlife, must be protected from acts of cruelty.

Finally, we would like to draw your attention to the openness and ambiguity of clause 22(1)(d):

"The Lieutenant Governor in Council may make regulations...

"(d) exempting any person or class of persons from any provision of this act or of a regulation made under this act, and prescribing conditions and circumstances for any such exemption."

IFAW does not support exemptions.

Overall, IFAW supports the intention of Bill 50 in the efforts that it makes to update the Ontario SPCA Act. The act will protect animals from cruelty in Ontario and fill a void that is lacking in our federal legislation.

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

Ms. Cheri DiNovo: Thank you for your deputation and all the work that you do for animals. I'm certainly here to try to make this the strongest bill that we, in the NDP, can.

We've heard from other deputants as well, of course, in terms of wildlife. We've also heard from the government that the Ministry of Natural Resources is in control there. I was wondering if you think that the Ministry of Natural Resources looking after wild animals

is enough. I can assume what you're going to say, but for the record?

Ms. Barb Cartwright: For the record, no. If it's in regard to an act of animal cruelty, then that belongs in the OSPCA Act. Wildlife needs to be protected as well, because we do commit heinous acts of cruelty against wildlife.

Ms. Cheri DiNovo: The other item that we've heard, this time from those involved in agriculture—not all of those involved in agriculture, but some of them. For example, the five freedoms that you list: freedom from discomfort. Clearly, animals that are transported for the use of their meat are in discomfort. How would you respond to that? Clearly, this is a situation where with all animal agriculture, it might be argued, the animals are in discomfort.

Ms. Kim Elmslie: I think at that point you get into what is a reasonably accepted practice. There's been a lot of discussion about downed animals and that you shouldn't transport an animal if it can't stand. At that point, I think there's an understanding that there's a certain level of discomfort that some animals will feel, but we set a bar for what that is. As well, the five freedoms are recognized internationally as standards of the minimum duty of care. In the report that we did, those freedoms were recognized in most other countries, and I think it's now time for Canada to raise that level.

Ms. Cheri DiNovo: I certainly agree with you about the Canadian legislation, and I agree with you around section 6. We've heard assurances from the government that that will be amended. So thank you for your deputation.

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

Mr. Dave Levac: Thank you very much for your deputation and your commitment to animals and to society in general. Quite frankly, I don't think there's anyone who doesn't understand that there's a synchronicity with the entire planet—with all plants, animals and whatever—so thank you for the work that you do for us.

You're aware that the exemptions exist for farm animals, wildlife and animal research, in that each of those have their own legislation and/or codes or standards of care. But under the two examples, farm animals and wildlife, the OSPCA and its charges can go beyond and charge for cruelty if those codes and standards are not met. So that means that we have a relationship that says, "If you maintain those standards and codes, that's good; we will not interfere. But if there are things that are happening beyond those codes and standards, we then can intervene." The exemption is not permanent or exact, it's above and beyond. So you're aware of that. But what I understand is, that's still not what you would like. You would like us to include it in the bill and that we go past the standards.

Ms. Kim Elmslie: Yes. Right now, the way that it's written, there does seem to be some ambiguity and lack of direction on what those exemptions would be.

Ms. Barb Cartwright: And so providing that clarity that you just described, we do support the fact that there

are current standards of care and that it is when people go beyond that that they should not be exempt from the law. The current section is not clear to us, so if it can be made clearer and provide that guidance, we would be very happy.

Mr. Dave Levac: I appreciate the feedback on that. You're aware that research animals are covered under their own act and that the SPCA cannot enter it?

Ms. Barb Cartwright: Yes.

The Acting Chair (Mr. David Zimmer): To the Conservatives.

Mr. Robert W. Runciman: Thank you for your contribution here today. Are you both volunteers for the organization or are you full-time employees?

Ms. Barb Cartwright: No, we're both staff.

Mr. Robert W. Runciman: How many full-time employees are with the organization?

Ms. Barb Cartwright: In Canada, there are 12 full-time employees; around the world, there are 300.

Mr. Robert W. Runciman: I appreciate the comments you've made and I'm sure they'll be considered by the committee when the final draft of the bill goes back to the House for third reading.

An issue which is not directly related but which can give me perhaps a broader view of your organization's approach to issues: Do you have a view on the cull of cormorants which is currently occurring in Presqu'île? Do you have any observations with respect to that?

Ms. Barb Cartwright: We are currently part of Cormorant Defenders International. We support that organization, which is working to oppose the cull because of the cruel nature of what has happened in the past with cormorant culls. Although we do not actively, on a daily basis, work on that issue, so I can't go into great detail with you, we do support that organization.

Mr. Robert W. Runciman: Just to let you know, as someone who represents the riding with the Thousand Islands, the impact of the growth of cormorants in that area over the past number of years and the depletion of the fishery, both commercial and recreational, has been dramatic. When I was growing up on the river we never saw a cormorant; now we're flooded with them. So just to have this opportunity to let you know that there is another side to that story.

Ms. Kim Elmslie: With regard to cormorants, I think part of the problem is that cormorants were controlled earlier through the use of DDT, which meant that the egg was weak and this was how we declined the cormorant. I think the problem with the cormorant cull is killing adult birds versus things like egg-shaking and egg-oiling, which can control the population in a more humane manner.

Mr. Robert W. Runciman: Not effectively, apparently. It has been tried.

The Acting Chair (Mr. David Zimmer): All right. Thank you very much for taking the time to organize your presentation and to present it to this committee.

Your next presentation is not scheduled until 11 o'clock.

Mr. Dave Levac: Recess, Mr. Chair?

The Acting Chair (Mr. David Zimmer): I expect they're coming early, so we'll recess for 10 minutes.

The committee recessed from 1021 to 1044.

LANARK LANDOWNERS ASSOCIATION

The Acting Chair (Mr. David Zimmer): Good morning, Mr. MacGregor. Have a seat. Welcome to the committee. You will have 20 minutes to do your presentation. I'll give you a five-minute warning as you get to the end of the 20. You may want to leave time for questions from members of the committee, but that's entirely up to you. I will ask you now to introduce yourself for the purposes of the Hansard record.

Mr. Hal MacGregor: Thank you very much. Good morning, ladies and gentlemen, members of the provincial Parliament of Ontario. It's indeed a great honour to be here, and I'm doubly honoured today to be representing the Lanark Landowners Association. My name is Hal MacGregor, and I have a small farm in Montague township, where I raise Highland cattle, goats, meat rabbits, huskies and maybe a few other things. Is there anyone here who would want me to give a bit about my background?

The Acting Chair (Mr. David Zimmer): As you see fit. Whatever you would like to tell us, the time is yours.

Mr. Hal MacGregor: I'm a 37-year veteran of the public service of Canada. I grew up in the air force. I was in the air cadets at 14, in the air force reserve at 15, in the militia at 16, in the regular air force at 17, and I was an officer in the Canadian Coast Guard at 26. I rose to the rank in the DSS of chief of electronic inspection over at Place du Portage. I retired at 55 and bought a small farm in Montague. Are there any questions? Okay.

Greetings from Lanark county. You no doubt have heard of the Lanark phenomenon. When rural people in my part of Ontario had enough browbeating from over-regulation and unrealistic government inspections, they gathered together for protection. The Lanark Landowners Association was born. When sawmills, bakeries, egg producers, small meat packers and family farms were threatened, the LLA, and only the LLA, came to the rescue. The situation in Lanark county was repeated in many other parts of Ontario, so now there are over 20 regional landowner associations formed under the umbrella of the Ontario Landowners' Association, 15,000 strong.

Why has it become necessary for rural Ontarians to band together for their own protection? There is something really wrong when the very people who have traditionally been the strongest supporters of good, honest, open government are up in arms. Sometimes it appears that the Ontario government has declared war on rural Ontario.

Canada is routinely condemned around the world for its unrealistic domestic agricultural policies. Government programs, even programs that are based on good intentions, have often gone berserk. With 80 million people

starving to death, and one third of mankind malnourished, 1,200 people a year leave farms in Ontario.

My own experience: When an-out-of control OSPCA enforcement officer tried to seize all my animals without warrants or proper cause, I was in danger of losing my farm. When 50 LLA people and the media gathered in my front driveway, the OSPCA didn't show up. At the hearing, the OSPCA lawyer said they never intended to take my animals; it was simply a matter of a lack of communication. The animal review board ruled in my favour. That OSPCA officer was told there was nothing wrong with my animals or with the owner. His supervisor in Toronto, Martin Cole, if you remember, soon resigned. A year later, the OSPCA in Brockville complained that they should have been allowed to take my animals, contradicting the OSPCA lawyer.

Let me ask you: Why is it that a real police officer must advise a suspect of his or her rights, but OSPCA enforcement officers, with only five days' training, and who often brag about their police powers, have no such obligation? The powers invested in the OSPCA by this proposed legislation resemble those accorded to the Geheime Staatspolizei by Hitler. Simply put, our Ontario government has lost sight of its mandate. It has over-regulated every area of rural life to the point where we in the country feel more like concentration camp inmates than citizens of a free country. We have become targets of overzealous bureaucrats in a plethora of ministries with quotas and objectives that resemble an insane seek-and-destroy war game.

For example, when the incompetent and criminal acts of two public servants in Walkerton led to several deaths and a provincial inquiry, no blame whatsoever was attributed to any farmers anywhere in the Walkerton report. Nevertheless, Bill 43, the Clean Water Act, was subsequently passed, which created a new level of bureaucracy that unfairly targets farmers and property owners. That act is nothing more than a smokescreen for illegal, wholesale confiscation of private property without compensation from cover to cover; compensation is not in the Clean Water Act.

Group psychological testing and history have universally and consistently proven that when any group of people is given unfettered control over any other group, abuses will follow. In Ontario, those who were elected to high office to serve those who put them in power have turned to widespread abuses through the very institutions of good government. No matter what your intentions, you will unleash another monster on the populace if you fail to incorporate proper checks and balances in your myriad of provincial ministries and non-government organizations with police powers.

1050

The only question is: How far will these abuses go? History has proven that they will go the limit: from horrific religious persecutions to man-made starvation, for example, in Ukraine and elsewhere; to racial holocausts in Europe, Asia, Africa and Columbian America; to the impending end of family farming in North America.

Article 8 of the Canadian Charter of Rights and Freedoms states that every Canadian “has the right to be secure against unreasonable search or seizure.” Our inherited British legal system has historically interpreted that right as a requirement for a proper warrant before any search of private property. If you allow this sort of legislation, you will have stripped away a basic freedom of legal protection that Ontarians have taken for granted for generations. It will be challenged in court, and every democrat on the planet will ridicule you. You will have to contend with confrontations that will certainly increase in frequency and tone.

I have attached a second page, which I wasn’t intending to read. I have tabled that so you can read it at your leisure. Are there any questions?

The Acting Chair (Mr. David Zimmer): All right, well, we have about four minutes per caucus. This round begins with the Liberal caucus.

Mr. Dave Levac: Thank you, Mr. MacGregor, for your presentation and for being here today. You indicated that you’re speaking on behalf of the Lanark Landowners Association. Do you hold a position with them or—

Mr. Hal MacGregor: I’m a director of the Lanark Landowners Association.

Mr. Dave Levac: One of the directors?

Mr. Hal MacGregor: Yes.

Mr. Dave Levac: Okay, thank you.

In terms of some of your assertions in comparisons that you’re making, it is your belief, then, that with passage of this bill, the predictions that you’re making will come true regarding Ontario in comparison to Germany, Ukraine and other countries?

Mr. Hal MacGregor: Yes, let me explain that, please. Some of the OSPCA enforcement officers who are directly controlled from Newmarket habitually exceed their authority. For instance, in my area of the country, there’s an enforcement officer who delights in picking on old women and widows. He has gone into their houses, taken pictures and threatened them, without warrants. If they get the legal basis to go in without a warrant, the next step would be to smash furniture. I guarantee you that’s what’s going to happen.

Mr. Dave Levac: And you’re aware that presently, under the bill we’re modifying, warrantless entry already exists?

Mr. Hal MacGregor: Yes, if they can see it from the highway. That’s in section 12 of the OSPCA Act. If they cannot see it from the highway, they have to get a warrant, and they don’t often do that.

Mr. Dave Levac: Correct. And if they have permission from the owner, they’re allowed to go in.

Mr. Hal MacGregor: Or if they bully her and she doesn’t know what her rights are because they don’t tell her.

Mr. Dave Levac: So the assertion is that this bill would make it even more strenuous?

Mr. Hal MacGregor: That’s right.

Mr. Dave Levac: In regard to the powers that exist for warrantless entry, CAS has that power, OSPCA has

that power and the police have that power. You’re indicating that the concern you’re voicing is that it shouldn’t be happening at all?

Mr. Hal MacGregor: I’m asserting that it’s being abused already and that it will be abused more in the future if they get this legal protection. They will go the step further; they will start smashing furniture and wrecking people’s lives.

Mr. Dave Levac: And you’re aware that the exemptions in this particular bill, with modification, indicate that farm animals, wildlife and research animals are exempt from the bill. The only time farm animals and/or wildlife can be accompanied by the OSPCA would be if this present standard of practice or the codes that are in existence in those two areas are breached; and if the result of cruelty is seen on the animal, the only time the OSPCA will act is if those codes are not met.

Mr. Hal MacGregor: My concern is that under the present system, there’s a lack of training. A lot of the OSPCA officers make up the rules as they go along. I had been advised in the past when I had wild boars that I could not feed them day-old vegetables from Quattrochi’s which had never been touched by human hands. The guy said that I needed a licence from the Canadian Food Inspection Agency. When I called the Canadian Food Inspection Agency, he said that that was crap; that was not true. That’s just an example. But when they tell you to your face and they intimidate you, and they bring police and other vets in and they don’t even have the decency to introduce them to you—you don’t know who they are or who sent them—you’re scared.

Mr. Dave Levac: Okay. Do I have enough time for one more, Mr. Chairman?

The Acting Chair (Mr. David Zimmer): A short question.

Mr. Dave Levac: The OSPCA officer in your experience: You indicated that his supervisor was a Toronto officer, an inspector?

Mr. Hal MacGregor: Martin Cole.

Mr. Dave Levac: You indicated that he resigned. Was it specifically for that reason that you’re asserting?

Mr. Hal MacGregor: I don’t know; he never told me. I met him and shook hands with him. He’s an Englishman.

Mr. Dave Levac: We’re not sure whether or not they’re connected?

Mr. Hal MacGregor: I’m not sure, no.

Mr. Dave Levac: His supervision—I don’t know the geographic area, though. In terms of where you live, the officer might have a different inspector who’s responsible, whom that officer answers to. Do you know anything about them?

Mr. Hal MacGregor: No, he was his supervisor, because he showed up at my animal control review board hearing. That’s where I met him and shook hands with him.

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

Mr. Robert W. Runciman: Thank you for being here. I appreciate your contribution to the committee's proceedings. Just to let you know, my party shares your concern with respect to warrantless entry. We have discussed that briefly this morning, and I know the government representatives have tried to allay some of those concerns, as have some representatives of the OSPCA and the humane society.

My concern with respect to this, knowing some of the history and some of the incidents that have occurred over the years in rural Ontario with inspectors who have—and you've given us a personal example, where the review panel supported you in terms of the actions. I'm not sure how widespread that is. Some of it is anecdotal and perhaps not as accurate as it should be, but I think that the concerns are genuine and in many respects legitimate.

I know we heard the comment this morning about the broadening of these powers, from "observation"—the right to enter if you see an animal in distress, for example—versus, using the term that was used here earlier, "reasonable grounds." I guess "reasonable grounds" would be open to pretty broad interpretation in and of itself. My view is, whether it's done through regulation—which is always somewhat concerning, because the Legislature has really no input into the development of regulations. But there should be some very clear limitation in terms of how—because the government is not going to poll us; I don't think that's going to happen. But perhaps we can persuade them to at least clearly indicate how one would define "reasonable grounds," because I think at least the potential is there for abuse.

Broadly speaking, most people with the OSPCA and humane societies are trying to do a good job and are very conscientious about the concerns of rural Ontarians. At the same time, we have to ensure that the opportunities to abuse and to cause further distress in rural Ontario—it's a tough row you have to hoe, but it's an important one for the future of this province. I agree with you that over the past few years in terms of the legislation that we've seen come down the pipe, a lot of it doesn't seem to take into consideration the views, concerns and considerations of folks living in rural parts of this province. So thank you again for your contribution.

Mr. Hal MacGregor: Thank you very much.

One concern I've tried to put across here is the Canadian equivalent to the Miranda law, where a suspect has to be advised of their rights. I believe that in the future—hopefully in the near future—a case will come to court where a lawyer will pick up on that, they'll use that as a defence, and the judge will side with them. I believe that if a person is a suspect in a crime, or even just a civil crime—whatever—he should be advised of his rights. Of all the horror stories that we get in the LLA, we've never heard of a rural person being advised of their rights by an OSPCA officer. It's just not in their vocabulary, and that's wrong.

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

Ms. Cheri DiNovo: Thank you for deputing today. We've heard the contents of your deputation before; it's not new to us in the NDP.

I wanted to ask you some questions about the checks and balances on the OSPCA. It's my understanding that agents are supposed to identify themselves and also let you know of your rights, that you have a right to appeal to the animal review board, for example. In your experience, that's not happening?

Mr. Hal MacGregor: When I was charged, the officer did give me my right to appeal to the animal review board. I didn't know that. I wasn't familiar with the OSPCA Act. He also gave me a copy of the OSPCA Act, and I believe that was the result of pressure from his boss, whom I had talked to before on the phone—Martin Cole. I had talked to him on several occasions. I even sent him pictures of my dog pens; I had cleaned all of the feces off and they were spotlessly clean. So I was familiar with his boss. The first reason I went to his boss was because he ran over my dog. He ran over the dog and he didn't even stop to see if he hurt it. These are people who are supposed to protect animals? This dog was blind, by the way.

Ms. Cheri DiNovo: Unlike other provinces, for example, we have the animal review board and then, one up from that, the court system itself. In your understanding, that's not enough to act as checks and balances upon overzealous inspectors from the OSPCA?

Mr. Hal MacGregor: No. I know of a case now where there's an old lady who keeps chickens in her house. According to the OSPCA, that's a no-no. They've taken her to court once and lost. They're taking her to court again, for the same cause. That's ridiculous. Once they lose, they should be told to quit, to leave her alone. I don't even know the lady, I don't know her name, but the thing is, I was told about this by our people, and that's wrong.

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

Mr. Hal MacGregor: Thank you. Does anybody want this spare copy?

The Acting Chair (Mr. David Zimmer): Thank you very much again.

Mr. Hal MacGregor: Thank you very much. It's been an honour.

Mr. Dave Levac: Recess?

The Acting Chair (Mr. David Zimmer): Are we off Hansard? We'll recess for 20 minutes or at the call of the Chair.

I'm sorry. The clerk has suggested 10 minutes to see if our next presenter appears.

The committee recessed from 1103 to 1115.

ONTARIO LANDOWNERS' ASSOCIATION

The Acting Chair (Mr. David Zimmer): The 11:20 slot will be taken by the 11:40 slot, the Ontario Landowners' Association, Jack MacLaren. You'll have

20 minutes for your presentation. I'll give you a five minute heads-up as you approach the end of your time. You may or may not want to leave time at the end for questions from the committee, but that's your decision. If you would introduce yourself for the Hansard record, you can begin.

Mr. Jack MacLaren: I will be briefer than the 20 minutes. My name is Jack MacLaren. I'm president of the Ontario Landowners' Association. I would like to thank the committee for giving me this opportunity to speak to you because we have some concerns about Bill 50. Our concerns are primarily about the lack of accountability provided for in the bill.

It is our position that there should be no warrantless entry. That is a huge infringement of property rights and a disregard for the rights of landowners and business people.

There should be no entry without the informed consent of the landowner or the business owner. Again, this is a huge infringement of and disregard for private property ownership and private business stewardship.

It is not acceptable that the OSPCA should have more powers than the OPP, who are required to have the permission of the landowner or the business owner to enter without warrant unless there is a life-threatening situation.

The landowner or the business owner must have the right to have his own veterinarian's assessment of the animal's state of health, and no removal of the animal can take place without his veterinarian's consent. We feel that this is just a matter of regard, again, for private property ownership, animal ownership and business stewardship.

All fee schedules for boarding, feed and health care must be reviewed and approved by the peer review committee. We recommend that there be a peer review committee created. The members of this peer review committee would be selected by established private sector animal industry organizations.

An appeal process, which is lacking, must be added to Bill 50. The appeal process must be made available through the creation of an OSPCA appeal board. The majority of the members of the OSPCA appeal board will be private sector animal industry representatives. All selected members of the board will be approved by the peer review committee.

That is my presentation, Mr. Chair.

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

Mr. Robert W. Runciman: Thanks very much, Mr. MacLaren. We appreciate you being here today. We've had a couple of other individuals appear this morning, one from the Glengarry Landowners' Association, and the director of the Lanark Landowners Association as well. I appreciate the way you've condensed the concerns here and provided them to the committee.

I am a substitute today, so I'm not sure what the position will be at the end of the day in terms of amendments

put forward by the official opposition, but I'm certainly going to encourage my colleagues to consider amendments dealing with this warrantless entry issue. I share the concerns that you and your organization have related to this, and I know that there are widespread concerns in rural Ontario with respect to providing the OSPCA with greater powers of entry onto private property. I know that there have been situations that have cropped up in the past which I think have perhaps created this wariness about expanded powers.

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I have a lot of respect—I don't want to leave anyone with the impression that I'm not a supporter of the OSPCA. As I said earlier, my wife and I support the OSPCA financially and the Toronto Humane Society. We care very much about the welfare of animals in this province. But at the same time, overzealous inspectors can create problems, and the principle of warrantless entry bothers me, as a Conservative, significantly. I think we have to move very cautiously in this area, and expanding these powers is something that should be a concern to every legislator. We have to be very clear with respect to how you move on these issues.

Jack, I'm just wondering if you have any examples that are not anecdotal that you can relate to us, that you are personally aware of, where perhaps in the past actions have been undertaken by inspectors that have created this extensive concern in rural Ontario.

Mr. Jack MacLaren: I can give you one example, Mr. Runciman. Tomorrow a group of us from the Ontario Landowners' Association are going to Manitoulin Island to meet with the Manitoulin landowners' association—

The Acting Chair (Mr. David Zimmer): I'm sorry, I didn't hear what you said.

Mr. Jack MacLaren: Tomorrow a number of the members of the Ontario Landowners' Association are going to Manitoulin Island—

The Acting Chair (Mr. David Zimmer): Oh, Manitoulin. Thank you.

Mr. Jack MacLaren:—to meet with the Manitoulin Island Landowners' Association. There is a man there named David Pryor who has had, over the past two years, some unfortunate meetings with the OSPCA. He's a farmer. He has horses, and it would appear that things have gone a little bit awry, I would say—a little bit of overzealous enforcement of regulations.

He's on 400 acres. He has these purebred horses that he breeds. They are high-value horses, \$5,000 to \$8,000-horses. It's a rough-land farm. The horses are out in the wild, and they can thrive and survive and do very well in that environment. Not all horses are in groomed stables that have polished fronts and flowers in front of the barn. So it would be a rougher type of operation. There'd be burrs in the tails of the horses, which were an exception mentioned by OSPCA enforcement people, cracked hooves, which are normal health problems that can be fixed and will be fixed, and those things occur. Those are natural things. Animals have problems. They're looked after.

His horses have been taken and he's been charged etc. I was reading on the CanLII website one of the charges that said they took 18 of his horses—three of them were stallions. They're going to return his stallions castrated, and one of them, they believe, should be euthanized because it's a high-spirited horse. Any good horseman likes a high-spirited horse. I would suspect that what we have here is a person who's not capable of managing a high-spirited horse, which does not have anything to do with being inhumane or abusive or anything like that at all. It's just a challenge for a horseman, and a good horseman likes that challenge.

That is an example. We're going to meet with David Pryor and we're going to see if we can help him, as an organization, to try to get things back on the right and true rails of proper animal care, and a proper understanding by all parties of what's going on on his farm.

I would like to say that the Ontario Landowners' Association supports the intent of the OSPCA Act that animals should be cared for in a humane and respectful manner. I would like to say that, as a farmer myself—I have animals; I have cattle—I view the ownership of animals as a responsibility to be taken very seriously, and that I must be a good steward of animal health care, shelter and feed, and that it is my responsibility to provide an environment within which these animals can thrive. Not only is that a proper and humane thing to do, but it happens to be good business. I'm trying to produce food through animal agriculture. Animals that aren't comfortable, healthy, well-fed and looked after in every regard, including veterinary and health care, where required, are not profitable. So it's bad business to abuse animals. Not only is it ethically and morally wrong, it is bad business, so there's no incentive to be bad or inhumane to animals.

We support the intent of the act. We feel the act has been negligent in one regard: that is, to recognize good stewards of animals—that that fact is not recognized. I and the majority of farmers who own animals take great pride in being good stewards of our animals, in taking care of them, providing an environment in which they can thrive and be healthy, which might not be the picture on the cover of the magazine that people in Toronto want to see. It's rough country where my cattle are. It may be rough country where David Pryor's horses are. There are burrs, and his horses may have burrs in their tails and manes and look like a mess. That's not inhumane; that's just the way it is.

I would like to see more regard paid by the act to the good stewardship and regard for animals' health by rural people. I believe we're seeing that occasionally in some individuals; not enough regard is paid to that. We take great pride in taking care of our animals, and if I saw my neighbour abusing his animals, I'd be the first one to ask that that person be taken to task.

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

Ms. Cheri DiNovo: Thank you for deputing before us. As you've heard from Mr. Runciman, we've heard some

of this before, and your concerns are not new to this committee, so thank you again for bringing them forward.

You cite warrantless entry. This has been something that's been ongoing, of course, already; the OSPCA already has that ability. You've mentioned here a life-threatening situation. Presumably, the warrantless entry for the OSPCA is also entered into with the same understanding, that it's a life-threatening situation for the animal as well. "Life-threatening" might not be something you just see; you could hear it, let's say. So that's the intent of the act. I just wanted to get your reaction to that, because you obviously feel that this hasn't been happening, that they've been using warrantless entry already with too much zeal.

Mr. Jack MacLaren: Yes. I'm not saying that there should not be an allowance for warrantless entry where it's warranted. If there's very good reason to believe that animals are truly being abused, and that something needs to be done immediately because tomorrow would be too late because the animal might suffer or die—in the case of a human crime, if somebody was stabbing or doing something terrible that you couldn't fix tomorrow and need to fix today, the policeman can go in and fix that problem. A parallel situation with regard to animal welfare, I would say, I accept.

Ms. Cheri DiNovo: So there would be some circumstances—

Mr. Jack MacLaren: But if somebody sees an animal that's lame and reports it, and the OSPCA goes in with warrantless entry, I object to that. We have animals on our farm that are lame, and we take care of that. We either call the vet—and I know how to do some of it myself—or it may be that it's a pulled muscle and would take some time to cure, like a human being. Because the animal is lame doesn't necessarily indicate abuse. That's not a necessary reason for a warrantless entry. Permission of the landowner should be asked for, and most often, the landowner or the businessman would say, "Come in," or ask, "Why do you want to come on my property?" They might say, "We've heard you have an animal with a sore foot or one that's lame. We would like to know about that." That could be discussed, and if it's then necessary to go and see it, that could be done.

Ms. Cheri DiNovo: So would you say, then, that there are some instances where warrantless entry would be all right on behalf of the OSPCA? I'm just asking because you first said that there should be no warrantless entry, and the concern on their part is of course that there are instances where, like the OPP or firefighters or any other group that's there to protect safety, they should be able to access animals.

Mr. Jack MacLaren: I guess what I'm saying is that I feel that that has been abused at this point in time, and that's pretty clear. We would like to see that practice reined in.

Ms. Cheri DiNovo: Just a question about the appeals process: When you feel they have been overzealous, right now there's the animal review board, and then if you're

not satisfied with their ruling, you can take them to court. You don't think that that's adequate?

Mr. Jack MacLaren: No. It is our opinion that it's like appealing to the people that you're appealing about, asking the people that you're complaining about to solve the problem. It needs to be a separate entity in itself, somewhat outside of the OSPCA, and I'm indicating here a representative of industry.

Ms. Cheri DiNovo: Okay. Thank you.

1130

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

Mr. Dave Levac: Thank you very much for your presentation and the concerns that you've expressed. Quite frankly, the bullets are helpful in terms of the specific concerns that the organization has with Bill 50. It did sound, from your deputation and the two answers, that there is a reasonable amount of understanding that the OSPCA's existence is needed and that it is supported, except that there is some tweaking and reining in that's required of some of the things that have been happening that would make it even better. Is that a fair assumption to make?

Mr. Jack MacLaren: It is. I would suggest that it wouldn't take major tweaking to indicate to certain over-zealous individuals that they need to be a little more reasonable. Actually, "reasonable" is a really good word. I'd like to see reason and common sense put in place. Occasionally, people that are zealous about doing a great job maybe just get a little carried away.

Mr. Dave Levac: Having said that, you are aware that the Animal Care Review Board has overturned some of the OSPCA findings? There haven't been as many as most people think. Because of the 16,800 different complaints, it kind of whittles down, to the Animal Care Review Board, to around 35 cases where they have, and of those cases there have been some reversals and there has been some reining in. The bill, as it's presently written, would actually improve that by ensuring that the chief inspector be given the authority to start doing some of that reining in that you're talking about. Would you support that segment of the bill if it showed that the chief inspector were to improve on that circumstance?

Mr. Jack MacLaren: I would support anything that places more accountability. Accountability is what we're looking for, and occasionally that's been missing. It may not be very much, as you've indicated—I'm not aware of all the statistics—but if it happens once, it's too often.

Mr. Dave Levac: It's once too often. I couldn't agree with you more. The warrantless entry that you talked about is already in existence. The only change that would be made in this bill to that section, (1), would stay the same, that it would be granted with permission of the owner, which speaks to your concern about the owner not having access; and (2), to determine if the previously issued compliance order was followed, because you don't call them up and say, "We're coming to see if you've improved on the things that we told you," so that you can

spend the day fixing things up and then turn around and stop with the compliance order.

I want this to be clear: This, in my opinion, isn't about trying to catch farmers doing bad things to farm animals. This is about dogfighting, cockfighting, massive abuses that are out there. I don't think anyone would be against that, to rein that in, because if you give a farmer permission who is giving someone else permission to use his or her barn to do dogfighting, I don't want them to get alerted that I'm coming in to catch them doing a dogfight, if you see what my logic is.

Mr. Jack MacLaren: I do. I agree with you completely. Obviously a cockfight is not something that anybody who is a sane or reasonable person could support, and neither do we.

Mr. Dave Levac: Okay. And the exemptions that are in the bill are for farm animals, for wildlife and for animal research. The only way in which the OSPCA should be acting is if it goes beyond the standards of care, the normal codes that are accepted in agriculture.

Mr. Jack MacLaren: Sorry, what—

Mr. Dave Levac: The exemptions; there are exemptions in the bill, and this bill, Bill 50, exempts the OSPCA in agriculture, farm animals and wildlife because other rules, laws and codes of standard of care are already in existence and accepted practices. Only if those practices that the farmers employ are beyond those accepted and normal standard of care for farm animals can the OSPCA act. So they're not supposed to act. If you're normally taking care of your dairy cows the same way, they're not going to come in and say, "You're not doing it right," unless they have grounds to believe that those standards of care are being breached.

Mr. Jack MacLaren: It has happened. I'm aware of cases where it has happened, where the cow was lame and was in front of the barn along the road—

Mr. Dave Levac: And that's the normal procedure. Then, that's where the appeal process would come in. So education and probably communication would be one of the biggest things that you see would be helpful in this particular bill—of how they respond and how they treat the public that they're dealing with in terms of the OSPCA?

Mr. Jack MacLaren: I would agree. We weren't speaking strictly to rural agriculture here. We're speaking to—when I say "business," that would be more pet shops or whatever—any kind of animal. We're aware and we have members who have had pets where things happened that were wrong: The dog was put down and then later they found out that the reason was not a sound reason. Yet that owner wasn't asked and didn't have a chance to call a veterinarian. I don't believe this act, if I understand it correctly, provides for the opportunity for the animal owner to call their veterinarian for their opinion before the OSPCA enforcement people can take action. That's not provided for. That's lack of accountability and that's here—

Mr. Dave Levac: And that's part of your presentation—

The Acting Chair (Mr. David Zimmer): And on that note, you've just hit the 20-minute mark. So thank you very much for taking the time to come before the committee and the time to organize your presentation.

CARLETON LANDOWNERS ASSOCIATION

The Acting Chair (Mr. David Zimmer): We'll move to the 11:20 slot now, the Carleton Landowners Association, Marlene Black. Ms. Black, you'll have 20 minutes for your presentation. I'll give you a five-minute warning as you're getting to the 20-minute limit. You may want to leave time at the end for questions from committee members, but that's your decision. If you would introduce yourself for the record, you can begin.

Ms. Marlene Black: Thank you very much. My name is Marlene Black. We are beef and sheep farmers in the rural area of Ottawa. I am a director of the Carleton Landowners Association, which is rural Ottawa.

Many of the issues I have—I'm focusing on two specific ones, and one is the rural farm, and you mentioned that a few minutes ago.

This is a new process for me and I am curious to see what transpires after all these presentations. I hope that this committee's mandate is more than just to listen to our concerns. I hope that you have the power to act on our recommendations, to make some real progress and to help bridge the gap between urban policies and rural realities.

I grew up in the city and moved to the country, so I've sort of had my feet in both worlds. There is a difference in the rural, and I'm going to speak to it in the first part.

The first thing I want to talk about is the word "distress" and its definition. We read the wording that "no person shall cause an animal to be in distress." Yet if you asked 100 people what the word "distress" means, you would get a different answer from all of them. So what is distress? This new bill permits an officer of the OSPCA to come on your property to seize or kill your animal if they say that it is in distress. Just having a strange person walk into a barn will cause distress to the cows. Try it, and you'll see how they run in fear.

I note that a definition of "distress" is given. It means, "The state of being in need of proper care, water, food or shelter or being injured, sick ... or suffering or being abused." "Or being abused": In other words, the other conditions are not abuse; they're just different states that an animal might be in at any given time.

I thought the meaning of OSPCA was the prevention of cruelty to animals, with a mandate to deal with cruelty and abuse. When were they given permission to remove an animal if it was thirsty or kill your pig if it was lame? I know two instances where that happened. Wendell Palmer's prize pig did not get a say in whether he stayed alive or not—no. An OSPCA officer saw him limping—probably with arthritis; he was a big, black prize boar—decided he was in distress and decided to shoot him on the spot. He was not allowed to call his vet. Seventeen times the bullets went into his brain and he still was not dead. Was that not cruelty?

I believe that a lot of the new problems we are seeing in the OSPCA have to deal with the large disconnect that now exists between our rural way of life, our heritage culture and the modern, urban way of life that sees us as perhaps a bit backward, maybe uneducated—perhaps don't really know how to deal with animals. Although we are farmers, landowners and rural business people who understand life in the country and for the most part are perfectly able to look after our animals, we've been subjected to this kind of bill, which displays a total disregard for rural life and the animals that live here, based on many of the examples I've seen.

One of my proposals that I would like to have included in the bill is that there must be officers of the OSPCA who have a rural upbringing and a demonstrated understanding of animal life in the country. These officers would attend all rural animal complaints, because many complaints are born of ignorance and a lack of understanding of rural animals. Without exception, the owner of the animal must be allowed to have his own vet attend and assess the animals in question, and no animals should be removed without his agreement.

1140

I would like to explain why I feel this is necessary. Several years ago, a lady from the city had moved to the country. She dropped by our farm to tell us that she had called the humane society on a farmer who lived down the road from us. His cow was lying in the middle of the field and had been for several days. She was very proud of herself since the cow was no longer there. My husband informed her that she had just had that cow killed to remove it from her vision.

The cow had recently given birth, had a pinched nerve and was recovering. The farmer was bringing it food and water, and in a short while, usually nine to 10 days, it would have been back up again. You cannot move a 1,500-pound cow that cannot walk without hurting her. This lady thought she was doing the right thing, and that is what I fear will happen if urban-schooled OSPCA officers make judgment calls on rural animals. They have no experience to draw from. Like well-meaning government officials who removed native children from their parents because they knew best, an eerily similar situation is happening in our rural province.

The rural way of life is filled with physical, mental and emotional hardships. We cope. We've done it for hundreds of years. Our animals are often working animals. One could argue that our animals are under stress when they are weaned, separated from the flock, sheared or milked for the first time. Because of the wording—I'm referring to "in distress"—it is wide open to interpretation from some inspector lacking an understanding of the rural way of life.

Our dogs stay outside and guard against wolves. They herd sheep and they keep stray dogs off our property. Our dogs eat snow because they prefer it. Our cats live in the barns, catch mice and sleep in the hay. Most of them don't get needles because you can't catch them. Our horses may wear harnesses in the work fields. They're

hot, tired and thirsty at the end of the day, but they are not abused. Our pigs like to eat their mash all mixed up with water and feed in one trough. It's called "slop," and that's how they like it and thrive. What right does an OSPCA inspector have to tell us that our pigs must have water and feed in separate bowls? But she did, and she would not let the lady explain her situation. She insisted, "Two separate bowls." This is what I mean about a lack of understanding. Our hound dogs run for miles on a track and they are pretty sore, thirsty and tired at the end of the day, but they're not abused. Our horses spend time outside, in the heat. Our horse has a lean-to over his head, and when he feels like being sheltered, he goes there. He rolls in the field when he is itchy. We don't brush him; you might find a burr. He loves people and he's 35 years old. He's not abused. Cruelty for him would be loading him up in a truck to drive him somewhere else because Bill 50 said that he is in distress. We have over 400 sheep. At any time, you might find one of them limping. We check them and treat them. It's part of the life in a rural area.

You can't call a vet for everything. Often, farmers treat their own animals. You can't call a vet because often a vet's bill costs more than the animal. You learn to look after your animals. The way the bill reads now is a definite discrimination against rural Ontario, the people who live there and the animals they care for.

That was a long one, but I wanted to give a background on some of the ways rural animals are looked after.

My second point is that the OSPCA does not have to account to anyone. If the OSPCA is on your property and wants to remove your animals, they can, according to this bill. Pleading for your animal's life is often in vain. They have powers greater than the police, and this bill says that you cannot question it.

I suppose there are other places you can go to, but the problem is that in a lot of these things, they say, "Well, there's an appeal process and you can go to court and you can do all this." All those things cost money and time, and they take the farmer away from his animals. If you want a farmer to look after his animals, you've got to keep him on the farm. You can't say, "You have to go and submit, you have to go here, you have to go to a lawyer and go to court." Who's looking after the animals? This is the dilemma that we find ourselves in. Sure, they can say these things; then we have to go and try to defend ourselves. But if there were rural people involved in the assessment or in the visit who have been on farms and who live in the country, they would be able to see that, "Wait a second. This is normal. This is not abuse." I propose that an appeal body be created to deal with people who do not agree with the decision, and never remove or destroy an animal without your veterinarian's assessment and agreement. These are pretty major things—the ability to just shoot your animal because he's deemed as being distressed.

Anything removed and tested should also be available for a second opinion.

I sum up by saying that rural landowners are not criminals, but we are continually fighting against new legislation that is trying to change us into a mould that we don't fit. We are not urban city dwellers with one dog that comes in at night. We're living in the country, alongside nature and the elements, with wolves that kill our sheep, foxes that kill our chickens, raccoons that eat our baby ducks and feed on our corn and groundhogs that dig holes in our fields so that our horses can trip and break a leg. We are struggling and surviving in conditions that many would not comprehend, so you can understand why we have a really hard time with some newly trained, fresh OSPCA face from the city who wants to take our dogs away because their water dish is empty. Thank you very much.

The Acting Chair (Mr. David Zimmer): All right. We have about two and a half minutes per caucus, and this time we start with the NDP.

Ms. Cheri DiNovo: Thank you for your heartfelt deputation. As you know, we've heard some of this before.

Just a question: Obviously, for you the exemption in the bill that talks about farm animals and regular practices with farm animals as being exempt—to your understanding, this hasn't been followed by OSPCA officers?

Ms. Marlene Black: Not with the two horse people that we know and the cow that came away from me—different instances like that. I don't have a wide understanding of all the different complaints, and certainly, like Jack, if an animal is being abused, hurt, suffering, I have no problem with that. I have a problem with somebody interpreting what their idea of distress would be. They may say that our dogs outside are in distress and that they shouldn't be outside dogs.

I do know of an example in Ottawa where that happened. A guard dog, barking, was protecting his sheep, a neighbour complained, and he was told that he had to muzzle his dog and keep him in the house. That wolf killed 30 of that person's sheep. So that was an example of someone not understanding rural farm dogs.

Ms. Cheri DiNovo: As I asked the last deputant about the animal review board: That hasn't worked for the folk whom you're speaking for?

Ms. Marlene Black: If you look at them—we're dealing with one up in Sudbury now, but this one is Wendell Palmer. I don't know if you know him. His is the limping pig that I referred to, and that was the case where it was shot without anybody being allowed to have a second opinion.

The appeal review board: I would like it to go so that there would be rural people on there who would walk in and be part of the decision-making, as opposed to people who don't understand rural animals, and then you can go to an appeal board.

We could stop it at the gate if somebody with knowledge of it could say, "No. Listen, I live on a farm. That's what they do."

Ms. Cheri DiNovo: Thank you for that feedback.

Lastly, one of the deputants suggested that the term, as you are suggesting, is too broad, in terms of distress, and suggested that the words “wilful acts” be added, which I thought was an interesting suggestion. Is that something you might support?

Ms. Marlene Black: Right. “Wilful”; that’s good, because the other things aren’t necessarily wilful acts. I like that. If the intent is there to hurt—sometimes a water bowl gets knocked over and the water is gone. It’s not the intent of the person, you know?

Ms. Cheri DiNovo: I know exactly. Thank you.

The Acting Chair (Mr. David Zimmer): To the Liberals. Mr. Levac, about two minutes.

Mr. Dave Levac: Thanks very much for your presentation. Just maybe a few are-you-aware questions, but more importantly, taking the concerns you have about the generic belief that rural Ontario is set upon by urban Ontario in a war: I personally don’t subscribe to that, but, having said that, I’m sensitive to the concerns you are expressing with regard to rules and regulations that are put upon. I just wanted to make that observation.

1150

Ms. Marlene Black: It’s very widespread in the rural area. If you want more information, I think there are lots of examples of it, not with animals—

Mr. Dave Levac: I have an urban and a rural community, so I’m kept abreast of all of that.

Ms. Marlene Black: Good.

Mr. Dave Levac: You’re aware, though, that euthanasia can only be done with the approval of a vet that it is the most humane course of action to take. An OSPCA officer cannot come in, pull out a rifle of any sort and shoot an animal without the approval. There can be no approval of euthanasia of an animal without a vet. You’re aware of that?

Ms. Marlene Black: I believe they had their vet with Wendell Palmer there. The question I have is determining whether he was in distress. It’s back to having the rural people—I deem that animal needs to be shot and I bring in someone who also thinks the same way and they agree.

Mr. Dave Levac: But the veterinarian is under oath; you realize that. A veterinarian can’t euthanize a dog or any animal without fulfilling their own view that it’s the most humane thing to do.

Ms. Marlene Black: I would hope that would be the case.

Mr. Dave Levac: Just another clarification: If this change to the present warrantless entry is approved and this bill passes, there’s only one wording change in warrantless entries—because they already exist—and that it does not supersede any authority that a police officer has.

Ms. Marlene Black: It doesn’t.

Mr. Dave Levac: No.

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

Mr. Robert W. Runciman: Thank you for your contribution today. It was heartfelt, as my colleague indicated, and I think it gives us a pretty good understanding of some of the challenges that you face in rural Ontario,

in terms of understanding the different way of life. In many respects, it is so different from urban Ontario.

I know the representative of the government talks about warrantless entry like, “It’s already there, what’s the problem?” Of course, what’s happening here is that there’s a significant expansion of the ability to enter a property without a warrant.

I was interested in Mr. MacLaren’s comments where he—I must put my own bias on the table here, that I agree with him in equating it with the powers of the police officers. I think it’s a perilous situation where, indeed, warrantless entry is appropriate. I believe that’s what Mr. MacLaren said. The question is, how do you define “perilous entry”? You get into all these issues of definition. I’d be interested in your view on that issue.

Ms. Marlene Black: On what?

Mr. Robert W. Runciman: Is there an appropriate area? Currently, you have to observe a problem, a cow limping or whatever it might be. Now, with the “reasonable suspicion”—I think they’re the words I’ve heard used today—Mr. MacLaren used the term “perilous situation.” I’m just wondering, what’s your view on that?

Ms. Marlene Black: What was spoken about earlier with dogfights and chickens and all that—nobody has a problem at all if there’s a report of something like that; that’s obvious abuse. Nobody would object to that, I don’t think.

When someone reports to the OSPCA, I’m curious about whether it’s anonymous or not. I don’t know the answer to that. Do they have to give their name? Or do they just drive by and say they saw a limping or hurt animal and you have to follow up? Do you know the answer to that? Do you accept anonymous calls from anybody, or do they leave their name and stuff like that?

More than the warrantless entry—I don’t like that—it does bother me that we don’t have people who are qualified in recognizing animals in distress in a rural situation. A lot of farming puts animals in distress when you’re doing all sorts of things to them. You have protection, I guess, with the farm.

I think loading up 16 horses on a truck and waiting two months and then charging someone \$16,000 to get them back isn’t right. Why is this happening—taking away our horses and paying huge sums to get them back? I know two examples of that happening. Those are the kinds of concerns that I have. Are we talking about them being abused, or were they just taken away for whatever reason—no shelter at the time—and then they have to pay this huge sum of money to get them back? That doesn’t sit right with me.

The Acting Chair (Mr. David Zimmer): On that note, we’re at the 20-minute mark. Thank you very much for organizing your presentation and attending before this committee today.

Mr. Dave Levac: On a point of order, Mr. Chairman: A question was asked by the deputant, and I will endeavour to get an answer for her before she leaves. It’s about anonymous entry.

The Acting Chair (Mr. David Zimmer): You can speak to Mr. Levac after the hearing.

CANADIAN FEDERATION
OF HUMANE SOCIETIES

The Acting Chair (Mr. David Zimmer): The 12 o'clock slot: the Canadian Federation of Humane Societies, Shelagh MacDonald. Ms. MacDonald, you have 20 minutes for your presentation. I'll give you a five-minute heads-up when your time is about to expire. You may wish to leave time for questions from committee members, but that's your choice. If you'll identify yourself for the record, you can begin.

Ms. Shelagh MacDonald: My name is Shelagh MacDonald. I'm the program director with the Canadian Federation of Humane Societies here in Ottawa.

Good afternoon and thank you for the opportunity to speak to you today on this important issue. The Canadian Federation of Humane Societies is a national animal welfare charity that was formed in 1957. It is the only national voice for humane societies and SPCAs across Canada, and it works to promote respect and humane treatment for all animals.

I want to emphasize that the CFHS is not an animal rights organization and does not espouse an animal rights philosophy. As an animal welfare organization, we promote the responsible and humane use of animals, reflecting the values of the majority of Canadians.

The CFHS has been heavily involved in the debate over animal cruelty amendments to the Criminal Code for the past several years, and I personally have worked extensively on this issue. It is very important to have effective animal protection laws both at the federal level and at the provincial or territorial level in order to provide options to prosecutors in cases of animal cruelty.

As you probably know, Ontario has one of the oldest animal protection acts in the country, and it is very badly in need of reform. There are serious deficiencies in the Ontario SPCA Act that prevent the SPCA from properly dealing with animal abusers. For example, there are currently no sentencing provisions except for the new section on puppy and kitten mills. This means in all other cases the only tool available to deal with animal cruelty offences is the Criminal Code. The animal cruelty section of the Criminal Code was originally enacted in 1892, and is full of loopholes that make it very difficult to prosecute certain cases. Obviously, this is one crucial reason why Ontario needs a good provincial act. Also, not all offences warrant a Criminal Code charge, so provincial charges are also necessary to address less serious cases.

I'm here to speak in support of Bill 50. It makes many necessary changes to bring Ontario's animal protection law into the 21st century and in line with most other provinces. Bill 50 also includes clauses to deal with animal fighting, something we've been calling for at the national level. There's nothing radical in this bill and nothing that will threaten any lawful uses of animals carried out according to normal practices.

I know there have been some speakers concerned about how this bill might impact various uses of animals, such as farming, hunting, zoos etc. The CFHS is very familiar with such concerns, having dealt with them at

the federal level. It is normal for people to fear change, but I hope those people can understand the need for a law that will offer significantly greater protection for animals from cruelty, abuse and serious neglect. It is important to balance this need for protection of animals with protection for farmers, hunters, anglers and others who use animals for their livelihood or recreation. I believe Bill 50 does exactly that.

The authority given to the SPCA in this bill, the definition of "distress" and the provisions for addressing animals in distress are very similar to what exists in most other provinces, and the acts in other provinces are not a threat to rural life or to agriculture, hunting, fishing, research or other lawful activities involving animals.

The CFHS does have some concerns about the exemptions in Bill 50. The definition of "distress" is: "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." But this bill allows animals to be in any or all of these conditions if they are native wildlife or fish in the wild or farm animals being used according to generally accepted practices or some other class of animals living in particular prescribed circumstances yet to be determined.

1200

Although all provincial animal protection acts include similar exemptions, does it not seem inappropriate to excuse certain industries from a requirement to provide proper care for animals or even to inflict abuse on animals? With all due respect, it is a little surprising that farmers, hunters, anglers, rural folks and others are coming before you to claim that Bill 50 would threaten their activities when they are exempt from the main offence in the act, which is causing animals distress.

An additional problem with the exemptions in Bill 50 is that clause 11.2(6)(c) is completely wide open to be determined by regulations. I would like to know what the government has in mind for that section. I'm guessing this is where zoos would be addressed, as there was a lot of talk about zoos. I hope this is the case, because there certainly is an urgent and substantial need for regulations to set standards to address the many roadside zoos in Ontario that are keeping animals in horrific conditions.

The CFHS would also like to see the province prohibit the sale and keeping of exotic animals as pets. Keeping exotic animals as pets is not in the best interests of the animals and also poses public safety risks from viruses and potential attacks. Today, Ontario residents are free to keep tigers, monkeys, cougars or pythons as pets, except in some municipalities that have had the foresight to prohibit the keeping of such animals as pets. The provincial government needs to take a firm stand against the trade in exotics, and I urge you to address this in the regulations.

I would just like to explain a little bit about how SPCAs and humane societies operate across the country. Their role is to provide shelter for animals in need and try to find homes for them, to educate their community about the humane and responsible treatment of animals, and to address animal cruelty. SPCA or humane society in-

spectors are mandated as peace officers under provincial legislation to enforce animal cruelty laws. In Ontario, they simply don't have an appropriate tool to do this job.

The investigative work of SPCAs is complaints driven, meaning that they respond to concerns from the public. Certainly not all complaints that are made by the public need any further action, but it is the role of the SPCA to look into those. Ontario SPCA inspectors and agents from their branches and affiliated societies across the province conduct about 16,000 investigations per year from those complaints. Most cases are dealt with by educating owners regarding proper care. In about 2,500 cases, orders are issued requiring animal owners to take certain actions to improve the care of the animals. Charges are laid in only about 250 cases, either under the Criminal Code or the Ontario SPCA Act. These charges are brought by the crown, not by the SPCA, and are only laid in cases of serious abuse or neglect. The Ontario SPCA plays a crucial role in the province, one that they take very seriously.

I thank you for inviting me here today. I sincerely hope you will recommend that this bill go forward. There can be no question that the current OSPCA Act is completely inadequate and must be updated as soon as possible. I welcome any questions.

The Acting Chair (Mr. David Zimmer): We have about four minutes per party, beginning with the Liberals. Mr. Levac.

Mr. Dave Levac: Thank you for your presentation and support for the bill and your recommendations of some of the changes that your organization has contemplated.

I appreciate the clarity that you've brought regarding the exemptions. The standards, if they are not being met, would then require the OSPCA, under advisement, to investigate, which means that in agriculture, farm animals, wildlife—but not research animals, because they're covered under a different law altogether that prohibits the OSPCA from intervention—the OSPCA would intervene if, and only if, those standards were not being met. In other words, if you're not meeting the standards, then the OSPCA would intervene. Is that something that you can accept in terms of the exemption, as long as those standards of care are being maintained?

Ms. Shelagh MacDonald: Yes, as long as the standards of care are being maintained. I know that's how the other provinces' acts are written. When you really read the definition of "distress," it seems a bit odd that we would just make an exemption for certain activities, enabling them to cause that kind of distress. But I know that's—

Mr. Dave Levac: Earlier the warrantless entry was characterized by my friend and colleague across the table as an extreme addition to the powers of an OSPCA member. The only words that get changed are "observe" versus "reasonable grounds." The rest of the definition stays in place, and has been in place since the bill was written. Do you see that as an extreme in terms of warrant, vis-à-vis examples of why you have to observe

things to happen, if there are a lot of disasters that happen because you can't see them?

Ms. Shelagh MacDonald: Exactly. No, I don't think it's extreme at all. A good example would be how somebody might tell an SPCA inspector that somebody just put a box of kittens in the trunk of their car, so they're going to suffocate in the car. But the SPCA inspector can't see them there, so he wouldn't be able to do anything about it, as opposed to having reasonable grounds because someone had told them they should investigate that. I don't think that's unreasonable at all.

The Acting Chair (Mr. David Zimmer): Thank you. To the Conservatives.

Mr. Robert W. Runciman: I'm going to have to check Hansard. I don't recall using the word "extreme," but it's certainly a broadening.

I want to endorse your comments with respect to exotic animals. I wholeheartedly agree with you there. I think there's a situation in Rice Lake right now, where there's a carp virus which they believe was brought there by people dumping exotic fish into the lake. The virus is now killing the carp by the thousands.

I'm curious about one of the comments you make on page 3 about how any investigative work of the SPCA is complaints driven. Are you implying that there's no significant portion of SPCA work that's self-initiated? Are there statistics with respect to what you're saying here about complaints-driven investigations, because I personally don't know. Also, I'd like to hear your view with respect to one of the submitters where you referenced anonymous complaints as well.

Ms. Shelagh MacDonald: I don't know exactly the answer to the anonymous complaints, but I believe the person would have to give their name. The inspectors behind me can answer that question.

The other question was—

Mr. Robert W. Runciman: I was saying "complaints driven," that their work is complaints driven, which implies that they only respond to complaints.

Ms. Shelagh MacDonald: Right. The work of SPCAs is predominantly complaints driven as far as individual animals. They don't drive up and down the road looking for animals in distress particularly; they don't do that. But they might go to inspect a pet store, for example—so commercial uses of animals in commercial settings. They might do spot visits to a pet store or to—

Mr. Robert W. Runciman: I was thinking more of the farming side of it, because the concerns we heard this morning have been essentially from the farming community.

Ms. Shelagh MacDonald: No. An SPCA would not drive up to a farm without a reason to go to look into something there as the result of a complaint.

Mr. Robert W. Runciman: It would have to be complaint driven. Thanks.

Ms. Cheri DiNovo: Thank you very much for your deputation. You made the statement at the beginning that you're the only national voice for humane societies. We heard a deputant earlier this week who came from the Humane Society of Canada. The Humane Society of

Canada exists as well as your organization. I was wondering if you could explain that a little bit to us who are new.

Ms. Shelagh MacDonald: Sure. The Humane Society of Canada was originally a branch of the Humane Society of the United States when they came into Canada in the early 1990s. Then they became a separate organization. But they are a national advocacy group. We're the only group that works with humane societies and SPCAs. Our role as a federation is to represent the interest of humane societies and SPCAs across the country.

Ms. Cheri DiNovo: There seems to be some concern there, and you know that there is. There's sort of a turf war that we've been wending our way through on this committee. The Toronto Humane Society, for example, had some real concerns about sections of Bill 50 that I'm hoping will be addressed by the government. They've promised that they will. That was where my question was going.

One of their concerns was the lack of transparency of the OSPCA. I asked the inspectors—really, it's not their business to get involved in this but perhaps it's yours—why it is so difficult to get at the bylaws of the OSPCA. Apparently they're not available for public scrutiny, and yet it's a public charity etc.

Ms. Shelagh MacDonald: It's hard to answer that question. It's my understanding that most things like that at a charity would be public documents.

Ms. Cheri DiNovo: I would hope so, and I will ask when the person comes. There are just some concerns there.

I also asked the last deputant about the definitions in section 11, because there have been some concerns about that. One of the deputants had suggested the words

“wilful act.” You've heard from the farming community, for example, about some complainant, let's say, seeing an animal limping in the field and that initiating an investigation. “Wilful act” might address this. I don't know, so I'm asking your opinion on that.

Ms. Shelagh MacDonald: I think the definition of “distress” as it is written is excellent, and it is very, very similar to what other provinces have, so I don't see it being problematic. No animal is going to be seized because it has a sore leg and it's limping a little bit. I think an animal has to be in distress that can't be relieved in a rapid manner, and it can't be seized unless there's testimony from a veterinarian. We are talking about an animal that is clearly in a state of suffering that can't be relieved.

Ms. Cheri DiNovo: Right. Well, certainly it's our intention to strengthen this bill, not to weaken it. Thank you very much for your deputation.

Ms. Shelagh MacDonald: Thank you.

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

That concludes the committee's sittings in Ottawa. I've got a couple of housekeeping matters here. There's lunch in the Capital Carleton Salon; that's out the door here, turn right and then turn left. It's on this floor. Checkout time at the hotel is 1 o'clock. Meet in the lobby at 1:25, and the bus driver will pick us up for our trip to Toronto.

Mr. Lou Rinaldi: Tomorrow morning at 10?

The Acting Chair (Mr. David Zimmer): It's 10 o'clock tomorrow morning in Toronto.

Thank you.

The committee adjourned at 1211.

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