



House of Commons
CANADA

Standing Committee on Justice and Human Rights

JUST • NUMBER 010 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, January 31, 2008

—
Chair

Mr. Art Hanger

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Justice and Human Rights

Thursday, January 31, 2008

• (1530)

[English]

The Chair (Mr. Art Hanger (Calgary Northeast, CPC)): I'd like to call the Standing Committee on Justice and Human Rights to order on this Thursday, January 31.

Our committee will be debating Bill S-203, An Act to amend the Criminal Code (cruelty to animals). I believe the bill was sponsored through Senator Bryden.

Senator Bryden, you are first on the list to testify.

Colleagues, after Senator Bryden's testimony, there is going to be a brief break to discuss some committee business. Normally I would conduct this at the end of the session, but there is a concern regarding a time issue, so we'll try to quickly deal with that business halfway through the meeting.

Senator Bryden, you have the floor.

Senator John Bryden (New Brunswick, Lib.): Thank you, Mr. Chairman and committee members, for fitting consideration of Bill S-203 into your busy agenda.

This is a very straightforward bill. It amends the sections of the Criminal Code that deal with cruelty to animals to increase the maximum penalties that a court may impose for the offences set out there. In doing this, the bill responds to the most serious deficiency in our criminal law for the protection of animals by providing enforcement officers, prosecutors, and courts with access to penalties up to levels the offences warrant and Canadians expect, which act as substantial deterrents to those who would commit these terrible acts of animal cruelty.

Under the existing Criminal Code, all animal cruelty offences, with one exception, are punishable only on summary conviction. The maximum penalties that may be ordered by a court are limited to a fine of \$2,000 and/or six months' imprisonment. The one exception relates to killing, poisoning, or maiming cattle, which is an indictable offence punishable by imprisonment of up to five years.

There is a broad consensus that these penalties are not adequate. They do not reflect the seriousness with which Canadians view these crimes today, and they do not present an effective deterrent. This is what Bill S-203 addresses. It seeks to fix the most serious deficiencies in the law as it stands now.

There is significant support for this bill from various and varied stakeholders. There is also opposition from some animal rights lobby groups, some humane societies, and some individuals, but I believe I can safely say that no one is opposed to what is in this bill. Any

opposition relates to what is not in this bill, and as you are all aware, this bill does not prevent those who desire to create a more ambitious and comprehensive regime from pursuing their goals.

I will very briefly describe the provisions of the bill and the changes they would effect.

First, each of the offences would become a hybrid offence, allowing for the prosecutor to decide, on the basis of the seriousness and the circumstances of that particular case, whether to proceed by way of indictment or summary conviction.

Right now, only injuring or endangering cattle can proceed by way of indictment. All the other animal cruelty offences are at the exact opposite end of the spectrum. They may be prosecuted only under summary conviction, which in our system, as you are well aware, is generally reserved for less serious offences. This in itself sends the wrong message. Bill S-203 would correct this and make all of the animal cruelty offences hybrid ones.

The bill does not create any new offences. I repeat, this bill does not create any new offences. That was an important principle during the drafting of the bill. The goal was to keep things as simple and straightforward as possible.

You may then be surprised to see a new proposed section 445.1 in this bill and to note that the language of proposed sections 445.1 and 446 does not precisely recreate the existing language in section 446. This reflects the fact that in setting out the new penalties, the bill distinguishes between situations in which animals are injured intentionally or recklessly, and situations in which they are injured by neglect. As you know, our criminal law and justice system generally makes a distinction between acts that are done intentionally, knowingly, or recklessly and situations of negligence. This is reflected in the penalty structure proposed in Bill S-203.

• (1535)

In brief, for those offences involving intention or recklessness and also for the offence of causing pain, suffering, or injury by failing to provide reasonable care, the maximum penalty would be increased to five years' imprisonment on indictment, or 18 months' imprisonment and/or a fine of \$10,000 on summary conviction.

For other animal cruelty offences, the bill would raise the maximum penalty to two years' imprisonment on indictment. Where the prosecution elects to proceed by summary conviction, the maximum fine would be increased to \$5,000 from the current \$2,000 and the maximum imprisonment would remain at six months.

These penalties are drawn from those set out in previous bills prepared by the Department of Justice. They were based on a comprehensive comparative examination of animal cruelty statutes in other jurisdictions as well as a comparative analysis of similar types of offences under the Criminal Code conducted by the Department of Justice.

Under subsection 446(5) of the Criminal Code, a court today is authorized to make an order prohibiting an accused from owning or having custody and control of an animal or a bird for a period of up to a maximum of two years. This two-year limit has been recognized as inadequate. Bill S-203 would take away the cap, and in fact it provides that in the case of a second or subsequent offence any order made by a court must be for a minimum of five years. This is the proposed new paragraph 447.1(1)(a), which I mentioned earlier.

Finally, the bill contains a new provision authorizing the court to order the accused to pay reasonable compensation to a person or organization. This most often arises with animal welfare agencies who cared for the animals that were injured. That is proposed new paragraph 447.1(1)(b).

I have one final point before I conclude. Aboriginal rights, under section 35 of the Constitution, protecting traditional hunting, fishing, and trapping methods are unaffected by this bill. Indeed, aboriginal members of the Senate participated in the development of this bill, and they worked to ensure that the bill meets aboriginal concerns.

Mr. Chairman, that is my very brief overview of this bill. It is a short bill, but I believe it will go a long way to help address a serious problem with the Criminal Code as it now stands. A series of attempts by different governments over the past 10-plus years have failed to pass Parliament. If that situation continues into the future, the modest amendments in Bill S-203, if adopted, will allow the courts to punish offenders as the offences warrant and will work to protect the animals until such time as a new and more sophisticated regime is enacted.

Mr. Chairman, I would like to end by quoting Donald Piragoff, senior assistant deputy minister, Department of Justice, who testified before the Senate legal and constitutional affairs committee. After describing the provisions of the bill, which was Bill S-213 then and is now Bill S-203, he continued, and I quote, "Together they constitute a significant improvement to the current law regarding sentencing and one with which all Canadians would agree."

Thank you for your attention.

● (1540)

The Chair: Thank you very much, Senator.

We'll go right to questions. The first round is seven minutes.

Mr. Murphy.

Mr. Brian Murphy (Moncton—Riverview—Dieppe, Lib.): Thank you, Mr. Chairman.

Thank you, Senator.

I just have a few questions.

I wasn't around for any of the previous legislation and the back and forth, but I've read the code, and I've read your bill, and I've read parts of Bill C-50, and I've read my colleague Mr. Holland's bill. I guess what I'm trying to get at, Senator, is that I respect what you've done in trying to move the issue forward. But in your attempt to move the ball forward but not lose the game, so to speak, do you think you could have pushed it a little further? In other words, are you open to friendly amendments that would move your bill more towards Bill C-50 without losing the battle?

If you don't know what I'm talking about—I suspect that you do—I'm talking about things like amending the bill to include definitions for animals. As you know, the sense of animal protection and cruelty in section 444 and on in the code is medieval. It's animals as possessions only, not as sentient beings and so on.

Do you think you could move on that point? Do you think you could move on making, as the code sort of does, the distinction between owned animals and wild animals go away? I respect what you're saying about the troubles bills get into when they encroach upon aboriginal rights or the pastimes of people who hunt and fish. I understand that. But in calibrating this, did you take into consideration just how far you could go to move the ball forward without losing the day?

Senator John Bryden: Thank you for your question, or questions.

I guess the best way for me to answer that is to try to give you the context in which I created this bill.

What scuttled every other attempt to conclude a bill and get it through Parliament was the fact that the number of amendments that were made, the number of changes that were made, were considerable. The position that was taken, at least publicly, when the first bills came forward was that the principal concern of the Canadian people, the public, was that the penalties were not adequate to fit the crimes that were occurring. And the statement was made over and over—and many of you will remember this, or at least some of you will remember this—that the principal reason for amending the bill, 80% of the reason for creating an amended bill, was to increase the penalties. The rest of the thrust was to improve the wording, modernize the wording, and tailor a few things. But the primary focus was to get the penalties up.

● (1545)

Mr. Brian Murphy: Are you suggesting that it might scuttle the bill, in short? New Brunswickers are known for brevity and directness, and you're no exception to that. Would amendments such as the one I'm speaking of scuttle the bill?

Senator John Bryden: Yes, and the reason I say it would scuttle the bill is that what we've learned in dealing with these bills is that there is not "an" amendment. If one amendment is good, 15 are a lot better, and that is what has mired this file for years and years.

I'll make this as brief as I can.

We have a criminal code on cruelty to animals that has served us very well for a long period of time, and what's more, it has a history. Prosecutors understand it, the people who work with animals understand the law, and the courts understand the law. The reason it does not work is that the penalties are so anemic that the courts throw up their hands, because if somebody runs a puppy mill and he's charged, convicted, and pays his \$200 fine, or whatever it is, he's back in business in a week.

What I decided to do, and it's either right or wrong, is say that the law is not what's wrong, what's wrong is that we need to adjust the penalties, and that is why I purposely avoided changing any of the existing law, so that we have the context, we have the precedents, and what will be changed are the penalties that would be used.

Nothing prevents somebody else who carries a different brief, for whatever reason. They can change it tomorrow, as you all know. But one of the reasons it did not work very well before was that there was not enough consultation on that 20%. Nobody went and talked to the aboriginal people. Nobody actually sat down and explained why it would make a difference in protecting the actual animals to create a whole new part of the Criminal Code instead of using the part that is already there.

Anyway, I'll stop.

Mr. Brian Murphy: My time is running out, but to be more specific on the tail end of your answer—and maybe we'll hear this through the testimony—do you think the aboriginal community would be content with Bill S-203?

Senator John Bryden: Absolutely.

Mr. Brian Murphy: How do you know that?

Senator John Bryden: Because I had seven aboriginal people working with me on this during its development, and they were in the lead in opposing the other bills that came down through the Department of Justice, because they didn't know where they were going, whether it was going to affect their hunting, fishing, and treaty rights, and there was no way of finding out.

There were things that showed up in those bills that used words like creating a new offence of killing an animal in a brutal manner, and there was no definition of what constitutes "brutal". What constitutes "brutal" to some starlet sitting on the ice counting little white seals is quite different from what would be brutal to a fisherman or a harvester of wildlife.

I can say without any question—and we could bring people to give evidence—that the aboriginal community is comfortable with this bill, and that's one of the reasons I stuck to my knitting and said, we have a bill, they've lived with it all their lives, and therefore it's not a problem for them. What they need to know is where they're going, and they accept the level of the penalties.

• (1550)

The Chair: Thank you, Senator, and thank you, Mr. Murphy.

Monsieur Ménard.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Welcome, Senator.

I was a little taken aback by your testimony. I can appreciate the battle that you have waged. When one has convictions and is involved in drafting a bill, one obviously hopes that the bill will ultimately be adopted.

However, no doubt you know that we have advised several members of Parliament that we find your bill comes up very short on content. The key issue is not increasing penalties, since few people are actually brought before the courts. We have even heard that barely one per cent of persons who commit acts of cruelty involving animals are effectively charged with a crime.

As long as we are re-opening the debate and considering draft legislation, why not take steps to include a definition of "animal" in the bill, to include animals as property and to consider the case of wild and homeless animals? Several of the shortcomings in your bill were brought to our attention, as parliamentarians. Other members have endeavoured to correct these shortcomings. I won't identify these individuals by name, but one of them is seated right next to me at the table today.

Furthermore, if ever the House were to vote on the bill and send it off to the Senate, would the Upper House adopt a bill with even stricter measures? I admit that the two bills are not incompatible, but you cannot pretend that no one is opposed to your bill. I have heard many arguments, as I am sure my colleagues have.

Animal welfare organizations have roundly criticized your bill, arguing that it has serious shortcomings. Will you admit that there is opposition to your bill? Let me say again that the two bills are not incompatible, but I have to wonder, while we are on the subject, why we shouldn't take things a step further. Basically, will you admit that animal welfare groups do not support your bill, and prefer the one tabled by a colleague in the House?

[*English*]

Senator John Bryden: I recognize that a lot of people do that. As for whether they do that for good reason, one would say it depends on whether you're buying or selling. The fact is, as it exists now, a lot of it was based on the idea that the Criminal Code for protection of animals applied only to domestic animals. Since 1953, the section in the Criminal Code that makes it an offence to cause unnecessary pain, suffering, or injury to an animal has applied to strays and to wild animals. It is not restricted.

I was amazed when certain animal rights people appeared at the last meeting of the legal and constitutional affairs committee in the Senate and indicated they were shocked and surprised when they were told by the Department of Justice that the present code covers wild animals and stray animals as well as domestic animals under the provision I just mentioned. They didn't know.

[Translation]

Mr. Réal Ménard: Just a minute. I do not want to get into the specifics, but I would like to clarify the origins of the bills. We need to bear in mind, when we get down to studying the bill as members of the House of Commons, that animal welfare groups do not support this initiative. We agree on that.

In your opinion, does your bill have the support of the Conservative government?

• (1555)

[English]

Senator John Bryden: That is up to the government.

I certainly did support my bill. At the time it was given second reading, the person who was the lead on the government side—I think it was Mr. Moore—categorically said the government supports this bill. I also had that information from the Bloc. Whether that's still true or not, I don't know, but that was indicated to me as well.

The point is this. It's not up to me. If you want to amend the bill, then that is your right, of course. All I can do is bring to you the experience I have had over much more than 10 years, and my experience is—

[Translation]

Mr. Réal Ménard: If you have no objections, I have a third question for you. Our concern is that should the bill, as amended, be adopted and sent to the Senate, isn't it possible that some of your colleagues may argue that they have already voiced their opinion on this matter and hence decide not to support a second bill? In your opinion, would senators support another bill, namely the one introduced by my colleague here in the House, a bill that goes much further? Can you reassure us in some way? I realize that you do not have a crystal ball, that you do not have any control over senators...

[English]

Senator John Bryden: Yes.

[Translation]

Mr. Réal Ménard: ...and that their actions are unpredictable, but I am curious about your take on the situation.

[English]

Senator John Bryden: It would depend on the bill as it comes. We do our job. We do the analysis and we would do our job. Would there be any bloc that says no, having passed that, then we won't pass any more? And the answer is no, absolutely. That is not an issue.

I'll tell you what is as much of an issue as you have back in your mind. What happens if my bill does pass is that all of a sudden, to those people who carry certain agendas, the lever they've had for so long to try to get this Cadillac bill dealing with animal cruelty passed is gone.

The fact of the matter is that the major concern of the public is that they need to have adequate penalties in order to have the court system work properly. And once that's gone, in terms of the concern of a lot of people who are saying, but the Senate might block it, the Senate doesn't wander around and block stuff simply to block it. The fact of the matter is that some of them are concerned that once that

lever is gone, it's goodbye Charlie Brown to our influence in trying to control the animal rights of Canada.

[Translation]

Mr. Réal Ménard: Thank you.

[English]

The Chair: Thank you, Senator Bryden.

Monsieur Ménard, good question.

Mr. Comartin.

Mr. Joe Comartin (Windsor—Tecumseh, NDP): Senator, I really don't even know where to start with you, but let me start with the fact that you're not elected, is that correct? The Senate of this country is not elected. The Senate of this country has twice refused to adopt legislation that the House of Commons, which is elected, sent to them. Is that correct?

Senator John Bryden: I'm not here to be cross-examined, I don't believe, and I think you know the answer to those questions as well as I do.

Mr. Joe Comartin: All right, you're not elected and the Senate is not elected, and twice you've blocked this legislation in the Senate. Why would we expect that if we made any amendments, you wouldn't do it a third time?

Senator John Bryden: We did not block the legislation in the Senate. The last time I actually made the motion, and the motion was made to support the aboriginal people, who wanted one more chance to get an abrogation clause to go inside that would do what they wanted it to do. What occurred was, instead of giving the final reading, they requested that the matter be referred back to the committee to see if they could get it to the point where it was in fact acceptable to them.

That was accepted in the Senate, and before anything more could be done, the House was prorogued. We've gone from prorogation to elections and so on. So most of the times that the bills have failed, they happened to be in the Senate some of those times, but it's because Parliament stopped and you had to start it over.

• (1600)

Mr. Joe Comartin: It is a fact that on at least one occasion you made significant amendments and that bill got sent back to the House of Commons.

Mr. Derek Lee: On a point of order, Mr. Chairman, Mr. Comartin has for the second time referred to Senator Bryden as “you” when I think Mr. Comartin may have been referring to the Senate rather than to Senator Bryden himself personally.

Senator Bryden here today does not represent the Senate. He does not represent a party in the Senate. He is an individual senator who has piloted a bill through the Senate and brought it to the House here at private members' business.

Thank you.

The Chair: Thank you, Mr. Lee.

Mr. Comartin, put your questions to the chair and make reference generally.

Mr. Joe Comartin: Okay.

Mr. Chair, through you to the senator, you had—and I mean you personally, not the Senate—the opportunity to encompass in your bill—his bill, Mr. Chair—the entire part of what was originally Bill C-15, then Bill C-10-B and then Bill C-50 in the last House when this was before the House of Commons. Why did you choose to only selectively go at the penalty part as opposed to all the rest of the bill?

Senator John Bryden: The short answer is that the other parts of the bill all had problems with them. There had not been sufficient consultation before it was done. Any consultation that took place was after the fact; people were presented with a bill that was already there and were told, this is it, now come and see if you can fix it.

The other thing is that some misleading points were coming out, that what's legal today will be legal tomorrow under any one of these bills. Once it became clear there indeed were new offences in these bills, then people became very concerned, and that is why there are so many....

I grant the fact that there are a number of people who oppose this bill for reasons of their own making, for good and maybe not so good reasons, but where we are really coming from is to say we have to start somewhere. Surely if we can't agree to put a reasonable penalty scheme in the existing one, we are never going to be in a position to create this Cadillac version, which really crashed—and it crashed a number of times. And it was not John Bryden who made it crash.

The Chair: Mr. Comartin.

Mr. Joe Comartin: Mr. Chair, through you to the senator, do you agree with the statement that the essential part of the bill was passed twice by the House and is now in private member's Bill C-373? The contents of Bill C-373 have, in essence, been passed twice by the House of Commons.

Do you agree with that or not?

Senator John Bryden: I agree.

Mr. Joe Comartin: Mr. Chair, I am not sure why I am being imposed upon by this particular rule, as it has not been the rule of this committee up to this point.

The Chair: In all fairness, Mr. Comartin, I think you come on somewhat antagonistically with the senator.

Mr. Joe Comartin: No question.

The Chair: So just keep that in mind.

The senator will reply.

Senator John Bryden: I am trying to recall this. I know it was in the House of Commons and that it came over to us and then went back over to the House. It is my understanding that the one time it was passed, it was done with all three readings in one day in the House of Commons.

What you indicated, that the essential part of the bill—

Mr. Joe Comartin: Mr. Chair, could you ask the senator to refer to you rather than to me?

Could I have a ruling, Mr. Chair?

The Chair: Mr. Comartin.

Mr. Joe Comartin: I would ask you to direct the senator to address you rather than me.

Some hon. members: Oh, oh!

• (1605)

The Chair: Thank you.

Senator.

Senator John Bryden: As a matter of fact, I prefer it that way.

The reference was made to the essential part of the original bills being passed here. So why did I decide to do the penalty ones?

The fact is that when these bills came down, the essential part of the bill was the penalties. Time after time, ministers of justice said, the major purpose of this bill is to increase the penalties; don't pay any attention to any of this other stuff; it's the penalties, such that 80% of the problem will be solved in the minds of Canadians.... They had done a survey, showing that 80% of the problem with animal cruelty would be solved, Mr. Chair, if we got the penalties right.

Well, we got the penalties right. The one thing everyone agreed on was the level of penalties, and so on. Once we had them right, I thought it would be helpful, as a compromise, to take the existing law, which we have lived with for all this period of time, and to put within it the penalties everybody had agreed to. That is exactly what my bill does. It does no more or less than that.

The Chair: Thank you, Mr. Bryden.

Thank you, Mr. Comartin.

Mr. Dykstra.

Mr. Rick Dykstra (St. Catharines, CPC): Thank you, Mr. Chair. I will try to direct my remarks through you to the senator.

In terms of the bill itself, from the pushback I have had from a local perspective, the bill doesn't go far enough. For example, animal fighting is not firmly addressed in this bill.

Through you, Chair, how would the senator respond to that?

Senator John Bryden: My response, Mr. Chair, is that it's true. As I indicated, I did not start out to create new offences, because once you start there is an endless road.

Mr. Rick Dykstra: One of the other points I noted is the past objections that are centred around vague language in the legislation that some anglers and hunters believe may put them in a very tough position. So it's the exact opposite argument, that it actually goes too far.

Senator John Bryden: The answer to that is that that may be the case, because there are situations in other countries where, under the rubric of not causing any pain, suffering, or injury to an animal, it includes angling, and in particular, catch-and-release angling. It is not, the way the other bills read, without lawful excuse. When I hook a salmon in a catch-and-release position, I don't have the excuse that I need the food. I'm hunting or fishing for sport. I do not have a lawful excuse.

I want to indicate something. If that bill had passed in that fashion...having a valid fishing, hunting, or trapping licence from a province of competent jurisdiction does not count as a valid excuse if you're charged under that Criminal Code section. The case from the Supreme Court of Canada that made that so is the Jorgensen case. I can give you the notation, but I don't have it right here. But that is a fact, and it was specified to us.

I asked the question of the Department of Justice in another hearing. I asked, if we have valid fishing and hunting licences from provincial jurisdictions or a proper jurisdiction, whether that is a valid excuse. The answer was no, it is not, and I was referred to that case. I read the case, and that's the way the law is. It's a constitutional thing. And the other is that a provincial licence does not trump a Criminal Code charge.

You can imagine how that was reacted to by those folks who fish. You can imagine the reaction in relation to the aboriginal people as well.

Mr. Rick Dykstra: One of the other questions I have is related to the fact that, for some reason, cattle are placed above all other animals in importance, based on penalties. Why is that?

• (1610)

Senator John Bryden: This is an educated guess, because I did do some research. It was put in there very early on in the law, at a time when there were cattle rustlers and people spreading poison around. Cattle were very important and so they were singled out, and this may very well have been the first offence of any in relation to animal cruelty. That is why, I believe, it had the bigger penalty and was indictable.

Mr. Rick Dykstra: Why would that need to exist today? I'm not familiar that cattle rustling is still happening, but if it is, I would certainly like to hear your thoughts on that.

Having said that, why would you have left it in? Why wouldn't you have given it equal weight to all animals?

Senator John Bryden: We did. I mean, it's still there, but it has the same weight. It is a hybrid offence, the same as every other offence. You can do it by indictment and therefore get the same prison sentence as it used to be, but you can also proceed on summary conviction if you want. So it is treated exactly as the other penalties.

Mr. Rick Dykstra: I get the sense that part of the rationale the senator used to move the bill forward is that there is going to be an opportunity to pursue animal cruelty with respect to legislation immediately following this, that this bill actually sets up another stage. Am I interpreting that correctly or incorrectly?

It would seem to me that if you want to reach another level, you would do so now rather than attempt to pass a piece of legislation that you may not be entirely happy with, hoping there is some potential to move further as we go down the road. It took 12 years to get where we are. Who's to say we'd ever get the chance to do this again for another decade?

Senator John Bryden: My answer to that is that it's to attempt to get the best that is available to us now. That is the major issue that was brought in at the beginning of this whole discussion. Nothing prevents the animal rights folks or the other people who have a much

grander idea of the scope of what needs to be done here from bringing in new legislation tomorrow.

But I would like to say—and this is a confession—that I have spent more than 10 years of my life trying to work out something on this file, and if I could move this one into the House of Commons and have a vote on it, then I probably would die a happy senator. I'm not about to take on another load of this stuff.

I'm sorry, Mr. Chair.

The Chair: That's quite all right, Senator.

Thank you, Mr. Dykstra.

Mr. LeBlanc.

Hon. Dominic LeBlanc (Beauséjour, Lib.): Thank you, Mr. Chair, and through you, welcome, Senator, to the committee.

The senator has done a lot of work on this issue. He's spoken in our caucus a number of times, both in our regional caucus and in the national caucus. Whenever a private member or senator gets a bill as far as the senator has, Mr. Chair, it's something to remark.

I have only two very precise questions for the senator.

Some of the reading I've done on this issue obviously involves issues around wild and stray animals. I'm wondering whether the senator would tell us, Mr. Chair, whether Bill S-203 will protect wild and stray animals, and if so, how, because that is an issue I've been receiving some representations on.

The senator also referred to penalties as being one area where there has been some consensus on the need to modernize the penalty, the sentencing structure of this particular part of the Criminal Code. Would the senator tell us who some of the stakeholders are whom he's met with or who have appeared before the Senate with whom he's had communication over these years?

Are the stakeholders in agreement with the penalty improvements contained in his bill? Have stakeholders expressed to him concerns that the penalties go too far or don't go far enough? I'm wondering whether he could quickly take us through some of the stakeholder reaction with respect to the penalty elements.

Thank you, Mr. Chair.

• (1615)

The Chair: Senator.

Senator John Bryden: Mr. Chair, I'll take the last one first. There are stakeholders sitting behind me, and I am pretty sure they would agree with this. It's the only thing we were ever all able to agree to; that is, the level of the penalties.

The level that is set in my bill, which came out of the original bills—they're identical penalties—have been accepted by all of the stakeholders, whether they are farmers, scientists who are using animals in research, or humane societies. I've had no indication from the humane societies or even the.... Well, I think there's one animal rights group that would rather up it from five years in jail to ten years in jail, but I haven't heard from them for a long time.

So the answer to that question is that there is general acceptance that the levels of penalties being set forth here are exactly the right ones. I wanted to indicate that there's a reason for that. I made a note that, first of all, the penalties in this bill are those provided under each of the proposed government bills, and they are a result of an extensive study by Justice, including a comprehensive comparative analysis of animal cruelty statutes in other jurisdictions and a comparative analysis of similar levels of offences in the Criminal Code. So it's been thoroughly researched, and to the best of my knowledge it's been accepted by everyone.

The first part of the question was the question of wild animals and domestic animals. As I indicated, in 1953 there was a section put in the Criminal Code that says that anyone who "wilfully causes or, being the owner, wilfully permits to be caused, unnecessary pain, suffering or injury to an animal or a bird..."

For a long time people had the belief—how they got it, I don't know—that they had to be both: you had to cause the pain and suffering and you had to be the owner. The fact is that this is a two-offence section. One is that you can cause the pain and suffering yourself to an animal—it doesn't matter whether it's wild or domesticated—or, if you're the owner, you are also guilty if you stand back and watch somebody do that to your animal, whether it's a cow or a horse or whatever. Indeed, it's even worse if you pay him to do it because you don't have the guts to do it yourself.

Mr. Mark Holland (Ajax—Pickering, Lib.): Mr. Chair, I think we have limited time. Perhaps I could just pose one question.

The Chair: Yes. Senator, did you—

Senator John Bryden: I just want to complete this quickly, because people are saying, well, that's just mean—

The Chair: I'll give you your time, Mr. Holland.

Senator John Bryden:—and my authority for the statement that I just made about the wild animals comes once again from Donald Piragoff from the Department of Justice. He testified that in fact the section I just read, generally worded, is the most frequently charged offence of causing unnecessary pain and suffering or injury to an animal, and it is—these are his words—"not limited to kept or owned animals", but in fact protects stray and wild animals as well.

The Chair: Thank you, Senator.

You many have one very quick question, Mr. Holland.

Mr. Mark Holland: Thank you, Mr. Chair.

Thank you, Senator.

This is my concern, Senator. We know that only one-quarter of 1% of animal abuse complaints result in conviction. That means that dealing with the penalties only deals with one-quarter of 1% of the problem.

We have a bill in front of us that is opposed by every animal welfare group in Canada. We have over 130,000 signatures opposing this bill and supporting what was Bill C-50, which is now my private member's Bill C-373. We have a Facebook group with over 7,000 Canadians. The previous Bill C-50, now Bill C-373, has been passed by the House of Commons two times.

Senator, you said—

Senator John Bryden: Mr. Chairman, is there a question here?

• (1620)

Mr. Mark Holland: There is. My question is right now.

Senator, you had said we would lose the lever—those of us who care about this—if your bill got passed, to do something about the 99.75% of the other issues. Let me ask a very simple question. Will you support Bill C-373, given that enormous support from the Commons, the Canadian public, everything? Will you support that, yes or no?

Senator John Bryden: No, not the way it is. It has to be properly consulted, because there are things in there that will make the situation worse, not better—and this is in my opinion. I mean, I'm just here as a farm boy, but that is actually the case.

I want to ask this question, Mr. Chair—I'm not going to ask the question. I'll put this to you. I've heard that statistic about 1%, or whatever.

The Chair: One-quarter of 1%.

Senator John Bryden: One-quarter of 1%. I would like to know who formulated that statistic.

The Chair: Okay. We're not going to get to your question right now, Senator, but I am going to turn to Madame Freeman.

You have the floor.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Thank you, Mr. Chairman.

Good day, Senator.

This is a rather unorthodox way for us to proceed. Regarding your bill, Senator, I totally agree that the problem is not the subject-matter as such, but rather the shortcomings. It is rather surprising that we find ourselves examining this bill, when the main problem here is its shortcomings.

Mr. Holland asked the question that I would have liked to ask, namely if you are prepared to endorse Bill C-373 for which there appears to be more unanimous support. You have already answered no to the question.

Since you were so involved in the bill, why did you not feel that it was a good idea to include a definition of the word "animal"?

[*English*]

Senator John Bryden: Yes, I don't know whether it will be satisfactory or not, but I made the decision that if I were going to use the law as it exists, then I had to be true to that commitment. That is, if I were going to leave the law, which has worked for many years, I couldn't pick and choose which place I should make an amendment or an addition, because once you start, there are always more additions. I wanted the opportunity to take this code and put the proper penalties with it and give it a chance to be able to protect the animals.

I answered Mr. Holland in the manner that I did in that I mentioned being a farm boy. I am not buying a pig in a poke. I can tell you that if that is the way it comes out, then there will be problems with it whether I am here or not. There are a lot of issues. What can be done? I believe we need to be fair and open with all the stakeholders and we need to do our consultation and we need to be very honest with ourselves and very open with the public. In doing that, we can build a very good, more complex system and a more modern system, but not if we pick the one that was hammered together the first time, which is what it still is. That's my problem.

Would I participate in trying to come up with a second way here? The answer to that is yes, but I am not going to say that second way will be whatever that number is, because there are problems. And there are people who are going to be appearing before you, from the list I've seen, who will raise some of those, and they can do it a lot better than I can.

[Translation]

Mrs. Carole Freeman: You need to understand, Senator, that this bill does not go far enough in its attempt to deal with cruelty to animals. Furthermore, you seem unwilling to support the draft legislation proposed by our colleague Mr. Holland. Consequently, I have no further questions for you, since I would only be repeating what others have said. Thank you.

•(1625)

[English]

Senator John Bryden: Did you want an answer?

[Translation]

Mrs. Carole Freeman: No.

[English]

The Chair: Thank you, Madame Freeman.

Mr. Calkins. I understand you're going to—

Mr. Blaine Calkins (Wetaskiwin, CPC): Split my time with Mr. Petit.

I have one quick question, and if you'll indulge me, Mr. Chair, I'd just like to talk to the senator as one farm boy to another, if that's okay.

I certainly appreciate your bill. With my experience, Senator, as a farm boy and as a cattle farmer, I can see there is one change here. You've actually broadened the scope for which charges can be laid for offences against cattle, which means that where before there was only an indictable offence, it changes it to a hybrid. I know from my time serving in law enforcement that a law enforcement officer only has the ability to either lay the charge or not lay the charge, and the judgment they have therein is usually based on the nature of the penalty and whether the penalty would suit the charge.

What I'm concerned about here is this. I'm wondering, now that the hybrid offence is there for the section dealing specifically with cattle, if you had any representation concerning an increased number of charges for relatively minor offences involving cattle that will result in summary conviction penalties being applied to farmers. From my perspective, some of those cases may appear to be just one more onerous problem for cattle ranchers to overcome. I'm wondering if you could comment on that.

Senator John Bryden: I have not had any particular approach saying that is going to cause a problem. I have had the other side of that, perhaps from law enforcement officers. It gives them an opportunity to lay charges that are more fitting to the crime, that is to say, something along the lines of a snare that an animal steps into, a cow or a horse or whatever. That causes unnecessary pain and suffering, but you don't want to put a person in jail for five years for that. On the other hand, it's a maximum of five years. It is up to, and also there is a fine.

The other part of my answer is that if I were going to be even-handed in relation to all the other things in saying how we are going to treat these penalties, then the same thing had to apply to the cattle one that was there.

Mr. Blaine Calkins: Thank you, Senator.

The Chair: Thank you, Mr. Calkins.

We'll go to Monsieur Petit.

[Translation]

Mr. Daniel Petit (Charlesbourg—Haute-Saint-Charles, CPC): Thank you.

Good day, Senator. I have a brief, two-part question for you. You know as well as I do that when penalties are increased, that is, why sentences are extended or fines increased... As a lawyer, I know that clients turn to us for help defending them because of the high cost involved. Otherwise, they plead guilty on their own, pay the fine and are done with it.

Is it clear in your mind that this bill covers slaughterhouses where animals are killed by a blow to the head, by an electrical charge or by a gunshot? Does it cover slaughterhouses where the throats of chickens are slashed? As you see it, does it also cover the fact that followers of certain religions in Quebec—I am thinking here about halal meat—cut goats with a knife? Are you at all certain that this bill will not be challenged in the Supreme Court? As you know, the Supreme Court is very intent upon upholding rights of all kind. I support your efforts, but I would not want to push through a legislative initiative, just to have the Supreme Court inform us the next day that unfortunately, several provisions cannot be enforced.

When the public is shown a film on television where animals are slaughtered by means of an electrical charge, a bullet or a blow to the head, they are very surprised. I would like to know if you considered this situation when you worked on increasing penalties.

[English]

Senator John Bryden: First of all, the primary management of animals and slaughterhouses, whether they be for chickens, pigs, hogs, calves, or cows, is done at the provincial level. There is a reason for that, and it is what has caused part of the problem with this other bill. Property and civil rights are a matter of provincial jurisdiction. And the only time the Criminal Code, which is what I'm dealing with, has any business in there is when it acts as an overriding sanction to preserve peace and good government for the citizenry as a whole. The job of handling the regular management of animal husbandry, to use that word, is a provincial jurisdiction, and we have no right to be in there as a federal government doing that, although as you know, there are contracts between them, and so on.

I asked the question specifically of the Justice officials.... They're here, I think, and someone else can ask them. But I asked the Justice officials who were before us before whether there were any constitutional issues in this bill, and their answer was no.

• (1630)

The Chair: Thank you, Mr. Bryden.

Mr. Lee, you'll be the last on the list.

Mr. Derek Lee: I've just had the pleasure of reading and rereading the two principal existing sections of the code. Section 445 deals with injuring or endangering animals that are kept for a lawful purpose. Those animals are just the ones that are kept. Those are the domesticated ones.

The next section of the code, section 446, deals with all animals. There is no restriction that they have to be lawfully kept. So I think there's a misunderstanding out there that the existing sections in the code don't apply to animals that are not domestic. I can see where that confusion might come from, because there are two separate sections, one dealing with causing unnecessary suffering, which applies to all animals, and one dealing with injuring or endangering, which only applies to domesticated and kept animals.

Would you agree with that, Senator?

Senator John Bryden: Absolutely.

Mr. Derek Lee: Thank you.

Now, concerning this business of reform, almost everybody around the table here would agree, I think, that there is room or need for reform of the code with respect to the animal kingdom, not including humans, and maybe for adding on some other parts of the food chain. I'm not sure, but I think almost everyone here agrees.

Earlier you said you would not support the other private member's bill—the bill of Mr. Holland from the House—in its current form.

Senator John Bryden: Yes.

Mr. Derek Lee: This is a very hypothetical question, because that bill is unlikely to get to the House or the Senate, but do you think you might be able to support a bill of that nature, were it in a slightly different form, as a reformed package? And would you agree that this legislative area is really in need of reform, as is indicated by the previous government bills that haven't made it all the way through?

Senator John Bryden: Mr. Lee, the answer to that is yes. I'm pleased to see you taking the position that indicates there is a need for reform, but an immediate reform is not necessarily a quick fix.

I believe it will take some very careful thinking and some research to get it done. I believe that in that regard, my bill can act as step one. That is, while we're getting it right, this will at least protect the animals today until we're in a position to put the bigger scope around a new bill.

What we need is a new bill.

Mr. Derek Lee: Who will lead that reform if you've covered off, as you say, 80% of the problem? How many people around here are going to lead a charge on the 20% remaining?

Mr. Dykstra looks as though he's ready to go for it.

Senator John Bryden: My answer to that, Mr. Lee, is that if, having taken care of getting the penalties for cruelty to animals right, there is no outcry, there is no significant reason to do what you're suggesting, then one would have to wonder whether there is a real problem.

• (1635)

Mr. Derek Lee: Oh, I think most people think there is, but that's the public.

Anyway, thank you, Mr. Chairman.

The Chair: Thank you, Mr. Lee.

Thank you very much, Senator, for your testimony today. We appreciate your appearance here.

I'm going to ask the other witnesses just to sit back for one moment. I have some quick committee business to deal with here.

First of all, we have a steering committee report.

A witness: Do you want us to vacate the room, sir?

The Chair: Well, one moment. I'm going to ask whether we should handle that at the end of the committee meeting. I know Monsieur Ménard has a time constraint.

Mr. Rob Moore (Fundy Royal, CPC): I do, too. I have to leave at 5:30.

The Chair: Okay. Then I'm going to ask that the room be vacated for five minutes, approximately. I'm sorry, gentlemen and ladies.

[*Proceedings continue in camera*]

• _____ (Pause) _____
•

[*Public proceedings resume*]

• (1655)

The Chair: I call the meeting to order.

We are continuing our review of Bill S-203, An Act to amend the Criminal Code (cruelty to animals).

The witnesses before us are as follows. From the Association of Universities and Colleges of Canada, we have Mr. Andrew Tasker, professor of pharmacology and director of the Atlantic Centre for Comparative Biomedical Research, Atlantic Veterinary College of the University of Prince Edward Island; and Steve Wills, manager of legal affairs. From the Canadian Cattlemen's Association, we have Leslie Ballentine. And from the—

Ms. Leslie Ballentine (Executive Director, Ontario Farm Animal Council, National Coalition of Animal-based Sectors): For the record, could we have that corrected? I'm actually here for the National Coalition of Animal-dependent Sectors, of which the CCA is a member. I'm representing a wider constituency than just CCA.

The Chair: Okay, that's good. Thank you.

And from the Canadian Veterinary Medical Association, we have John Drake, president; and Alice Crook, chair of the animal welfare committee.

Welcome, and thank you for attending.

I will begin, as noted on our agenda, with the Association of Universities and Colleges of Canada.

Mr. Tasker, will you be making the presentation?

Mr. Steve Wills (Manager, Legal Affairs, Association of Universities and Colleges of Canada): No, I will, Mr. Chairman.

The Chair: Okay, Mr. Wills, the floor is yours.

Mr. Steve Wills: Thank you, Mr. Chairman, for giving the Association of Universities and Colleges of Canada the opportunity to appear before you today to comment on Bill S-203, An Act to amend the Criminal Code (cruelty to animals).

My name is Steve Wills. I'm manager of legal affairs at the association and I'm pleased to present our association's view, along with my colleague Dr. Andrew Tasker, who is professor of pharmacology and director of the Atlantic Centre for Comparative Biomedical Research, Atlantic Veterinary College, University of Prince Edward Island, and also the former chair of the Canadian Council on Animal Care.

As you know, Mr. Chairman, a rigorous assessment program is in place to oversee the ethical care and use of animals for teaching and research at Canadian universities. This program is composed of the guidelines, policies, and assessment standards of the Canadian Council on Animal Care.

• (1700)

[Translation]

Mr. Daniel Petit: Could you please speak a little more slowly?

[English]

Mr. Steve Wills: Okay, a little slower? I'm sorry. I'm speaking a little quickly, is that the problem?

The Chair: Yes, could you slow down for the interpreters?

Thank you.

Mr. Steve Wills: Okay. I guess we're not that far behind schedule.

The Chair: Well, we are a little.

Mr. Steve Wills: A little, okay.

As I was saying, the program I was referring to is composed of the guidelines, policies, and assessment standards of the Canadian Council on Animal Care. The CCAC policy statement, entitled "Ethics of Animal Investigation", provides for the use of animals in research, teaching, and testing only if it promises to contribute to the understanding of fundamental biological principles or to the development of knowledge that can reasonably be expected to benefit humans or animals. Researchers must use the most humane methods on the smallest number of appropriate animals required to obtain valid information.

[Translation]

CCAC standards are adhered to by every Canadian university that is engaged in animal-based research. Indeed, compliance with these standards is an absolute requirement of the Natural Sciences and Engineering Research Council of Canada and the Canadian Institutes of Health Research which support the great majority of federally funded research involving animals undertaken in our universities.

AUCC member universities have themselves extended that requirement to include all of their animal-based research regardless of the source of funding. The CCAC standard is held in such high esteem in Canada and internationally that federal research departments and private sector companies and laboratories involved in animal-based research and testing have determined that it is in their interests to participate voluntarily in the assessment program, and on the international scene, other countries have emulated the program.

[English]

My colleague Dr. Tasker is very well placed to respond to questions about both the use of animals in medical research and the Canadian system of oversight that governs university researchers. As a former chair and member of the executive of CCAC, he is very familiar with its policies and guidelines. In addition, he has been a federally funded medical researcher for over 20 years.

As one example of his work, he and colleagues at the University of Prince Edward Island conducted research involving the use of laboratory rats that led to the creation of a unique animal model that helps scientists understand the progressive changes in brain development and function that lead to epileptic seizures and other forms of human brain dysfunction.

[Translation]

AUCC supports the intent of amendments to the Criminal Code to ensure that animals are properly protected from negligence or intentional cruelty. We note, however, that past efforts at amending this area of the Code have been the subject of considerable controversy.

[English]

In particular, AUCC has been concerned about the inclusion in some previous bills of vague and undefined terminology that was open to subjective interpretation. We were also concerned about the uncertain impact of previous proposals to move the cruelty to animal offences from part 11 of the code, "Wilful and Forbidden Acts in Respect of Certain Property", to a newly created part 5.1 of the code, "Cruelty to Animals".

If implemented, such changes could have led to unfounded allegations of misconduct against universities and university researchers, and frivolous and unwarranted private prosecutions under the Criminal Code by individuals and organizations for whom no use of animals in research is acceptable. These prosecutions could result in significant financial costs and serious damage to the reputation of universities and to individual faculty members who are conducting important animal-based teaching and research in a highly ethical and responsible manner.

• (1705)

[*Translation*]

Bill S-203 is sensitive to the concerns we have expressed. The bill represents a carefully tailored and reasoned solution that achieves the important goal of better protecting animals from negligence and abuse through the enactment of significant and appropriate increases in the penalties applicable to such offences while avoiding possible unintended consequences for university research.

[*English*]

AUCC endorses the considered approach of this bill, and we respectfully urge the committee members to support its passage.

Thank you again, Mr. Chairman, for providing us with the opportunity to convey the views of AUCC and its members on this important matter. Dr. Tasker and I would be pleased to respond to your questions and to those of the members of the committee.

The Chair: Thank you, Mr. Wills.

Now to the National Coalition of Animal-based Sectors. Is this the coalition you represent, Ms. Ballentine? You have the floor.

Ms. Leslie Ballentine: Thank you very much, Mr. Chairman.

I'd also like to thank the committee for the opportunity to address Bill S-203, which was first introduced as Bill S-24 by Senator Bryden in February 2005.

I'm here today to represent a national coalition of animal-based communities that provide Canadians with food, clothing, and advances in medical research. Our 16-member coalition recognizes that our use of animals for human benefit is a privilege, and our constituents are committed to ensuring that animals are humanely treated and responsibly used.

We also believe that all animals deserve protection under the law. We have consistently endorsed in principle the effort to modernize the animal cruelty provisions in the Criminal Code, ever since amendments to the law were first proposed in 1998. Our active involvement in this debate has been limited to ensuring that any changes to the law do not threaten the rights or the interests of those who legally use animals in a responsible manner.

As you know, numerous attempts to pass legislative amendments to the animal cruelty provisions have failed. The criticisms raised in the past primarily focused on amendments that were shown to pose serious legal and practical concerns for those Canadians engaged in lawful activities involving animals. Many of those concerns were resolved with each consecutive bill. Some concerns remain, however, and disagreement persists over further changes that would help clarify the intent and the application of a very different law from the one that exists today. As a result, more than eight years have passed, and the legislation remains unchanged.

The purpose of our presentation today is to provide you with our perspective on Bill S-203 and to outline our reasoning for endorsing this bill. The bill proposes three amendments to the current animal cruelty provisions. All are penalty enhancements to the current sentencing provisions and respond to an identified concern with the present law. These enhancements are also identical to those proposed in every bill that has been introduced over the past eight years.

While there remain strong disagreements with other aspects of previous legislative amendments, there is overwhelming agreement among all parties that the low maximum penalties for cruelty are inadequate both to denounce the animal cruelty as unacceptable and to punish deliberate acts of cruelty when they do occur. In this regard, our coalition shares the same view as others who are presenting before you. We have consistently supported the proposed increase in penalties for those who abuse animals. This is in keeping with the view of all concerned Canadians, whether they're pet owners, professional associations, legitimate animal protection agencies, judges, or government.

We endorse Bill S-203 for the following reasons.

First, it broadens the offences for animal cruelty by creating two levels of charges that would apply to all animals and that may be used selectively by prosecutors to better reflect the seriousness of the crime. Second, it increases the sentencing penalties that may be imposed by substantially increasing maximum fines and jail time. It also removes the current limitation on animal possession that can be applied against offenders; this includes lifetime bans for repeat offenders. And the bill includes a new provision that would allow the court to order offenders to pay compensation to agencies or individuals who provide care for the animals involved.

Our coalition is in full agreement with Justice Canada officials who believe this bill is straightforward and a significant improvement to the current law. According to testimony given November 9, 2006, by the senior assistant deputy minister for the Department of Justice to the Senate Standing Committee on Legal and Constitutional Affairs: "The purpose of this bill seems straightforward. It is designed to amend the sections of the Criminal Code of Canada dealing with cruelty to animals to increase the penalties for the offences found there." He went on to say that the three amendments together constitute a significant improvement to the current law regarding sentencing, one with which all Canadians would agree.

Our coalition also agrees with the Senate and Department of Justice officials that this bill does not preclude the future introduction of further amendments to the Criminal Code by the federal government.

•(1710)

We also concur with their assessment that passage of the bill would immediately address the issue of penalty enhancement, an issue that has been allowed to continue for more than eight years of debate. Given the long history and controversy behind attempted amendments to the law, it is the view of our coalition that incremental improvements are preferred to no improvements at all. Moreover, we believe that poorly written laws are no substitute for inadequacies in the current law.

We recognize that there is opposition to this bill because of what it does not do. It is fair to say that all parties would agree that Bill S-203 is less ambitious than its predecessors; however, based on the evidence at our disposal, I would say some of this opposition is built on a false understanding of the existing provisions. This view is shared by a former Ontario cruelty investigator, as outlined in an additional piece of evidence that the clerk has given to you today.

A common and repeated argument is that the current law does not apply to unowned animals such as stray and wild animals. This is untrue, as our attached evidence shows. Furthermore, this view is not shared by Justice Canada officials, as evidenced in their testimony to the Senate committee. During questioning it was clearly explained that the most frequently charged offence—in paragraph 446(1)(a)—of causing unnecessary pain, suffering, or injury to an animal is not limited to kept or owned animals.

Based on this interpretation, it would appear that the fault lies more in the application of the law than in the law itself. And by this we mean that there is every reason for successful prosecutions against cruelty to wild and stray animals when the proper charge is laid.

A lack of successful prosecutions is another reason that is cited for more expansive amendments than are covered under this bill. However, it should also be acknowledged that many of those cases may not have succeeded not because the courts would not address them, but because of a weakness in the evidence.

Statistics seem to indicate that charges and successful prosecutions are increasing, even under the current law. For example, the Province of Ontario relies more heavily on the Criminal Code than most other provinces that have their own provincial statutes. In 2004, 695 charges were laid by the Ontario SPCA—a record number, according to their annual report, and a sixfold increase over 2000. The OSPCA cites annual conviction rates ranging between 80% and 90%.

In our view, Bill S-203 would assist animal protection agencies by reducing their need to lay charges, since it offers much stronger deterrents plus stronger restrictions against repeat offenders.

In the meantime, sentencing judges across the country are frequently reported in the media as wanting to be able to deliver more severe punishments for the cases that come before them. As recently as March 2007, officials with the Ontario SPCA told the media that penalties for animal cruelty are too lenient and deserve a sober second look. The OSPCA's livestock inspector was quoted as saying, "We would like judges to have the flexibility to impose whatever sentence they feel is appropriate." This is something that Bill S-203 would do.

The sentencing amendments proposed in the bill would help protect animals by acting as a stronger deterrent to those who would engage in intentional animal cruelty or wilful neglect. They would also provide enforcement agencies, prosecutors, and the courts with significantly enhanced tools to treat such crimes with the seriousness they deserve, and they would remove the current disparity between indictable offences for livestock and lesser summary offences for other types of animals, such as pets.

The Canadian public, when calling for changes to the Criminal Code provisions, have clearly indicated that their highest priority is to increase penalties. The constituents represented through our coalition have also consistently supported the need for legislation that would help to reduce animal cruelty and increase penalties for anyone who abuses animals.

It is our view that Bill S-203 provides the opportunity to deliver a long-awaited and widely demanded improvement to the current law. It is for this reason above all that our coalition endorses this bill.

•(1715)

The coalition appreciates the opportunity to appear once again before this committee and explain our support for a reasonable solution to a long-standing expectation.

Thank you, Mr. Chairman.

The Chair: Thank you, Mrs. Ballentine. You kept it right on the nose, as far as the time was concerned—and we're limited, I know.

For the Canadian Veterinary Medical Association, Mr. Drake, will you be making the presentation?

Dr. John Drake (President, Canadian Veterinary Medical Association): We'll both be making the presentation.

The Chair: Okay. Just keep in mind your time constraints.

Dr. John Drake: Thank you, Mr. Chair.

Good afternoon, members of the standing committee. My name is John Drake. I'm this year's president of the Canadian Veterinary Medicine Association. That's the organization that represents Canada's 10,000 veterinarians. I'm also in a mixed-animal practice in Charlottetown, Prince Edward Island.

Preventing animal cruelty and animal abuse is a top priority for the CVMA. To properly deal with these reprehensible crimes, and also to prevent and reduce related domestic and family violence, Canada needs effective and up-to-date animal cruelty legislation in the Criminal Code.

As you know, Canada's current animal cruelty legislation dates back to 1892. Bill S-203, which we've discussed already today, changes very little of what is deficient in this antiquated legislation. The key weaknesses in the Criminal Code dealing with animal cruelty are, one, inadequate penalties; two, different provisions for different species and no definition of an animal; three, treating animals as property; four, the use of the term "wilful neglect" as burden of proof for animal cruelty conviction; five, absence of provisions for dealing with brutal or vicious killings; and six, insufficient measures regarding animal fighting and training animals for fighting.

Bill S-203, unfortunately, focuses mainly on increasing penalties. While that's commendable, it is not enough to critically address the flaws in the current legislation that make enforcement very difficult. Less than 1% of animal cruelty complaints result in a guilty verdict. Increased penalties do little to act as a deterrent when the chances of conviction are so utterly remote. Bill S-203 falls far short in changing these outdated sections of the Criminal Code.

Let me give you an example. Many Canadians would be outraged if they realized the ex-NFL star Michael Vick, who was recently sentenced to a 23-month jail term on a federal dogfighting conspiracy charge in the United States, would not likely face similar charges in Canada for this kind of horrific activity. That is because the wording in the Criminal Code makes it an offence to encourage, aid, or assist at the fighting of animals or birds, with the evidence being that the accused was present at the fighting. Vick was successfully prosecuted in the U.S. even though he was not present at the fighting. If this case had occurred in Canada, under the current legislation or under Bill S-203, it's very likely he would not have been convicted.

In 2008, the way our society values and regards all animals has shifted dramatically from 116 years ago. Canadians no longer view animals simply as property, and they expect that those who abuse animals should be convicted first, punished appropriately, and have the privilege of animal ownership severely restricted. The human-animal bond is incredibly strong, and many companion animals are regarded as true family members. It just makes sense that our animal cruelty laws should reflect these fundamental changes.

The CVMA has always been a strong advocate for remedying the weaknesses in the Criminal Code regarding animal cruelty. We strongly believe that Bill C-373, the private member's bill sponsored by Mark Holland, the most recent version of several earlier proposed bills, is a carefully crafted piece of legislation based on almost a decade of broad public and parliamentary consultation. Bill C-373 corrects the current deficiencies in the Criminal Code and it strikes an excellent balance between protection of animals and protection of lawful practices such as fishing, farming, hunting, trapping, and scientific research.

With me this afternoon is Dr. Alice Crook, coordinator of the Sir James Dunn Animal Welfare Centre at the Atlantic Veterinary College and a member of CVMA's animal welfare committee. I will now ask Dr. Crook to present CVMA's position and fully explain our reasons for opposing Bill S-203.

• (1720)

The Chair: Thank you, Mr. Drake.

Ms. Crook, I see that your presentation is fairly lengthy. I am going to ask if you could possibly summarize it. What we will do is consider this—as noted here, as you have printed it—read into the record in full.

Dr. Alice Crook (Chair, Animal Welfare Committee, Canadian Veterinary Medical Association): Okay, I appreciate that.

The Chair: If you could just summarize that very quickly, we would appreciate it.

Dr. Alice Crook: Yes, Mr. Chair, I was intending to go through and hit the highlights. I realize there isn't time to cover it all.

I'll give you a little bit about my background. In addition to being at the Atlantic Veterinary College now, with the Sir James Dunn Animal Welfare Centre, my background is in veterinary anesthesia at the Ontario Veterinary College and the Atlantic Veterinary College, and as a practitioner in Ontario and P.E.I.

As Dr. Drake said, the CVMA for a long time has been actively supporting efforts to amend the Criminal Code regarding cruelty to animals. With many other groups, we provided input into the justice department's consultation paper on crimes against animals, circulated in 1999.

I mention this because I believe Mr. Bryden mentioned that the bill was kind of thrown together. But I think there was extensive Canadian-wide consultation and support for the different versions. And as I think most of you know, in 2003 the bill was very widely supported, including by veterinarians, animal use groups, and the Canadian Council on Animal Care. I think it was Mr. Comartin who said that the contents of Bill C-373 have been passed twice by the House. So I think the former versions do have broad support.

Turning to page 5 of my brief, I was going to talk a little bit about animal abuse as part of the larger picture of violence in our society, which as veterinarians we take very seriously. I am not going to go into that in detail, but I encourage you to visit the CVMA website, which has information on animal abuse and the links with human violence.

The CVMA believes that amendments to the Criminal Code are essential to improve the ability to successfully prosecute offenders, thereby assisting humane societies and law enforcement agencies to deal more effectively with cases of animal abuse and hopefully help interrupt cycles of violence, of which cruelty to animals is one component.

We also went into the particular problem areas that we think are not addressed. Dr. Drake mentioned those already, so I think I will skip right over those and go to page 7, to the area of traditional uses of animals.

This is something that is coming up. People are mentioning the concern that Bill C-373 would raise too many questions and that the former versions raise too many questions.

Actually—sorry, I don't want to confuse you, but I'm trying to condense everything here—I'd like to first mention wilful neglect.

One of our main concerns is that wilful neglect is not addressed in Bill S-203. We recognize that there is a dire need to increase penalties, and we fully support that. We don't have any problem with the levels of penalties that Bill C-203 proposes, but we do recognize that the vast majority of cases do not achieve successful prosecution.

A previous speaker mentioned the OSPCA having 80% to 90% success rates, but that's totally out of line with other reports I've seen. Our concern is that most cases of animal abuse are not successfully prosecuted. Wilful neglect is very much a problem area. The requirement to show proof that a person intended to neglect their animals makes it extremely difficult to prosecute cases of neglect, even in cases where dozens of animals have been starved to death.

I want to mention the example of *Queen v. Russell*, the Weyburn, Saskatchewan, case in which a number of calves died of starvation and malnutrition. In his decision of June 2000, the judge said there was no doubt that the accused were responsible, over a period of months, for cattle that were “clearly inadequately cared for with the result that some died of starvation....without doubt by a lack of adequate feed and care”. It's also mentioned in the transcript that there was evidence by experienced stock raisers that the practices being followed by the Russells were not accepted animal husbandry. The judge said there was no doubt that these animals were not receiving adequate feeding and care, but he ultimately dismissed the charges on the basis that the accused “didn't actually wilfully intend the cattle to die”.

So that's the problem with wilful neglect.

Now I'll go back to the traditional uses of animals. I'm guessing I have about four minutes left.

•(1725)

The main opposition to Bill C-373 and earlier versions comes from concerns that the proposed amendments will have a negative impact on legitimate activities that involve animals, such as hunting, farming, and medical or scientific research.

The following excerpts are from the justice department's aid to interpretation of the bill from April 2007:

The amendments [in the legislation] will not alter or criminalize any activity which is otherwise regulated or authorized by federal or provincial legislation or applicable codes of practice, such as normal agricultural practices, hunting, fishing, trapping, ritual slaughter, animal research, or food production.

So people carrying out these activities would not be subject to prosecution unless they are wilfully doing cruel things to animals, well outside of standard practices.

The only way that animal rights activists could attempt to bring charges against law-abiding anglers, hunters, trappers, farmers, and animal researchers would be through private prosecution. But the legislation makes animal crimes hybrid offences, as we've already established, and these are subject to a screening process that requires a much greater involvement of the crown prosecutors at the very

early stages in private prosecution. These screening processes, which take place before an accused person is even notified, would prevent frivolous prosecutions from proceeding.

The protection of standard practices is actually made more explicit in Bill C-373 than in current legislation or in Bill S-203, because Bill C-373 includes the phrases “wilfully or recklessly” and “without lawful excuse” in the section regarding the killing, injuring, or poisoning of an animal. In addition, proposed sections 182.5 and 182.6 have been included in Bill C-373 to explicitly confirm common law defence and aboriginal rights.

In conclusion, we all agree that it's essential to increase the penalties for animal cruelty. The CVMA firmly believes, however, that increased penalties will make little difference if the new legislation does not also address the fundamental flaws in the current legislation that make enforcement difficult or impossible.

We respectfully submit that it does not make good jurisprudential sense to re-enact legislation largely unchanged that is over 100 years old. Therefore, we urge the standing committee to reject the amendments in Bill S-203 as inadequate.

Alternative legislation that has been carefully crafted and reviewed is proposed in Bill C-373. It addresses the flaws in the current legislation and also increases penalties. The CVMA recommends that the standing committee support reintroduction of the amendments embodied in the widely supported former Bill C-50, the current version of which is Bill C-373. We believe such legislation would provide significant new protection for animals much more effectively than Bill S-203 and would not jeopardize accepted and recognized practices in the use of animals.

The Chair: Thank you very much, Ms. Crook.

Statement by Dr. Alice Crook, Canadian Veterinary Medical Association:

•(1730)

Dr. Alice Crook: Background

Veterinary practitioners are often the first professionals to examine an abused animal. It is part of our responsibility as veterinarians to protect that animal from further abuse. Effective legislation is an important tool to help all those who deal with the abuse of animals, including humane societies and law enforcement agencies. It is also very important to acknowledge the overwhelming evidence of a direct link between abuse of animals and violence towards people, especially other members of the family. Legislation that deals more effectively with cruelty to animals may help play a role in breaking the cycles of violence in our communities.

The Canadian Veterinary Medical Association has actively supported efforts to amend the Criminal Code regarding cruelty to animals since 1998. We appreciate the opportunity to provide input on Bill S-203. The CVMA believes that the proposed Bill S-203 does not adequately address the urgent need to provide better protection for animals against cruelty. Instead, the CVMA supports Bill C-373, which is a reintroduction of the bill last known as Bill C-50.

History of CVMA involvement with animal cruelty legislation

The CVMA has been actively supporting efforts to amend the Criminal Code regarding cruelty to animals since 1998. At that time, along with many other groups, the CVMA provided input to the justice department's Consultation Paper on Crimes Against Animals, which was circulated in September 1998 as a result of an extensive national consultation on the issue of cruelty to animals and associated domestic violence in Canada.

The CVMA carefully studied Bill C-17, the animal cruelty legislation introduced by then Justice Minister Anne McLellan in December 1999 following the consultation process. After thorough consideration, the CVMA decided to support the animal cruelty legislation, and has supported subsequent legislation, including the amendments that have been made at the House and Senate committee stages to strengthen and fine-tune it. In particular, CVMA expressed support for the legislation in a submission and oral presentation to the House of Commons Standing Committee on Justice and Human Rights on October 31, 2001; in a written submission to the Senate Standing Committee on Legal and Constitutional Affairs, December, 2002; and in a submission and oral presentation to the Senate Standing Committee on Legal and Constitutional Affairs, December 6, 2006.

The CVMA support for these amendments is based on several premises. Offences against animals should not be treated primarily as property offences, which has led to inadequate sanctions and a lack of deterrence for those committing animal abuse. The revised law should remove the onerous burden for the crown to prove wilful neglect, which has been one of the main barriers to successful prosecution in cases of animal neglect. The provisions on animal abuse should be simplified and consolidated, and all animals should be protected from all types of abuse identified under the Criminal Code, rather than different types of animals being treated differently, or not protected at all. Because these premises are not addressed in Bill S-203, CVMA cannot support this legislation.

Animal abuse as part of the larger picture of violence in our society

Animal abuse is an important social issue affecting animals, families, and communities. Animal welfare organizations, law enforcement agencies, and domestic violence and child welfare agencies are working together more and more in recognition of "the Link", the indisputable tie between animal abuse and violence towards people. Researchers have recognized and documented that violence towards animals is both a component and a symptom of child, spousal, and elder abuse, as well as an indicator of the potential for increasing violence and dangerousness in offenders. For example, in a Canadian study (S. McIntosh, 2004) 56% of pet-owning women seeking refuge in women's shelters in Calgary

reported that their abuser had threatened or had harmed their pet. Of those women with children and pets, 65% believed the children were aware of the abuse and impacted by it.

Whether providing expert advice to the local humane authorities, visiting neglected farm animals, or treating an animal victim of violence, veterinarians are on the front lines of dealing with abuse. Animal abuse includes physical abuse (non-accidental injury), sexual abuse, emotional abuse, neglect, and staging animal fights. Veterinary practitioners are often the first professionals to examine an abused animal, are well trained in proper animal husbandry, and well equipped to recognize substandard care. Both to protect the animal and because the abuse may be a sentinel for other violence that is occurring within or outside the family, it is crucial that veterinarians deal effectively with instances of suspected animal maltreatment. The CVMA position statement on abuse (Appendix I) recognizes that veterinarians are in a position to observe occasions of animal abuse and have a moral obligation to report suspected cases¹. For more information on animal abuse and the links with other violence, please see the CVMA website on animal abuse at <http://canadianveterinarians.net/animal-abuse.aspx>.

¹The CVMA recognizes that any legal obligation to report abuse, or provisions of immunity from prosecution for veterinarians, is the jurisdiction of the provinces. As part of its initiative to address abuse, the CVMA encourages provincial veterinary medical associations to lobby their provincial governments to develop legislation to make mandatory the reporting of animal abuse by veterinarians, and to provide immunity to those who do so using their professional judgment and in good faith, as is the case for other health professionals.

The CVMA believes that amendments to the Criminal Code to strengthen animal cruelty legislation are essential to improve the ability to successfully prosecute offenders, thereby assisting humane societies and law enforcement agencies to deal more effectively with cases of animal abuse and, in turn, to help interrupt the cycles of human violence, of which cruelty to animals is one component.

Shortcomings of S-203

The sections of the Criminal Code dealing with animal cruelty, 444-447, were originally enacted in 1892, with some minor revisions in 1956. There is a dire need to increase penalties, as well as modify the out-of-date language that leaves some gaping loopholes, making it difficult, or impossible, to achieve successful prosecutions. However, other than including provisions for increased penalties, S-203 contains the same wording for offences as the current Criminal Code legislation. Thus, many of the problems with the current legislation are retained in Bill S-203, as outlined below.

[Information about Bill C-373 is included for comparison.]

1. Different protection for different animals

Bill S-203 maintains the outdated and confusing language of the original legislation, written in 1892. As well, S-203 protects different types of animals differently. Cattle are covered in a different section (444) from “dogs, birds or animals that are not cattle” (445).

2. Property section

S-203 maintains the animal cruelty provisions in the property section of the Criminal Code. This does not reflect current societal views that cruelty against animals is a crime in its own right, not merely a crime against property; nor does it recognize the important role that animals play in our lives, as companions, as service animals (e.g., seeing-eye dogs for the blind), and for many, as a much-loved member of the family. As veterinarians, we see the strength of the human-animal bond all the time and recognize that the relationship that owners have with their animals greatly exceeds the animal’s status as property.

Further, the CVMA believes that all animals should be afforded protection from abuse under law, regardless of their status as property. The basis for offering this protection is that all animals can experience pain, fear, and the aversion to painful stimuli. By maintaining the animal cruelty provisions in the property section, the law would seem to ignore unowned animals, whether they are feral or stray domestic species or wild animals or birds.

The CVMA believes that treating animal offences as property offences has resulted in inadequate sanctions and a lack of deterrence for those committing animal abuse.

[Bill C-373 moves cruelty to animals to a separate section of the Criminal Code, Part V.1: Cruelty to animals.]

3. Wilful neglect

S-203 maintains the wording of the current offence of wilful neglect. The requirement to show proof that a person intended to neglect their animals makes it extremely difficult to prosecute cases of neglect, even in horrendous cases where dozens of animals have been starved to death.

Example: *Queen v. Russell, Weyburn, Saskatchewan*, a case in which a number of calves died of starvation and malnutrition. In his decision (June 2000), the judge said there was no doubt that the accused were responsible for cattle, over a period of months, which were “clearly inadequately cared for with the result that some died of starvation.... without doubt by a lack of adequate feed and care”. The judge dismissed the charges, however, on the basis that the accused “didn’t actually wilfully intend the cattle to die”.

[Bill C-373 would replace ‘wilful neglect’ with ‘negligently failing to provide suitable and adequate...care’, and defines ‘negligently’ as “departing markedly from the standard of care that a reasonable person would use” (182.3.2).]

4. Killing an animal

S-203 maintains the wording of the current law under which it is an offence to kill an owned animal without lawful excuse. There are no provisions that apply to the killing of wild or stray animals.

[C-373 would make it an offence to kill any animal without lawful excuse (182.2.1.c). Examples of lawful excuse including hunting, fishing, farming, euthanasia, scientific research.]

5. Brutal and vicious

S-203 does not address brutally or viciously killing an animal as a form of violence. Society recognizes that particularly violent, heinous treatment of animals should be a criminal offence, whether or not the animal dies immediately. For example, several years ago two men were charged with beating their dog with a baseball bat but were not convicted because the dog died on the first blow.

[Bill C-373 introduces the offence of “killing an animal brutally or viciously, whether or not the animal dies immediately” (182.2.1.b).]

6. Fighting and training

S-203 does not make it an offence to train animals to fight other animals, nor to receive money for the fighting of animals. Society has a stake in addressing these issues, in part because these activities are commonly associated with organized crime.

[Bill C-373 would make it an offence to train an animal to fight, or to receive money for animal fighting and training (182.1.e-h).]

For further comparison of the current Criminal Code (cruelty to animals) with Bills S-203 and C-373, please see appendix I).

Traditional uses of animals

The main opposition to Bill C-373 and earlier versions comes from concerns that the proposed amendment will have a negative impact on legitimate activities that involve animals, such as hunting, farming, or medical and scientific research. These are regulated activities subject to specific rules and regulations and codes of practice. These are specific words and phrases in both the current Criminal Code legislation and in Bill C-373 that permit lawful activities such as farming, hunting, fishing, sealing, or scientific research to be carried out according to standard accepted practices.

The following excerpts are from the justice department's "Aid to Interpretation of the Bill" (April 2000): "The amendments [in the legislation] will not alter or criminalize any activity which is otherwise regulated or authorized by federal or provincial legislation or applicable codes of practice, such as normal agricultural practices, hunting, fishing, trapping, ritual slaughter, animal research, or food production... The killing of animals in legitimate industries and activities is generally either authorized by law or pursuant to applicable codes of conduct which promote the most safe and humane methods reasonably designed to minimize stress and pain on the animal. ... This would include common standards for the slaughter of animals for food, killing of wildlife for a variety of reasons, and euthanasia methods."

Thus, people carrying out these activities would not be subject to prosecution, unless they are wilfully doing cruel things to animals well outside of standard practices. As well, the legislation makes animal crimes hybrid offences; these offences are subject to a screening process that exists to weed out frivolous prosecutions. The only way that animal rights activists could attempt to bring charges against law-abiding anglers, hunters, trappers, farmers, and animal researchers would be through private prosecutions. The screening process requires a much greater involvement of the crown prosecutor at the very early stages in private prosecutions of hybrid offences, as opposed to summary conviction offences. These screening processes—which take place before an accused person is even notified—would prevent frivolous prosecutions from proceeding. (Under the current Criminal Code, animal offences are summary conviction offences, except for crimes against cattle.)

The protection of standard practices is actually made more explicit in C-373 than in current legislation or in S-203. C-373 includes the phrases "wilfully or recklessly" and "without lawful excuse" in 182.2 regarding the killing, injuring, or poisoning of an animal. As well, sections 182.5 and 182.6 have been included in C-373 to explicitly confirm common law defences and aboriginal rights.

Conclusion

We all agree that it is essential to increase the penalties for animal cruelty. The CVMA firmly believes, however, that increased penalties will make little difference if the new legislation does not also address the fundamental flaws in the current legislation that make enforcement difficult, or impossible. We respectfully submit that it does not make good jurisprudential sense to re-enact legislation, largely unchanged, that is over 100 years old. Therefore we urge the Standing Committee to reject amendments in Bill S-203 as inadequate. Alternative legislation is proposed in C-373 that addresses the flaws of the current legislation and also increases penalties. The CVMA recommends that the standing committee support reintroduction of the amendments embodied in the widely supported former Bill C-50 (current version C-373). The CVMA believes such legislation would provide significant new protection for animals—much more effectively than S-203—while in no way jeopardizing recognized and accepted practices in the treatment and use of animals.

The Chair: I should remind the committee members that the clock has run out. It is 5:30 p.m. There is no opportunity for questioning unless the members desire to stay longer, but the presentations have been made and they're on the record.

What is the desire of the committee?

Mr. Brian Murphy: I wouldn't see any harm in staying to give time to each member who wanted to ask questions. These witnesses have come a long way in some cases.

The Chair: Yes, they have.

Mr. Brian Murphy: In the case of P.E.I. people, they may not have lit homes to go to, so I think we should have three-minute question rounds.

The Chair: I'm going to restrict the time on the questions to perhaps less than three minutes.

Mr. Murphy, you're first on the list.

[*Translation*]

Mrs. Carole Freeman: Mr. Chairman, I have to leave because I am scheduled to make a speech in the House. Are you planning a round of questions?

[*English*]

The Chair: Understood.

Mr. Comartin, you have to leave as well?

Mr. Joe Comartin: I was offering to take Ms. Freeman's time as well as my own.

The Chair: You're certainly on the list, Mr. Comartin, but we'll make the adjustments accordingly.

Mr. Brian Murphy: I want to thank everyone for their testimony. I'll keep my questions very brief.

I respect the submissions from the Cattlemen's Association, and actually all of the presentations. If I don't have questions for you, it's probably because I agree with what you said. Whether Bill S-203 is a half measure or not, it's a step, and I respect what you had to say.

I do have a couple of questions for the Veterinary Medical Association. I'm going to have my assistant look up proposed paragraph 446(1)(a), because it seems to me, Mr. Drake, that it would cover situations of killing animals that aren't owned and it would cover the Michael Vick situation.

If you read proposed paragraph 446(1)(d), it says "in any manner encourages, aids or assists at the fighting", and I understand that would not involve birds, of course. He might be caught, however... And I don't think you can answer this, but I'd like to know if he would be caught by proposed paragraph 446(1)(a), "wilfully causes or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal". I think that would cover the Vick situation. I don't know that because I don't have all the annotated cases here.

That's my first question.

Dr. John Drake: I certainly can't respond to that with any degree of legal expertise. But certainly one of the problems with the wording in the legislation that does refer to dogfighting is that it does leave that specific area where one of the examples, at least—whether it's the only acceptable one, or if it's just an example—is that the accused be present at the fighting.

In the Vick case, what happened was, subsequent to another investigation on the property on drug charges, they found evidence that there was dogfighting and that he owned the premises at which it was occurring.

Mr. Brian Murphy: I'm not defending 1892 legislation, but there's a fair bit of misinterpretation one way or the other—and I don't know what the answer is—about what this law does.

I had some other questions about the legislation, but the final one is this. I don't know if you've been told, but it seems to me that we're either getting this, Bill S-203, or nothing, and that's because of how our private members' bills work and what the government feels about this legislation.

Wouldn't you agree that if it were this or nothing, this term, you would take it?

Dr. John Drake: Certainly that's the fundamental issue. If we look at Bill S-203 as a stepping stone to something bigger, then that's one issue. If we look at it as taking the animal cruelty issue and getting it done, and then the discussion is not revisited until long after none of us are around this table, then that's a different thing.

Frankly, that's our fear, that if we accept this, as you called it, half measure or the watered-down version, once it's off the to-do list, then that'll be it. Trying to get it back on the to-do list is going to be even more difficult than it has been. That's our fundamental fear.

• (1735)

Mr. Brian Murphy: That's certainly not our intention on this side.

Thank you, Mr. Chair.

And I thank you for your presentation.

The Chair: Thank you.

Mr. Comartin.

Mr. Joe Comartin: Ms. Ballentine, as this was working its way through the various incarnations, starting back after the report in 1998, there was a coalition formed at the time. I think at least some of your group were on that and in fact had agreed to the earlier incarnations of the bill.

Ms. Leslie Ballentine: No, we agreed to Bill C-50.

Mr. Joe Comartin: I'm sorry. Yes, that's what I was referring to.

Ms. Leslie Ballentine: Yes, only the one bill, and that was subsequent to numerous changes over the previous bills. There was splitting of bills, there were amendments made with each bill.

The reason we—

Mr. Joe Comartin: I'm sorry, I have very little time. What I'd ask you to address is what is different about Bill C-50 that is not in Mr. Holland's private member's bill?

Ms. Leslie Ballentine: There is nothing different between the two bills. The difference is new, fresh evidence and legal opinions that have raised additional concerns, and therefore we still require several changes to be made to whatever number you want to give it. We have tried to address those concerns with those people who do support Mr. Holland's bill. We have gone to great length to try to find some common ground in adding additional wording that would improve the interpretation and understanding of that bill, and unfortunately, through no lack of trying, we have been unable to come to an agreement, which puts us in the position where we are today. We don't have Mr. Holland's bill here to consider; we do have Bill S-203.

Mr. Joe Comartin: The wording you're looking for would include exempting certain sectors of the—

Ms. Leslie Ballentine: No.

Mr. Joe Comartin: No? That's not one of the ones you want?

Ms. Leslie Ballentine: No. We want clarification that legal, responsible use of animals is not the intention of this bill, whether it is keeping pets, whether it is agriculture, whether it is biomedical research. We are not asking for an exemption for farmers. We are not asking for an exemption for medical researchers.

Mr. Joe Comartin: What about the brutal...? I'll get the exact wording—

Ms. Leslie Ballentine: We want one word added.

Mr. Joe Comartin: And what is that word?

Ms. Leslie Ballentine: "Intent".

Mr. Joe Comartin: I know I'm just about out of time, but are there any other specifics you can think of for change?

Ms. Leslie Ballentine: Those are the two major ones. We would have liked nothing better than to come before a committee collectively with those who support Mr. Holland's bill, or Bill C-50, or whatever you would like to call it. We tried to accommodate that, because it makes it much easier for you as legislators.

Mr. Joe Comartin: No question.

The Chair: Thank you, Mr. Comartin.

Mr. Calkins.

Mr. Blaine Calkins: Thank you, Mr. Chair.

I appreciate the testimony that I've heard today.

I have a couple of questions specifically for the folks from the veterinary association.

Within your membership, is this a unanimous position? I can't imagine it is, given the fact that there are 10,000 veterinarians from coast to coast to coast in this country.

Dr. John Drake: No, we have not, of course, polled every single member, but the structure of the CVMA is such that it's a representative, democratic body, and so those on our governing council have unanimously supported this, the animal welfare committee of the association has supported it, but there will always be some people, of course, in any group who will not support it.

One of the biggest challenges we all face is determining the truth. What is the right legal interpretation? Everybody here wants the same thing. We want good legislation that can be enforced, that can result in convictions where convictions are warranted. Nobody wants frivolous or vexatious prosecutions pursued. Nobody wants to jeopardize legitimate animal research. We all want the same thing. The challenge for everybody is to try to find what is really the truth, and there are several interpretations.

Mr. Blaine Calkins: I agree. Those are noble goals, to be sure.

What I don't understand, and what I can't, for the life of me, figure out is why, given the history, the track record of previous incarnations of other bills such as Bill C-50, such as Bill C-10A, such as the bill currently on the order paper to come up at a future date, which might encompass the things you've talked about, they have never historically been successfully passed through our Parliament. They might have made it to the House. They might have been introduced at various stages, but they've never made it all the way to the top.

The one thing that you called for in the six items you listed out was an increase in the penalty provisions. For the life of me, I can't figure out why you wouldn't take the bird in hand now rather than risk it for the two in the bush that historically have always gotten away. It's just a comment I am making. I don't expect you to comment any further. You've already made your testimony to that effect.

I do have a question, which I asked the sponsor of the bill, with regard to cattle. I remember a drought in Alberta in the early part of the 2000s, when we actually had a Hay West campaign because we couldn't feed our animals. I would be terrified, as somebody who grew up on a beef farm. I don't know anybody who doesn't responsibly manage their herd, but if you run out of feed or if you run out of money to pay for the feed.... Take a look at some of the crises that are going on in the hog industry. I can't imagine that we would bring prosecutorial advances toward somebody who literally couldn't afford to feed their cattle. But some of the suggested changes I'm hearing from the veterinary association would probably lead down that path.

I am just wondering, Ms. Ballentine, if those are concerns your organization has with regard to some of the changes that are being proposed by other organizations.

• (1740)

Ms. Leslie Ballentine: They were very serious concerns with the earlier versions. Remember that we've been through multiple versions. Each time there have been changes made to the bills, every time to address legitimate concerns. The one you brought up is a prime example. Currently, if we take Bill C-50 or Bill C-373, we think we've addressed that particular issue, but we still have further concerns—brutally and viciously killing an animal being one of them.

Mr. Blaine Calkins: I have one other question, and I'm going to go to Mr. Tasker or Mr. Wills here, because this deals with scientific research.

I know of a scientist who is going through clinical trials right now in England because he cannot, because of the ethical rules and standards we have in this country, perform those clinical trials here.

Those clinical trials are being performed to basically help us in eradicating BSE, the spongiform prion, which we're dealing with in this country. Yet in an ironic twist of fate, he can't actually do the clinical trials in this country that may come up with a solution and prevent BSE from occurring here.

When it comes to animal research, this bill is obviously, from your testimony, satisfactory. I'm just wondering if you are concerned, if we go too far, about not being able to do the things we need to do, some of which research would actually help prevent cruel and unusual treatment or cruel and unusual fates for animals.

The Chair: You can give a quick response, Mr. Tasker.

Dr. Andrew Tasker (Professor of Pharmacology and Director, Atlantic Centre for Comparative Biomedical Research, Atlantic Veterinary College of the University of Prince Edward Island, Association of Universities and Colleges of Canada): I agree with you. There are always going to be issues in that you can do certain forms of research in certain jurisdictions.

One of the great strengths of the Canadian system is that it has a national set of guidelines, administered through the CCAC, that is then interpreted at a local level in respect of what's appropriate in a particular jurisdiction. The committees include people who represent researchers but also members of the public, veterinarians, and others. So whenever you put something before a committee, you're going to be subject to discussion and interpretation by that committee. In the case you describe, I'm willing to bet that the local institutional animal care committee decided that maybe that work couldn't be done, for whatever reason.

I can't comment on it further than that. I can simply say that from the perspective of medical research, there were concerns with previous legislation that came forward. It was largely not a question of the intent of that legislation. As Dr. Drake said, we are all on the same page in terms of wanting to do something good here. But there were concerns, and those held up passage of the legislation, and other groups had other concerns—similar ones, different ones, and things like that.

We have no concerns with Bill S-203. I completely agree with the point you just made, from my perspective as an individual. As a medical researcher, I have no problem with the proposed legislation. I may in the future like to see things that are more all-encompassing, that deal with some of the issues—either restrictive issues or permissive issues—you mentioned. But at this point in time I see no harm in approving legislation that gets us one step closer to where we want to be, as opposed to remaining mired in the situation we've been in for an extremely long time.

• (1745)

The Chair: Thank you, Mr. Tasker.

The time has basically run out, unless, Mr. Comartin, you have one more question you would like to ask Mr. Murphy. No?

Mr. Drake, did you want to make further comment, or Ms. Crook, quickly?

Dr. John Drake: My summary would be what we've said before. Although no one can argue against the laudable goal of increasing penalties, and we fully acknowledge that Bill S-203 has everything in it that the previous incarnations of the legislation had, as far as penalties go, our position is that the penalties are not enough on their own. We need firmer legislation that will give a greater chance of conviction. Depending on whose statistics we hear today and whose we accept, we have very different versions of what the situation is. That's, I guess, for the committee to sort out.

The Chair: The statistics vary dramatically, I dare say, as presented.

Thank you all for attending. I really appreciate it. I also beg your forgiveness for the time constraint that was placed on us. We had some committee business to look after, and it was difficult to manage it all.

Thank you again.

Our next committee meeting will be Tuesday, February 5.

Can I have a motion for adjournment, please?

Mr. Joe Comartin: So moved.

The Chair: The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.