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**Official Report
of Debates
(Hansard)**

Monday 21 July 2008

**Journal
des débats
(Hansard)**

Lundi 21 juillet 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
Greffière : Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Monday 21 July 2008

Lundi 21 juillet 2008

The committee met at 1002 in committee room 1.

The Clerk Pro Tem (Mr. Trevor Day): Honourable members, it is my duty to call upon you to elect an Acting Chair. Nominations, please.

Mr. Dave Levac: Mr. Clerk, I would like to nominate Mr. David Zimmer to be our Acting Chair.

The Clerk Pro Tem (Mr. Trevor Day): Mr. Zimmer, do you accept the nomination?

Mr. David Zimmer: Yes.

The Clerk Pro Tem (Mr. Trevor Day): Any further nominations? There being no further nominations, I declare nominations closed and Mr. Zimmer as Acting Chair of the committee.

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

SUBCOMMITTEE REPORTS

The Acting Chair (Mr. David Zimmer): The first order of business is the subcommittee report.

Mr. Dave Levac: A summary of the decisions made at the subcommittee on committee business:

Your subcommittee on committee business met on Tuesday, June 24, 2008, to consider the method of proceeding on Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act, and recommends the following:

(1) That the committee hold public hearings the week of July 21, 2008, as follows: two days in Toronto and one day in London, Ottawa and North Bay.

(2) That the order of locations visited is to be determined by the committee clerk, in consultation with the Chair, taking into account travel arrangements.

(3) That a minimum of eight presenters is required to warrant travel to London, Ottawa or North Bay, and that if travel is not warranted to a location, witnesses in that location be offered video- or teleconferencing.

(4) That the committee clerk, with the authority of the Chair, post information regarding the committee's business one day in the following area newspapers, in English and French: London, Ottawa and North Bay. The notice will also be posted on the Ontario parliamentary channel and the committee's website. The notice is to be posted as soon as possible.

(5) That interested people who wish to be considered to make an oral presentation on Bill 50 should contact the committee clerk by 12 noon, Tuesday, July 8, 2008.

(6) That on Tuesday, July 8, 2008, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(7) That groups and individuals be offered 20 minutes in which to make a presentation.

(8) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(9) That if all witnesses cannot be scheduled, the committee clerk, in consultation with the Chair, reduce the presentation times to 15 minutes.

(10) That if all witnesses cannot be scheduled with 15-minute presentations, the Chair shall call a meeting of the subcommittee to determine how to proceed.

(11) That the deadline for written submissions be 12 noon, Wednesday, August 6, 2008.

(12) That the deadline, for administrative purposes, for filing amendments be 3 p.m., Monday, August 11, 2008.

(13) That the committee begin clause-by-clause consideration on Monday, August 18, 2008.

(14) That the committee clerk, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That is your subcommittee report.

The Acting Chair (Mr. David Zimmer): Mr. Levac, I understand that as a result of paragraph number 10 in your report, there's a second—

Mr. Dave Levac: There is a second subcommittee report, Mr. Chairman, a summary of the decisions made at the subcommittee on committee business.

Your subcommittee on committee business met on Friday, July 11, 2008, to consider the method of proceeding on Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act, and recommends the following:

(1) That two days of public hearings be scheduled for London, Ontario, with all London witnesses being given 15 minutes to make their presentations.

(2) That the committee meet in Toronto on July 21, 2008, London on July 22 and July 23, 2008, Ottawa on July 24, 2008, and Toronto on July 25, 2008, subject to travel logistics.

The implication there is that North Bay did not submit enough presentations to warrant travel.

The Acting Chair (Mr. David Zimmer): Further debate? I propose to treat the two reports together.

Mr. Dave Levac: That's acceptable.

The Acting Chair (Mr. David Zimmer): Thank you. Shall the reports carry? Carried.

PROVINCIAL ANIMAL
WELFARE ACT, 2008
LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

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

CANADIAN COALITION
FOR FARM ANIMALS

The Acting Chair (Mr. David Zimmer): We're ready for our first presentation, the Canadian Coalition for Farm Animals, Stephanie Brown.

You have 15 minutes for your presentation. Any time that you leave over will be open for questions from the committee members. I've got a stopwatch and I'll give you a couple of minutes' notice. Okay?

Ms. Stephanie Brown: Okay. Thank you.

Good morning, everyone. As the Chair said, my name is Stephanie Brown. I am with the Canadian Coalition for Farm Animals. Our coalition is dedicated to promoting the welfare of animals raised for food in Canada through public education, legislative change and consumer choice.

We appreciate the opportunity today to be able to speak about Bill 50, and we support the addition of specified penalties in Bill 50. As an organization focused on the well-being and treatment of farmed animals, though, we're concerned about section 11.2(6)(b), which exempts farm animals from sections 11.2(1) and (2); namely, that "no person shall cause an animal to be in distress" and "no owner or custodian of an animal shall permit the animal to be in distress."

The vast majority of animals in Ontario are those raised for food—more than 220 million in 2007. To exclude the largest animal constituency from the legislation undermines the act and is prejudicial to farm animals.

Section 22(1)(b) states that the Lieutenant Governor in Council may make regulations "prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry." We ask what the regulations will prescribe as reasonable and generally accepted practices of agricultural animal care, management and husbandry. Canada does not have legislation prescribing how animals should be treated on farms. Instead, governments have deferred much of their authority to voluntary codes of practice which are developed by

industry-dominated committees. Industry chooses the practices that are acceptable to itself, including intensive confinement practices which ignore the animals' behavioural and physiological needs. The codes legitimize intensive confinement practices and justify the status quo as good animal care when it is not.

1010

Regulations to protect animals on the farm need to be more than voluntary codes, since the codes lack legal status in Ontario and there is no offence for not complying with even the minimal standards. The beef, dairy and pig codes were written between 15 and 18 years ago, and although times and attitudes change, the codes remain static. The codes do not ensure the five freedoms adopted by the Farm Animal Welfare Council in the United Kingdom. These include freedom from thirst, hunger and malnutrition; freedom from discomfort; freedom from pain, injury and disease; freedom to express natural behaviour; and freedom from fear and distress. Animals in crates and cages are forced to eat, sleep, urinate and defecate in the same spot. The one piece of legislation in Ontario, the OSPCA act, whose sole purpose is to prevent and alleviate cruelty and suffering of animals, denies the very basic right to farmed animals.

In Ontario and Canada, industries that exploit farm animals recognize the need to change current practices. Governments in the United States and Europe are beginning to legislate change in the treatment of farmed animals. A recent prestigious agricultural report in the United States recommends substantial changes to common animal production practices.

Recent examples of corporate, voter and government initiatives to end confinement systems considered acceptable under the codes of practice include Toronto-based Maple Leaf Foods, Canada's largest hog producer, which has called for a phase-out of gestation crates in Canada. These crates confine sows in steel-barred cages so small that they are unable to turn around for their entire four-month pregnancy. Ontario-based KFC Canada has called for a phase-out of the most commonly used method to kill chickens because an alternative system, called controlled atmosphere killing, has proved more humane. The European Union has mandated the phase-out by 2012 of battery cages where laying hens cannot perch, nest or spread a wing, and an end to gestation crates by 2013. Both are common practices in Ontario. Several US states, namely Arizona and Florida, have banned gestation crates—and, in the case of Arizona, veal crates—through voter initiatives. Oregon's state Legislature approved a measure banning gestation crates. A California ballot initiative titled the Prevention of Farm Animal Cruelty Act, proposition 2, to phase out cages and crates will be on the November ballot.

The Pew Commission on Industrial Farm Animal Production is a distinguished panel of 15 US experts on animal agriculture headed by a former governor of Kansas. That panel was established by the Pew Charitable Trusts and Johns Hopkins Bloomberg School of Public Health. The panel's report, published in April of this year, calls

for a 10-year phase-out of many current animal practices, including gestation and farrowing crates for sows, battery cages for laying hens, and crates for veal calves.

The issue of reasonable and generally accepted standards is not static, as the codes are. There's growing recognition of the need for more humane treatment of animals raised for food, away from intensive confinement and from the use of antibiotics and growth hormones, and recognition that farm animals should be protected from pain and suffering.

Farm animals in Ontario need and deserve the protection of Bill 50. As other jurisdictions vote to end cruel confinement practices for farmed animals, Bill 50 proposes an exemption of these animals. Excluding farm animals from Bill 50 forfeits the opportunity to protect the largest category of animals in the province, more than 220 million in 2007. The recommendation of the Canadian Coalition for Farm Animals is that farm animals not be exempted from Bill 50.

Thank you very much.

The Acting Chair (Mr. David Zimmer): Thank you. We have about seven minutes left, so I'll split that time, starting with Mr. Dunlop: two minutes.

Mr. Garfield Dunlop: I don't know if you're aware of this—and I appreciate your organization coming up here this morning—but when the government introduced this bill, we, on this side of the House at least, were under the impression that the bill was a bill to regulate roadside zoos. That's what we understood. All the press conferences that surrounded it, the media advisories, all the media that the government brought forward on the bill at the time was that it was a bill to regulate roadside zoos only. So I think that because of the information that's already out there, there are already a lot of people who are very suspect of what this bill will and will not do. That's why, of course, we wanted fairly long hearings and to listen to a multitude of people. You being the first presenter here, it's interesting that you'd come right out and ask for something in a recommendation as—you're right into farm animals immediately with this legislation, and we originally thought it was only a roadside zoo bill.

I appreciate what you're saying by asking for a major recommendation like this, but you can understand that, from our side of the House, we thought it was a roadside zoo bill only. The word "zoo" is not even included in the bill. I'd like you to comment on that, if you could.

Ms. Stephanie Brown: When you read the act, when there is a specific exemption for farm animals, that does send up red flags. You're specifically saying that farm animals don't count, and we're saying that they do count. There is a recognition around the world that is beginning, and I think that it's going to grow more and more. The initial steps are some of those that I reported, but it's an initiative where people are recognizing that the way we treat farm animals is totally unacceptable. To keep an animal for months, where she can't turn around while she's pregnant—one can't justify that, and yet our codes of practice, which are farm animal standards, do.

The Acting Chair (Mr. David Zimmer): Thank you. I'm going to move on to Mr. Kormos—two minutes.

Mr. Peter Kormos: Thank you, Chair, and thank you kindly, ma'am. An interesting observation. I suppose that if one looks at generally accepted practices of agricultural animal care, the conditions—I would suspect that I'm more familiar with egg-laying chickens and the way these chickens are maintained so as to optimize egg production—would be currently an acceptable practice or an accepted practice of animal care, and that's the point you're making.

Ms. Stephanie Brown: It is currently accepted in Ontario and in Canada, according to the codes of practice, which are not legislated, but the point is that governments, voters and consumers are saying, "This isn't good enough. We want to have better standards." When you're addressing animal protection and animal cruelty legislation, it seems negligent to not bring the issue out.

Mr. Peter Kormos: You understand that I come from down in the Niagara region. I've got a whole lot of sympathy for farmers, including chicken producers and egg producers who are battling difficult market conditions. I suppose that the interesting observation would be from the OFA—why aren't consumers voting with their dollar? Consumers are increasingly aware of this stuff. Public affairs television programs, books; I just read the poultry—whatever it was, a British book about the poultry industry in Britain. Why aren't consumers voting with their consumer dollars? They've got choices. There are products being marketed as being exceptional as compared to the norm.

Ms. Stephanie Brown: And indeed they are. I've been in touch with Loblaws, and they have introduced a new line of cage-free eggs. It's a growing issue for them. It's a growing market for them, so as people become aware, they are voting with their pocketbooks, very definitely. And there are ways to raise hens without keeping them in cages.

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

Mr. Dave Levac: Thank you. First of all, thank you, Stephanie, for coming and making your group's feelings known. I appreciate the input and the information. That's valuable for us to hear in the hearings.

Second of all, you might be surprised to hear that I disagree with the characterization of the member opposite that the bill was strictly written as a roadside zoo bill. It's a bill that's trying to capture something that's 90 years old and bring it into modernization. The bill will affect farm animals if those codes are breached. Are you aware of that?

1020

Ms. Stephanie Brown: Say that again, please?

Mr. Dave Levac: This bill, if passed, accepted and written as is, even with some amendments, does have the authority to move to take care of animals no matter where they are if the codes are breached.

Ms. Stephanie Brown: But the breach wouldn't be an issue if animals continued to be kept in confinement conditions.

Mr. Dave Levac: So you're wanting even further protection than what's being proposed in the bill?

Ms. Stephanie Brown: We are.

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

BILL McINTYRE

The Acting Chair (Mr. David Zimmer): Our next presenter is Mr. Bill McIntyre.

You'll have 15 minutes. If you want to leave some time at the end for questions, that's fine; we'll go around the table. I'll give you three minutes' notice before the 15 minutes are up. Please introduce yourself for the record.

Mr Bill McIntyre: My name is Bill McIntyre. I wanted to speak about Bill 50 because of my personal experiences with the OSPCA and specifically the Toronto Humane Society.

I support everything in the bill; I think it's great. My understanding is that for years the law has treated pets simply as property, and I think of this bill as a step forward in starting to think of dogs and cats, people's pets, more as family members and as being more valuable than they may have been considered in the past.

Here's a brief bit about myself. Ten years ago, I started breeding small dogs. I've got two female Pomeranians. I've bred a small number of dogs for 10 years.

I had an extremely unpleasant experience with the Toronto Humane Society last summer, and it caused me to take a look at this bill and see an urgent need for the OSPCA to be able to discipline and control its affiliates and members. I was very shocked by the extremely dishonest behaviour of several of the Toronto Humane Society investigators, who blatantly lied to me about several things. I was really offended by the unfairness of it.

Specifically, Tre Smith and Brandy Hill came to my home and told me that they wanted to take my puppies to their vet to be examined. I said, "I'm happy to take them to my vet." They said, "Don't worry about it. Our vet will only charge you 10% of what your vet would charge; it'll only cost you \$50." I said, "Fifty dollars total?" Tre Smith said, "Oh yeah, it's only going to cost you \$50 to have all your puppies examined." I had 10 puppies at the time. I said, "Okay, that's great. When will I get them back?" Brandy Hill and Tre Smith assured me three times that I'd have the puppies back later that day. Those assurances and the fact that they made considerable threats that if I didn't give in to them and let them take my puppies—they'd arrest me for running a puppy mill; I'd never be able to own dogs again; they would seize my adult dogs and I'd never get them back.

Later on that night, I started calling the Toronto Humane Society. I started to feel ill when I suddenly realized I'd been conned. No response the next day: I called and called and called, and nobody even called me back. These being valued pets of mine, I began to feel so physically ill for the next four days that I ate nothing except one hot dog. That's how physically ill I was. Finally, on the third day, I reached Tre Smith on the phone. He said,

"Okay, you can come pick up your dogs. It'll cost you \$1,450." I said he had told me it would cost me \$50. He said, "No, we didn't say that." So I appealed this to the Animal Care Review Board. Of course, they kept my dogs the whole time, charging me \$15 per day per dog. I said, "Well, this isn't fair. Nobody told me they'd be charging me this money for a storage fee for the dogs." They said, "Oh, we explained it." I said, "You didn't explain it because you never told me you'd have the dogs for more than just the day."

I feel really strongly that behaviour like that—and my opinion is, it goes on more at the Toronto Humane Society. I don't know if many of you know much of the history of the Toronto Humane Society as opposed to the other OSPCA branches and affiliates. I really feel that—I believe it's section 6 of this bill. I know the THS wants you to strike down that section and I'm telling you, gosh, we need all the oversight possible. The OSPCA needs to be able to control the behaviour of its branches and affiliates and rein them in when they're doing things that are really unacceptable.

My question to you as well is, in a case like me, where somebody feels that the OSPCA or its branches or its employees, its investigators, have really overstepped the bounds, whom do I complain to? Who is in oversight? I tried calling the chief investigator at the OSPCA and really didn't get any satisfaction at all. As I understand it right now, there isn't an Ombudsman or somebody in government who has a little bit of distance from the OSPCA whom a person like me or somebody who feels they've been wronged by the OSPCA can go to and say, "What's going on here? This isn't quite fair."

The experience was so unpleasant for me that in the last week I didn't even really want to sit down and jot out my thoughts, so I avoided it until 7 o'clock this morning. There are probably about 20 points that I could list for you. I think you would really be shocked at the behaviour of the THS. Many of you may not know all of the things that have been going on there—its politics, its radical behaviour. Some of you may know that the city distanced itself from the THS years ago and stopped sending puppies there and stopped sending money.

I won't waste your time with all the minor points, but I could list a bunch of complaints that I think really would have you rather shocked at the dishonest behaviour and basically the extortion that went on. The investigators blatantly lied to me, threatened me, coerced me into letting them have my puppies. God strike me dead, they said, "It'll only cost you \$50 total to get your puppies back after our vets look at them." Then they hit me with a bill of \$1,450, and then when I said, "Well, that's not right," they said, "Oh, well, you can't have your puppies back." So I appealed it to the Animal Care Review Board. The whole time, they're charging me \$15 per day per puppy while I wait for this to go to the Animal Care Review Board, which said, "Of course you can have your puppies back. There's no question about that," and there was no question in the THS's mind. All I had to do was pay all this money they wanted. So by the end of the time

that it had gone to the Animal Care Review Board, they wanted me to pay \$4,255 to get these puppies back. The Animal Care Review Board, in their wisdom, said that the THS has to pay part of that storage fee.

Section 6, I think it is, in Bill 52 allows the OSPCA to discipline its satellite agencies, to kick out an agency or prevent them from using the humane society name if they're engaged in this sort of behaviour. I feel it's really necessary. In addition to that, I feel it would be really helpful if somebody like me could go to an Ombudsman, write up our complaints and say, "Could you kind of look at the behaviour?" in the same way that all organizations—the police, doctors, lawyers—have a governing body to discipline their members. I hope you'll consider that the OSPCA needs this ability itself.

1030

The Acting Chair (Mr. David Zimmer): Thank you. We've got six minutes left so we'll start with Mr. Kormos—two minutes.

Mr. Peter Kormos: I hear you. I'm not sure that's what section 6 does. It doesn't give the OSPCA supervisory authority over the humane society. But I agree with you, if you've got a grievance with the humane society—I suppose you should consider yourself lucky that you were dealing with them rather than Julian Fantino. But at the end of the day, they're holding your dogs like a warehouseman's lien type of condition. I don't know what the authority for that is, quite frankly. I don't know if Mr. Zimmer is familiar with that area of law. I suppose it's similar to a warehouseman's lien or a mechanic's lien.

Why didn't you pay the money under protest and sue them in Small Claims Court? If you say they had made commitments to you about how much it was going to cost etc., it seems to me that's the very sort of thing—you pay the money to get the puppies out, you avoid these storage fees, these impound fees, and then you sue them in Small Claims Court. There's your adjudicator. I don't know; it's just a suggestion. I'm a simple person from small-town Ontario.

Mr. Bill McIntyre: If I'd known that it was going to drag on and they were going to hold my puppies for 29 days until it had gone to the Animal Care Review Board, it would have been a small price to pay.

Mr. Peter Kormos: What was the process they did? What did they do for the puppies? You took them there to have something done to the puppies.

Mr. Bill McIntyre: Tre Smith said, "Oh, somebody complained about your puppies. They look like they're scratching at their ears. We want to have our vets examine them"—

Mr. Peter Kormos: So a medical checkup.

Mr. Bill McIntyre:—"to make sure that they're healthy." Then when it came to the Animal Care Review Board, their vet—

Mr. Peter Kormos: But what would your vet have charged? Did you ever find out?

Mr. Bill McIntyre: It probably would have cost me \$500 or \$600, in that area. My feeling is that if you let an

organization go on its own without supervision for long enough, it kind of—

Mr. Peter Kormos: Now, Tre Smith—I've heard that name before, haven't I?

Mr. Bill McIntyre: Yes.

Mr. Peter Kormos: It seems like one of the lesser of his notorious conducts.

Mr. Bill McIntyre: Yes, very much so.

Mr. Peter Kormos: Maybe you got off easy.

Mr. Bill McIntyre: Yes.

Mr. Peter Kormos: He didn't handcuff you to a car.

Mr. Bill McIntyre: In that incident, just a little bit more violence from the people around—that guy could have been killed, the guy that was handcuffed to the car. It was fairly close, and—

The Acting Chair (Mr. David Zimmer): Thank you, Mr. McIntyre. We'll move to Mr. Levac.

Mr. Dave Levac: Mr. McIntyre, thank you for your presentation. Your concerns and issues are heard, and that's precisely what we're trying to do here—trying to find the balance. We're committing to do that, so thank you very much for the opportunity.

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

Mr. Garfield Dunlop: Thank you very much for your presentation this morning. I think the concerns you raise about the Toronto Humane Society are some of the same concerns I'm hearing about the OSPCA, about the oversight and the complaints. As we go through these hearings, we hope to hear further comments and in the end make recommendations that would, in fact, correct the legislation to make it better. I don't think there's anybody on this committee or anybody in the province who wants to see any kind of distressed animals, but we want to make sure that we get this bill right. Maybe in the end we need a Julian Fantino to oversee something like this—somebody who I respect a great deal. My colleague apparently—

Interjection.

Mr. Garfield Dunlop: Anyhow, thank you for your comments, and we'll look forward to the recommendations.

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

WORLD SOCIETY FOR THE PROTECTION OF ANIMALS

The Acting Chair (Mr. David Zimmer): Our 10:45 presenter has not confirmed and is not here, so we've arranged to move up the 4:30 slot, the World Society for the Protection of Animals, Melissa Tkachyk.

Just before we begin, if we run out of chairs here, there's an overflow room next door. It's air-conditioned and there's a TV you can watch. It's your choice.

Please introduce yourself for the record. You've got 15 minutes. If you want to leave some time at the end for questions, that's fine. I'll give you three minutes' notice before your time is up.

Ms. Melissa Tkachyk: My name is Melissa Tkachyk. I'm the programs officer for the World Society for the Protection of Animals in Canada.

For those of you who don't know our organization, we are the largest international alliance of animal welfare organizations. We work in partnership with more than 900 member societies in 153 countries, and we work to improve animal welfare standards around the world through fieldwork and advocacy.

We appreciate this opportunity to speak about an issue that is of utmost importance to the WSPA, to our more than 30,000 supporters across Canada and, in particular, to Ontario residents.

We support Bill 50 because it's a significant improvement to the existing Ontario SPCA act in several key areas, and I'll name a few of those.

It creates a new provincial offence for causing or permitting distress to any animal. It raises the bar for establishing the strongest penalties in the country for those charged with animal cruelty, including the potential to ban the offender from owning an animal ever again. In granting the Ontario SPCA new powers to inspect zoos and other facilities, it should improve their ability to monitor the treatment of animals in these areas. And it would establish animal care standards that would apply to all animals and make failure to comply with these an offence. These are very significant protection measures, and we applaud the government for introducing them.

We do have some concerns, however, with sections of this bill and recommendations for strengthening it.

Firstly, we recommend removing subsection 6(b) of the bill, which amends section 10 of the existing Ontario SPCA act. This is a section, which I'm sure you'll hear more about, which prohibits groups not affiliated with the SPCA from using the names "humane society," "society for the prevention of cruelty to animals," "SPCA" and equivalent in other languages. We are concerned about the negative impacts that this proposed amendment may have on other animal welfare organizations which have these words within their name and yet are not affiliated with the SPCA. These charities do very important work to improve protection for animals, and it would be most unfortunate if an act to improve the protection of animals were to disenfranchise or otherwise hinder the work of these other important organizations. Our lawyers have also advised us that the WSPA could also be negatively impacted by the proposed subsection 10(b) because there are noticeable similarities particularly between our corporate name registered in French and those prohibited in this section. We do support amending section 10 of the existing act, which we feel is more problematic. It seems to bar all animal welfare organizations that have as their mandate animal protection. We do feel that subsection (a) of this proposed amendment should be adequate to resolve the problem at hand, which I believe is to deter individuals and organizations from falsely portraying themselves as having authority under this act. So we would recommend that subsection (b) of this proposed amendment be removed from the bill but subsection (a) be retained.

Secondly, we want to ensure that all animals are protected from unnecessary cruelty and unlawful and unacceptable activities. The second paragraph of the explanatory note accompanying this act states that "offences of causing or permitting distress to an animal do not apply in respect of native wildlife and fish in the wild." This makes it seem that fish and wildlife in the wild are afforded no protection at all, but in contradiction, clause 11.2(6)(a) indicates that there will be prescribed circumstances and conditions defined in the regulation. I'm presuming this means activities such as hunting, trapping and fishing, which are already regulated under the Fish and Wildlife Conservation Act. While explanatory notes have no legal force or effect, we understand that they may be used from time to time by the courts in interpreting the Legislature's intention, so as such, we would recommend revising the explanatory note to clarify that all animals, including native wildlife and fish in the wild, are indeed protected under this act.

1040

We are also concerned that this bill allows for some broad exemptions to be established in the regulations, and I'm referring to clauses 11.2(6)(c) and 22(1)(c) and (d). If this bill is intended to bring Ontario's animal protection law from worst to first, we hope that it will be made stronger rather than watered down with numerous exemptions. If there are industries or groups that the government intends to grant further exemptions to, we ask the government to make clear its intention. If there are none, we respectfully urge you to remove these provisions for broad exemptions.

The WSPA is supporting this bill because it is our understanding and expectation that the legislation will protect all animals, farm animals and wildlife included. We understand and have no opposition to exemptions for lawful activities provided they're carried out in accordance with applicable legislation and regulations and/or codes of conduct, and that the law still allows for the prosecution of individuals who exceed the bounds of reasonable and commonly accepted behaviour.

Third, and perhaps most important to our organization, and the reason we're involved in this process, is that we recommend the establishment of comprehensive zoo regulations and standards under this bill.

For over a decade, the WSPA and Zoocheck Canada have been investigating the deplorable conditions that many animals are kept in at roadside zoos across Ontario. For the same number of years, we've been advocating for zoo regulations and standards to address the very serious animal welfare problems and public health and safety concerns that we have observed at these substandard zoo facilities. We were therefore very delighted when the Acting Chair of this committee, Mr. David Zimmer, introduced a bill back in October 2006, Bill 154, An Act to regulate zoos. Let me remind this committee that that bill received significant, widespread public support from people across this province as well as support from the WSPA, Zoocheck Canada, the Ontario SPCA, the Canadian Association of Zoos and Aquariums and support from

MPPs from all three parties in the Legislature. The Ministers of Community Safety and Correctional Services, both past and present, acknowledge Mr. Zimmer's great work through Bill 154 as being a significant impetus for the development of Bill 50. So, understandably, expectations are high that this bill will address the roadside zoo problem in Ontario.

Bill 50 will go some way toward addressing these problems. It will allow the Ontario SPCA for the first time to inspect zoos—they won't need the zoo owner's permission anymore—it will establish general standards of care that would apply to zoos, and it would make failure to comply with these an offence. But what this does is that it gives the SPCA officers the necessary tools to react to the suffering of individual animals in the most egregious cases.

What it does not do, unlike Mr. Zimmer's bill, is proactively promote better treatment of animals in the same way that a licensing regime, tied to specific standards and regulations, would serve to do. It would not require zoos to improve their exhibits and standards of care, and it doesn't prevent the proliferation of new roadside zoos. In order to address this deficiency, it is of paramount importance that, along with general standards of care for all animals, the regulation lay out further requirements that will apply to facilities that keep wildlife in captivity.

We were pleased to receive from the Minister of Community Safety and Correctional Services, the Honourable Rick Bartolucci, a letter reiterating the government's commitment to establish standards of care for zoo animals in the regulations accompanying this act. We appreciate this commitment very much, but we just want to make sure that these standards are comprehensive enough to deal with the welfare requirements of wildlife.

To address Ontario's roadside zoo problem, we recommend that the regulations under this bill do the following: that they reference specific standards for zoos; that they require a person or business to obtain a licence in order to keep wild animals in captivity; that they stipulate specific requirements of the licence applicants; and that they stipulate public health and safety requirements to protect zoo staff, visitors and surrounding communities.

With respect to referencing standards in zoos, we understand that the general standards of care will be established by regulation under the new act and would apply to all animals. If you look at the standards of care in the existing act, which just apply to kitty and puppy mills, they're very basic. If these same standards were the only requirements for zoos, I fear we wouldn't see many improvements at roadside zoos.

The case of Tyson, the red kangaroo, is a good example. For those of you who don't know, Tyson was a red kangaroo found at a roadside zoo in London, Ontario. He was kept in a small, barren cage the size of a single-car garage, with nothing for stimulation. Although red kangaroos are social animals that live in large groups called "mobs" and like to graze on grass, Tyson was kept alone on a minuscule, bare piece of compacted dirt for at

least the five years that we had been observing him at the zoo.

Tyson's story became headline news in Australia, provoking the Australian Minister of the Environment to call for an investigation into his situation. That all happened last year. Countless letters were sent from all around the world demanding that the government make changes on behalf of this one sad, captive animal.

If the existing standards of care in the current act applied to Tyson, the SPCA would likely be able to ensure that he received adequate food, water, shelter and space to exercise, but I don't think it would require that he have companionship, features and furnishings to encourage natural behaviour, or sufficient space to hop like a normal kangaroo. In the wild, his species could easily cover three metres in just one hop, but in the cage he was kept in, he wasn't even able to do that.

The point I'm trying to make is that the needs of wild animals such as kangaroos, tigers, lions and monkeys are very complex and very different from those of cats and dogs and they're very challenging to satisfy in captivity. For that reason, we recommend referencing specific wildlife-in-captivity standards in the regulations under this bill. This would provide more direction, clarification and enforceable provisions, and it would satisfy the expectation that the new law will put an end to the mistreatment of animals at roadside zoos. The good news is that there are many models to choose from, as most Canadian jurisdictions have zoo regulations and standards already in place. We have provided the Ministry of Community Safety and Correctional Services with examples of zoo standards that we support referencing in the regulations.

The other issue is that you still don't need a licence in the province to acquire a tiger, a monkey or another exotic wild animal and keep it in your backyard. You can pretty much keep that animal in any condition you see fit, and there's no law against that. That's simply unacceptable and something that this government needs to address sooner or later. Licences are a critical enforcement tool. The Ministry of Natural Resources currently issues licences for keeping native wildlife in captivity, but they represent about a third of the animals kept in Ontario zoos. The vast majority are these exotic species. Licensing exotics is very important to address this regulatory gap. It's also important to prevent the proliferation of new roadside zoos. It's important for record keeping. I'm sure our emergency services and fire departments would like to know where these potentially dangerous animals are being housed. It gives the public some assurance that the facility they are visiting is legitimate and that it has been inspected by somebody.

With a licence, the government has the ability to establish specific requirements of the applicants as well. In many other jurisdictions, applicants are required to submit a business plan to ensure they have the financial resources to look after these animals well into the future. They are required to submit proof of training and experience with the animals they want to keep. They are

required to submit liability insurance and an emergency plan in case of an escape, an accident or a zoo's unforeseen closure. So it puts the onus back on the zoo owner to deal with that problem. It would give the government the ability to deny an application for a new zoo licence if the proposal was not likely to meet the standards.

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

Ms. Melissa Tkachyk: Thank you.

Lastly on this issue, there need to be regulations and standards to ensure that these wild animals are securely confined and measures are in place to protect human health and safety—not only the zoo staff, but the visitors and the community at large. There have been a number of animal escapes in Ontario and incidents where people have been attacked. Some even led to people being killed. I encourage the government to act before another tragedy occurs here. It's only a matter of time.

My last comment with regard to Bill 50 is about our recommendations for general standards of care for all animals. We think these can be strengthened by adopting the five freedoms for animal welfare that were first established in the UK in 1965 to address farm animal welfare issues. The five freedoms are an effective framework for assessing animal welfare in a wide variety of situations, including zoos, and they've been used in the development of animal welfare legislation and standards around the world. We recommend that this be used as a regulatory framework contained within section 11.1. This will clarify and modernize the province's approach to animal welfare.

Thank you for your time and consideration. If there is still time, I'd be pleased to answer your questions.

The Acting Chair (Mr. David Zimmer): A minute each, starting with Mr. Dunlop.

Mr. Garfield Dunlop: I know you've done a lot of work on this particular bill. I'm happy to see on your first page that you recommend that clause 6(b) be removed. I think we agree with that on this side of the House. It would be interesting to hear the reasons why the government continues to leave that in there.

I know we don't have a lot of time here. I know the work you put into this. You were one of the main reasons that Mr. Zimmer put the original private member's bill through. I have to say, again: That's the part I find disappointing. When the bill did come forward, it was hailed, and all the media attention was around the bill was around regulation of roadside zoos. I'm going to continue to say this through these hearings: The word "zoo" is not mentioned in the bill—nowhere. It's a much more comprehensive bill, and as we go through this, we're going to hear from a lot of stakeholders who have got a lot of concerns with this bill who weren't properly consulted at the beginning.

1050

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

Ms. Cheri DiNovo: Thank you, Melissa. I've just breezed through this, but I've read it before. Thank you

for all your effort and work. I absolutely agree with everything you have to say.

I too, like Mr. Dunlop, found it very unconscionable of the government that zoos are not included in this, and also that section 6 is. So one is very concerned about this bill the way it's currently worded and worked. Rest assured that certainly, from the New Democratic Party point of view, we're going to do everything we can to see that zoo animals are protected by this bill and also that section 6 is removed.

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

Mr. Dave Levac: Thank you, Mr. Chair. I'd like to hear perfection on the other side, because every bill that's come before us in this Legislature has always found ways to listen to the communities, and listen clearly. We've listened very clearly. We've heard from Ontarians across the province. Once perfection is met, I'd like to meet the person who knows how to write that.

We want to assure you that we have intention for the tools to protect animals across the province, but that the organizations that use the name "humane society" or "SPCA" are well protected as well. We want to make certain that those using the name "humane society" or "SPCA" continue to do their very important work throughout the province. There will be an amendment offered.

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

Ms. Melissa Tkachyk: Thank you.

HUMANE SOCIETY OF CANADA

The Acting Chair (Mr. David Zimmer): Tony Kenny? Tony Kenny? The Humane Society of Canada—are they here?

Interjection.

The Acting Chair (Mr. David Zimmer): If you don't mind starting; your slot was at 11:15—

Mr. Michael O'Sullivan: No, not at all.

The Acting Chair (Mr. David Zimmer): —but if you could start now. Thank you very much for your cooperation.

If you'll introduce yourself for the record, you'll have 15 minutes, and I'll give you three minutes' notice. If you want to leave time for questions at the end, that's your opportunity.

Mr. Michael O'Sullivan: Certainly. I had a question as well. Robert Burr, who's scheduled to speak at 2 o'clock for the Burr Foundation—

The Acting Chair (Mr. David Zimmer): Yes, I've been made aware of that. I'll deal with that at the end of the morning.

Mr. Michael O'Sullivan: Thank you.

My name is Michael O'Sullivan, and I'm the chairman and CEO of the Humane Society of Canada. Thank you for giving me this opportunity to speak with you on behalf of our organization.

To fill you in a little bit on our work, we have concern for companion animals, farm animals and horses,

laboratory animals, wildlife and environmental issues. We carry out our programs by providing financial and logistical support to a network of humane organizations as well as wildlife centres and shelters. We also appear before committees like this for stronger laws, we carry out undercover investigations, and we also promote respect for animals by speaking to children and helping them with school projects.

A little bit of my own background: I became involved in working with humane societies as a volunteer when I was 11 years old; I turned 54 yesterday. Obviously, I started out with a lot more hair on my head and a less grey beard. In any event, I headed up the Toronto Humane Society, I headed up the Windsor/Essex County Humane Society, I founded the Canadian office of the World Society for the Protection of Animals and was its regional director for 10 years, and for the last 16 years I've headed up the Humane Society of Canada. I've been an inspector, worked with police at all levels, including the RCMP and Interpol, looking at issues and helping them in court, preparing cases and giving evidence, and have been classified as an expert witness in court.

We have great concern over this bill, because it would be easier for me to enumerate to you all the animals that won't be protected rather than the ones that will be protected.

The mechanisms: I've watched and worked with the OSPCA over the last 40 years. Individually, I think there are some wonderful people working there and they do tremendous work under very difficult circumstances. I think that over the years the government has let them down badly in terms of the resources that they've made available for them to do the job, and the result is that I believe the OSPCA should still continue to enforce the law, but not under the structure that currently exists.

With respect to the powers that they're asking for, in many cases they already have those powers. In the case of veterinarians, under the Veterinarians Act, professional misconduct is specifically set aside if a veterinarian reports a case of animal abuse. So that authority already exists. In fact, over the years, veterinarians have traditionally resisted being controlled by humane societies. So even if you were to amend the act to let them do it, they're already required to do it now and they'll have to amend their own act in any event.

I'm a bit concerned that under the act veterinarians' offices and facilities for the very first time will be exempted from inspections by OSPCA inspectors, and I don't understand the rationale. Right now, under the current act, the only facility OSPCA inspectors cannot go into is a registered research facility where there are laboratory experiments being conducted. We don't agree with that either. Neither humane societies, researchers or farmers should be allowed to have voluntary self-supervision. In a perfect world, everything would be voluntary. That's not the world we live in.

My father was a farmer, I've worked on farms, I hold a bachelor of science in agriculture from the University of Guelph and I understand farmers very well. You're

going to hear from them that OSPCA inspectors are not qualified to look at farm animals. Let me tell you something. Talk to any farmer and he thinks the farmer down the road is not qualified to tell him how to care for his farm animals. And that's okay, but it's like telling a police officer, "You can't investigate allegations of a certain offence because we don't think you have the proper training to do it." It just doesn't make any sense. There needs to be a greater supervisory role.

Under the current act, it says that the OSPCA approves inspectors, but the appointment is left up to the Attorney General, as it should be with police powers. Under the new act, it will be the society that appoints inspectors. It's my respectful submission that you can't have a charity with police powers that appoints itself and supervises itself. Right now, if there is concern about whether or not an investigation goes forward, starts at all or cruelty charges result, the buck stops with the chief inspector as to whether or not it goes forward. That's not the way civilian concerns are expressed to other police forces. There's a police commission, you make a report to the police commission, and there's an investigation about whether or not the charges should have gone forward.

You need greater co-operation with crown attorneys. I've sat in court and listened to people—say, *Regina v. Whoever*—charged with cruelty to animals. You could hear a pin drop in the courtroom. The judges look at the clerks, the clerks look at the police. Nobody knows what to do. You need specially trained crown attorneys, you need judges who understand that cruelty to animals leads to violence towards people. No less than the FBI regards cruelty to animals as one of the three primary indicators of future criminal potential. This is very serious. So animals deserve protection in their own right, as well as for the sake of society.

The current provisions as they exist now actually undermine the Criminal Code because they provide exemptions for animals used in research, they provide exemptions for performing animals, animals in zoos and circuses, the racing industry, farm animals. You can't have those exemptions when the Criminal Code is silent on those types of animals. In fact, farm animals under the Criminal Code since 1892 always carried a heavier penalty if you were convicted of cruelty to animals. Traditionally, it was an indictable offence with five years. As you know, many of you supported the amendments to the Criminal Code at the federal level where they've increased the penalties. You've acknowledged that if there are stronger laws to protect animals, they should take precedence by section 21, which says that if you have municipal bylaws that provide stronger protection, then those bylaws have to take precedence. In a similar fashion, you have to do the same at the federal level. The Criminal Code overshadows anything you want to do here and you can't provide less protection under the law than already exists under the federal Criminal Code.

With respect to the use of the name SPCA or humane society, it's my respectful submission you don't have the

authority to do it. The federal trademark through Industry Canada, the charitable status that you get from the federal government, all trump what you want to do here at a provincial level. You can't say to the directors of a humane society, who have moral, legal and fiduciary obligations that they applied for and were granted permission to use, that all of a sudden they're now subordinate to an outside agency which has all of the authority and absolutely none of the responsibility or the obligations or the liability of running a charity. You simply can't do it. The current structure of the Ontario Humane Society is based on its affiliate members. Four of the seven directors can't even sit on their own board of directors, and yet they sit on the board of the OSPCA. We believe the reason this section was included is because they regard organizations like ours and others as competition for fundraising. That's the reason this section is in there. You'll hear from them that the reason they did it was because these organizations can't carry out investigations unless they're OSPCA inspectors—absolutely untrue. The previous speaker from the World Society for the Protection of Animals carried out investigations which created a bill to protect zoo animals; they're not a law enforcement agency. We carry out investigations; we're not a law enforcement agency. It's like saying to a reporter, "You can't investigate an allegation of a crime because you're not a police officer."

1100

With all due respect, I think the intention of the bill is a good one. I think the mechanism leaves a lot to be desired. We're prepared to help you with that, but I would seriously urge the committee that there be more widespread public consultation before this gets third reading. I would hope that you would recommend that before the Legislature reconvenes on September 22.

I'd be pleased to answer any questions you might have.

The Acting Chair (Mr. David Zimmer): We've got a little more than two minutes per party. We'll start with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. Do you actually have a written submission here this—

Mr. Mike Colle: You've got the wrong rotation.

The Acting Chair (Mr. David Zimmer): Sorry?

Mr. Dave Levac: You did the wrong rotation. You did him last time.

The Acting Chair (Mr. David Zimmer): Oh, I'm sorry.

Mr. Garfield Dunlop: That's all right.

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

Ms. Cheri DiNovo: Thanks, Mr. Chair.

Thank you so much for that. I thought that was succinct and to the point and addressed exactly what some of our major concerns are with this very poorly written piece of legislation. We hope that it's tightened up. We hope that sections are removed that shouldn't be there. We hope that some of the original intent of Mr. Zimmer's bill is brought back to life.

Thank you very much for all the work that you do. I also really appreciated the insight about federal laws and regulations and the fact that at a very rudimentary legal level, whoever drafted this bill didn't take that into consideration. It shows, again, the lack of foresight, the lack of thought, the lack of, I would say, any sort of legal rigour in drafting this bill and, at the end of the day, unfortunately, despite its protestations to the contrary, the lack of concern for the safety of animals, which is what we're all here about.

So thank you very much. As you could hear, they're fightin' words from our team, and we'll continue to fight for the welfare of animals. Thank you.

Mr. Michael O'Sullivan: Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much. Mr. Colle, a little more than two minutes.

Mr. Mike Colle: Just a few points of clarification. You say right now that there is no need to have further authority given to the OSPCA because they can investigate.

Mr. Michael O'Sullivan: That's correct.

Mr. Mike Colle: I've been involved in trying to stop and close down puppy mills for 10 years. Right now, most OSPCA officers cannot enter the properties of these puppy mill breeders because they would be charged with trespassing. If the puppy mill barn is at the back of the farm, how does an officer, or how would a member of your association—your association would have no power whatsoever. You have no legal power whatsoever. Can you trespass?

Mr. Michael O'Sullivan: I appreciate what you've said, and I need to be very candid and very open about this. Because of the lack of training of OSPCA inspectors, we believe they ought to have the six weeks at Aylmer, the same as the rest of the police. They ought to be properly funded.

Most OSPCA inspectors, quite frankly, will spend the first five minutes of a conversation with you telling you why they can't do anything to help animals. I'm not kidding—that's 40 years of experience.

To answer your question specifically, that's where the undercover aspect comes in. I would go in and say, "I'd like to buy a puppy from you." I look around, I see what's what, I go back out, I swear out the information, and you get a search warrant.

Mr. Mike Colle: Yes, but that is very ad hoc. It gives you no—

Mr. Michael O'Sullivan: It's perfectly legal.

Mr. Mike Colle: It gives you no authority to investigate—

Mr. Michael O'Sullivan: Perfectly legal.

Mr. Mike Colle: But very ad hoc, and certainly not under any statute do you have the power to investigate as a citizen or as an officer, right? As an OSPCA officer or a police officer, you can't enter unless you have—even a police officer would have difficulty justifying the entry.

The other thing I just want to mention to you is—

Mr. Michael O'Sullivan: Sorry, if I could interrupt for one second: Right now, there is a writ of mandamus

which has been filed against the Quebec government because they're responsible for the enforcement of the provincial welfare act, and it's specifically after a puppy mill operator where a former staff member and other concerned citizens brought the evidence to the attention of ANIMA Quebec, which is the government agency, and they simply ignored it. There's an example.

Again, WSPA is another good example. They produced enough information and documentation to get a private member's bill on zoo regulations. They're not a law enforcement agency.

Mr. Mike Colle: First of all, we do not have that authority right now. That's why we're strengthening this legislation. That's why, right now in Ontario, if I notice that there's breeding of animals to fight—and they're being trained to fight all over Ontario and kill each other—whether they be poultry or dogs, there is no authority in any provincial statute right now to stop that. So this bill has the authority, through provincial legislation, to finally put a sanction on that, because right now, it's not on any federal—you talk about federal law. Show me in the federal Criminal Code where it's illegal to do that.

Mr. Michael O'Sullivan: Sure; not a problem.

The Acting Chair (Mr. David Zimmer): Thank you. Mr. Dunlop, about two and a half minutes.

Mr. Michael O'Sullivan: It's under section 4—

The Acting Chair (Mr. David Zimmer): Excuse me; we're going to move to Mr. Dunlop now.

Mr. Garfield Dunlop: I just want to say that we take your words under advisement and I really appreciate some of the things that you brought out here this morning. No one could agree more with the one comment that you made: that before this ever goes to third reading, this bill needs a lot more consultation. I agree with that and I appreciate those comments.

Mr. Michael O'Sullivan: I'll be glad to follow up, sir, later on, and explain.

Mr. Mike Colle: Sure.

TONY KENNY

The Acting Chair (Mr. David Zimmer): Committee, the 11 o'clock presenter, Tony Kenny, came in a minute or so after we started the last presentation, so, Mr. Kenny, you can have this slot. Please identify yourself for the record. You'll have 15 minutes. I'll give you three minutes' notice if you want to leave some time at the end for questions.

Mr. Tony Kenny: Thank you very much. I'm Tony Kenny and I live near Peterborough. I was born and went to school here in Toronto, but I've spent all of my life just south of Peterborough, every summer and weekend. I'm raising my family there. We have a resort; we have a farm. I've been involved with lots of organizations over the years. I have a real affinity for dogs, but I also have a menagerie of animals on my farm. I think—well, I know—that most people don't understand animals at all anymore. They all see what's going on with Disney and

they all think they're lovable creatures. They fight amongst themselves at times, and I'm very concerned about this legislation. There's way too much power going to the SPCA. This is a private organization, a charitable organization, and we've seen it. It's been happening. It's been in the farm newspapers. I know personally of several places where it's happened, that they're there more for enforcement and raising funds and money. That's what it comes down to: funds and money, more than anything else.

There may be a few places where there is cruelty, but there are also places—the way this legislation is written is, as you've already heard, poor. The problem with this type of power—absolute power corrupts absolutely. I've been inspected numerous times. There has to be some mechanism—and there isn't—to deal with inspectors who have too much power and are abusing their power. There should also be another mechanism, because I've had more complaints from people who just think that there's something wrong, and there isn't, and there should be some kind of method—there should be a complaints system so that you can reverse-charge them, because they made a complaint and it's nonsense. It's a nuisance complaint. Nuisance complaints happen on a regular basis. I've been on the local township council, and that was a standard thing. You'll have a neighbourhood feud and you'll have every inspector from every organization that they can find. So we need to deal with nuisance complaints and have a mechanism to do that. You need two mechanisms that this is shy of.

I don't think that there should be a section on warrantless entry. There should never be a warrantless entry. Warrants are a fundamental right all the way from common law and it should continue that way and not be watered down, and other sections of the law, and skirt around our fundamental freedoms under the Constitution and under common law.

Rural Ontario has been under assault in the last few years, and I don't think that anybody in Toronto understands how much rural commerce is in jeopardy. We're dying out there. We've got no money, nobody's working and everything we try to do is being regulated to death. And yet, here we have one more piece of legislation. Trying to use animals of any description is just a no-no now. Well, that isn't the way these things worked.

Every breed of dog has a special use or was derived from a special use. We've evolved the dog species. I'm a dogsled operator. The Siberian husky will pull automatically at the age of four to six months. Under this, I could be charged with duress, the way this is written right now, for using that animal to pull a sled. That's what that animal was bred for. The same goes for a Jack Russell terrier that I also happen to own. They will attack anything. It's going to get harmed if it gets into something too big, and it's going to do it: It thinks it's 10 feet tall. I could be charged.

1110

Where is the common sense? There is no common sense in this, from what I can see. If you're not a doctor,

I could still prescribe aspirin for my kids; I can do other things for my kids; I can put bandages on them; I have the administration of care. But under this piece, I do not have the administration of care for my animals. It sounds like I've got to take it to a vet, whether it's got a scratch or whatever. That's wrong. I have a duty, yes, but I should also be able to decide at what point that animal's under stress. That's the thing: I've handled enough animals over the years as a farmer and have administered penicillin and everything else, and that's still legal to do and it should remain legal. I don't need a vet and I don't have the money to pay for a vet, and then you're going to say, "Well, you should have done that"? That's just not right.

We keep trying to bring human traits, and these are animals: They're still animals, they act like animals. Some of them are predatory. You have pigs that will eat their young. You have dogs that will attack your chickens. When they're in breeding cycle, they attack each other, whether it's cocks or dogs. If you've got a female in heat, look out, you've got trouble. You can try to control them, but I'll tell you, you've got to physically restrain them and physically keep them apart, and that can't always happen when you're using them for working dogs, for guardian dogs, for herding dogs. That also goes for animals of burden, beasts of burden. There should be an exemption because you've got these other exemptions for agricultural, but there is none for use of dogs as in working dogs for sledding and other types as in hunting. If you take a dog hunting, there's a possibility it's going to tangle with a coyote if you're coyote hunting. That could be seen as cruelty the way these guys are going.

We need sections that will actually make sure that we're not incriminated by using these animals for what they were bred to do. It's just wrong. Right from the start, I disagree with a lot of this.

We keep talking about animal cruelty; there's a lot of human cruelty going on there out here. The other night they showed Miramar, with skeletons lying in the marsh on TV on the 6 o'clock news, but you can't do that with animals. There are things that go on, humans are just as destructive to each other, and yet you heard that the FBI says that's going to cause us to be bad people, that we're going to be criminals. I think that's a bunch of horse stuff.

Veterinarians are not the only facilities that can deal with these. I disagree with all the powers. Again, I'm just one individual, and to sum up I think it's mostly about money. I don't think it's about anything other than that and power. Power seems to be where a lot of things are going these days with this government. We've got a carp situation going on right now in our area and nobody seems to care—dead carp by the thousands, and the Ministry of Natural Resources is ignoring it. Here's a case of human cruelty. You come and smell that stuff lying in our river right now and yet nobody cares.

The Acting Chair (Mr. David Zimmer): Thank you very much. We have a bit more than two minutes per party, starting with the Liberals.

Mr. Dave Levac: Mr. Kenny, thanks very much for your opinions and your concerns expressed. Again, that's what committees are all about, to hear your concerns voiced, and they will be listened to. Thank you.

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

Mr. Garfield Dunlop: I'd like you to comment a little more, Mr. Kenny—and I appreciate your coming today. I'm not sure if you have a written submission—

Mr. Tony Kenny: No, I don't.

Mr. Garfield Dunlop: Can you comment a little more on the warrantless entry section?

Mr. Tony Kenny: Like I said, I disagree that you need a warrantless entry. There are methods where they can obtain a warrant if they require it. It's not going away; if there's a problem, they can come in. The problem with warrantless entry is that they can show up at any point in time.

On farms, you have biosecurity problems, which don't seem to be addressed. There are cases where you're going to the vet or cleaning up, depending if it's at the end of the week. Your dog kennel could be looking a mess, and that's only just natural; it takes time. They don't know what your feeding schedule is, so they're looking at it and saying, "Well, this dog has no food." So there are those things.

So why you would require a warrantless entry—there's no reason that they can't ask. They should always ask to come on the property. There's no reason for them not to and to identify themselves. Even the fellow who was up here before, saying that he's showing up incognito: I think that's wrong too. That's entrapment, really, when it comes down to it. It shouldn't be allowed. They should ask to come on.

Mr. Garfield Dunlop: I can tell you, Mr. Chair and members of this committee, that this is something that, in the first four or five weeks since our summer break began, I've heard from a lot of my constituents, particularly folks in agriculture and rural communities.

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

Ms. Cheri DiNovo: Certainly, we in the New Democratic Party—our hearts go out to the farmers. I read in an article recently that the average farm income is in the negative now, not in the positive. I want to thank you for coming, taking your time and deputing here. We certainly hear you about the warrantless entry. So thank you, Mr. Kenny.

Mr. Tony Kenny: Just to go back to the farms: It's not just the farms; it's rural commerce in total that is suffering. Tourism is down to nothing and farming is terrible. Gas prices are another thing. If we can't use these—in some cases, I think you're going to see more use of other forms of transportation, like animals, and yet with this it may not be allowed. It's just another source.

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

CANADIAN LEGAL
ACCOUNTABILITY WATCH

The Acting Chair (Mr. David Zimmer): Canadian Legal Accountability Watch—Lynn Miller.

You'll have 15 minutes. I'll give you a three-minute warning at the end. Any time you leave at the end can be used for questions from the committee. If you'll introduce yourself for the record.

Ms. Lynn Pitney-Miller: My name is Lynn Pitney-Miller. I wanted to thank you for the opportunity to speak today.

Before I start, I would like to overview a couple of definitions. Of course, the first definition is "government." We all know that government is for the people. For the people: That's responsible government.

I've given you an affidavit with my documents. One of the exhibits is actually from your own website, from the Ministry of Community Safety's website. There, they have actually acknowledged the importance of protection in this province. They have a mandate here and they state that they are committed to effective and efficient officers, those who are also accountable. There, I believe, is the word that should be used to cover the whole problem of today: accountable. Is the SPCA accountable?

As you know, the Attorney General deals with points of law, with the principles of natural law. The Attorney General is interested in the law, and the documents that I have copied here and that hopefully many people have a chance to peruse are documents from your own government, so you don't have to take it from me.

If I could just go to the bottom of the page, I have from your own government—the Ministry of the Solicitor General—an overview of the OSPCA, where they define it. They begin by saying that it is an independent charity. So I think, at this point, it's interesting to note that most people believe that the OSPCA is a government agency, certainly accountable to the people, certainly accountable to the government. The people in general don't know that they are an unaccountable group to government and public, that they hire their own boards and that their boards can then make rules. So they're totally self-regulatory. Today you are discussing with great sincerity and seriousness the fact that these people, this private corporation with no government accountability, should be given greater powers over the public. That's a concern to me.

1120

So many people in this room are animal lovers, and I just wanted to say that I'm an animal lover equal to anyone here, but I'm also something else. I'm a fraud investigator and I've been doing that all my life; I do that as well. I see no reason why animal lovers, animal activists, whatever, cannot also be credible, accountable to the government, accountable to the people; why it ends up a fight. It's "We here" against "You there." "Oh, there's an animal protection person. I'd better hide my kitten or she'll see that it doesn't have its fur combed." That's very wrong because the animals need us all. They

need you and they need people over here on the other side. But if the people who take a stand and are law enforcement officers for the animals, if they're not accountable, the whole fight becomes a laugh. You do help a few animals if there is indeed a problem, but on the whole the reputation for the animals is ruined and many human beings are devastated.

I've included here an overview letter, and I also have a letter from your Ministry of Community Safety; it was James Young at the time. Bottom line: I had a sister who lived in Orangeville. All her pets were taken in the middle of the night by a group that was about an hour and a half away from Orangeville. There is the Caledon and Orangeville humane society that could have been brought in but they weren't. The other group of activists—anarchists—did it for them, I guess. Again, we're talking about a credible organization. So they came up and took all her pets. When my sister called them for her animals, they informed her they were all dead. I had seen those animals days earlier; they were not unwell animals.

So I thought, "I've got to dig. I have to find out what that group is all about." This is a very large, rich organization that you all know, probably—very rich. Could it be possible that they'd do such a thing? "How could they do this if they had law enforcement powers?" I thought, with my little investigation brain turning on. I've dealt with many big cases. The last one was Martha Stewart. The most important case I dealt with was the "Hurricane" Carter murder case. That man went to jail for life, and it was evidence that we were able to bring forward dealing with forensic handwriting that contributed to his being released. And then they made the movie, *The Hurricane*, out of it. That was a really important case. So my life has been this. I'm court-qualified to present expert testimony all over Canada. So when that happened to my sister, I started to dig. This letter here from Mr. James Young makes it clear that this organization, a very rich one, lacked statutory powers under the OSPCA Act. How many months—no, not months; between 1987 and 1997: 10 years. And just for your interest, the same organization has been re-affiliated by the SPCA. "Credible these people are; we need to give them more power." Yes, that's what you'd say.

When I started to reveal the fact that a fraud had been perpetrated on the people of Ontario, I wasn't exposing it to the public; I was exposing it to the officials. No one knew. The province felt that the group was covered by the city bylaws; they weren't. The city felt they were covered by provincial, and it went nowhere. Because I knew they were going to justices of the peace and laying charges against the alleged cruelty-to-animals people, they were laying charges as officers, which was wrong. It was impersonation. The bottom line is that the assistant justice, Marietta Roberts, sent letters to all her JPs telling them, "Do not lay charges. Let them lay charges as officers." This is a civilian body. I sent the same memo over to the head of crown operations, and the head of crown operations sent that to all the crowns in Ontario. Was there any concern about them not being account-

able? They weren't just lacking accountability; they were actually totally illegal. But as I say, they're brought back, so if you give them more powers, you'll be giving that wonderful organization more powers as well. But they've changed, have they? The last I know—well, you've heard about handcuffing people to doors. Yes. They're very serious now, this organization. They just took a dog from a woman who was in Europe somewhere. The dog was taken because it was in an accident. This organization, holding on to this animal, is now telling the woman, "Thirty grand; peachy or no puppy." That's nice. That sounds like—what's that: Extortion? I don't know what the naughty words are. This is wrong, what's happening today, and I underline that I am an animal lover.

Okay, let's just jump. I just hope you'll have a chance to peruse these. In a nutshell, I called your ministry two years ago. I just wanted to make certain that I can ask any court I go to, any kind of media I want to speak to, to call the ministry to confirm that ABC group was illegal for those 10 years. The ministry will expose it, won't they? No. And if you look at your own documents, you'll see the ride I was put on. I was told by the ministry, "We don't have that information." That was the first response. Then, after that, Mr. Zimmerman suggested that I contact the OSPCA itself. I think he also suggested in his letter that I call the group that had committed all the naughty things. Imagine: "Hi, guys, did you commit all those naughty things?" "Of course we did!" A bit of an insult or slap in the face. So his suggestion was that I call the SPCA. I wrote a letter to the SPCA, and you're more than invited to read the response from the group that wants the sweeping powers against the public. It essentially said, "Don't call us." I asked what powers they had between that date and that date: "Don't write us, don't phone us, don't fax us. If you come close to our office, we will proceed under the trespass act." What a fine group of people, what a loving group of people, prepared to have open communication with the public; definitely a group to have increased powers.

I'm in a position now—I've been through 10 years of utter hell because of our friendly organization. I know that ex parte orders are their thing. Ex parte order: You put it through in a person's absence. The next thing is that the person gets this document in the mail and goes, "Oh, my God, the courts are even against me." And they say, "I'd better do something or I'll end up going to prison." This is wrong; this is very wrong. I'm not a fool, and I'm very aware of that. We're not in a society and we cannot be in a society where a government misses the point, when our governments fail to realize that, when you give powers to an independent corporation and that corporation has no accountability to the public or to the government, that is a recipe for utter disaster. I believe that farmers who abuse animals should have a government official knocking at their door and asking why, not the SPCA—or that a government deputy be in charge, that they direct the little people under him or her in the form of the SPCA or any of their affiliates. Then, suddenly, farmers won't be here as mad as Hades. The

animal people, pet owners, won't be here. They will say, "Look, if these people feel that I'm in the wrong, I must be." We've got someone who's not biased, someone who doesn't think that, because my pig's ear is cut, I'm a mean person. This is what's happening. You've got to go deeper. You've got to look at the credibility of the organization you're giving the power to. I really believe that, based on the runaround I've been given, not just by the group but also by the government, we the people are in the position where we should be able to phone the government and ask them about an affiliate. Did that affiliate—which, by the way, they've reaffiliated—lack power between this date and that date? We should not be told to go and call the affiliate; "They'll tell you." There's something wrong there.

1130

So I think, sadly, we've got to look at the government, because you can keep this up forever. People can sit here and point fingers to the SPCA: "Naughty, naughty." We've got to look at a government that has not been able to come up with decent legislation. We have to look now at our government. Again, as you know, the ministry in question makes it quite clear that they are concerned about public protection. You look at your own mandate. Isn't it true there's something called "breach of duty" when a government—I don't know if it's a government—or anyone breaches the duty that's been given to them? That results in negligence suits, etc. I, without question, will be on the bandwagon. I'll be one of the first to move to get a negligence suit through against this government. I don't believe I'll ever do such a thing, but if this goes through without provisions that make very clear that there's government involvement—there must be government involvement, because if they're allowed to go free like they have, everyone in Ontario is in big trouble.

There's so much more I wanted to say, like everybody else, but I thank you very much for this opportunity. I would love to answer any questions.

The Acting Chair (Mr. David Zimmer): We have two minutes left, so just very briefly, Ms. DiNovo, starting with you.

Ms. Cheri DiNovo: I have no questions. Thank you very much, Ms. Miller, for coming out.

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

Mr. Dave Levac: Thank you very much for making your presentation and providing the documents. I have briefly gone through them, and I'll continue to do so.

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

Mr. Garfield Dunlop: Thank you very much, Ms. Miller. I appreciate your comments as well and look forward to the responses. We don't really have a lot of time to get into this right now, but thank you very much for taking the time today.

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

Ms. Lynn Pitney-Miller: Thank you very much. Because of the different issues that I brought forward, I

hope you do look at my documents as well as your own files, and you'll see what's up there. Again, I thank you so much for helping.

CANADIAN ASSOCIATION OF ZOOS AND AQUARIUMS

The Acting Chair (Mr. David Zimmer): The next presenter is the Canadian Association of Zoos and Aquariums; Mr. William Peters, national director.

If you will introduce yourself formally for the Hansard record; you have 15 minutes. I'll give you a three-minute notice at the end. You can leave whatever time you want for questions from the committee.

Mr. William Peters: Thank you very much, Mr. Chairman. My name is Bill Peters. I'm the national director of the Canadian Association of Zoos and Aquariums. I am accompanied here today, by the way, by three colleagues, members of the Canadian association. They are Ontario members. I'd ask them to join me. They are Mr. Calvin White, who is the chief executive officer of Toronto Zoo; Mr. Michael Takacs, who is vice-president and general manager of African Lion Safari; and Tracy Stewart, who is the director of administration for Marine Land of Canada.

The Acting Chair (Mr. David Zimmer): So you can divide your time. You can use it or you can distribute it among your—

Mr. William Peters: Yes. We have provided a brief for the committee. My intent is to go through it in brief summary form, and then we're anxious to answer any questions or discuss with the committee members if there are points of clarification that are required.

Let me first of all describe very generally: The Canadian Association of Zoos and Aquariums is a national organization that represents Canada's 25 leading accredited zoos and aquariums. They are located from coast to coast. We have a long-established accreditation program, which is a form of licensing. We have a very elaborate, comprehensive and demanding set of standards that apply to all the members of our association who are accredited through our accreditation commission, which requires complete documentation of all aspects of their operation, followed by an on-site inspection by a team of our experts. Their views are then reported to our board of directors, which takes decisions based upon the accreditation commission and provides for the accreditation of our members. They are required, following that, to adhere to all of the standards in our approximately 70-page accreditation document, which apply to literally every aspect of their operation, from not only the care they provide for their animals, which is required to be first-rate—our standards are among the best in the world. We have reviewed them over a number of years, we have taken the best from the best in various countries, and we ensure that the members of our association live up to those standards, not only in animal care but in the security for both their animals and their visitors, the services they provide for their visitors, the nutrition for

their animals, the financial management of their operations and, significantly for this committee, that they are engaged actively in programs of conservation dealing with species survival programs for endangered species from both Canada and around the world, that they engage in research that supports those programs and, very significantly also, that they are involved in active programs of education for both their visitors and for institutions and individuals in their communities.

That, very succinctly, is the requirement that we have to join and be a member of our association. It is the model that we believe is appropriate for zoos and aquariums in the 21st century. It is what we have been advocating be realized in the province of Ontario so that all zoos in this province reach the same standard of excellence that we demand of our members.

We are encouraged that the government is moving forward with Bill 50 and we support very much its objectives of better protection of animals and the provision of animal welfare. We believe firmly, however, that as presently constituted, it will not take Ontario from what some have described as a problem case with respect to some substandard zoos to the model of the 21st-century zoo that I just described very succinctly for you.

We have some specific recommendations that we believe will improve the application and the results that will be realized through Bill 50. I should say, by the way, that our association has been on record for many years advocating the kind of progressive move that I have described, and we have had extensive discussions with the ministry and with other individuals, including Mr. Chairman, about how best to achieve that model. We have specific recommendations with respect to Bill 50 that we believe will move further in the direction that we believe is appropriate for the province.

One of our very specific recommendations is that there be an exemption provision in the legislation for zoos and aquariums that are accredited through the accreditation process that the Canadian Association of Zoos and Aquariums maintains. There are several specific reasons for advocating that exemption. The first—and, we believe, the most important—is that it will provide an incentive for the present substandard zoos to upgrade themselves, to improve their operations and to ultimately aspire to accreditation through our association.

I should stress that that is not a self-serving recommendation; it is to achieve the objective of encouraging Ontario zoos to move forward, to solve their problems and to become progressive members of their communities and of the international association of zoos and aquariums. It is also based on the reality that CAZA's accreditation standards will be more demanding than those that will be able to be introduced under Bill 50. It is simply a fact, we believe, that the purpose of the legislation will not enable the province to bring in the kind of comprehensive standards that we demand of our members. Therefore, the situation will remain that our accredited members will be superior in most aspects of their operations as compared to the other zoos in the

province, and therefore, it would seem to us to be redundant to demand an inspection of those facilities by the province.

Perhaps, not inconsequentially, if that exemption is granted, it would save the province some funds that would otherwise be invested in an inspection that would be less rigorous and demanding than that which we already maintain for our accredited members. We would hope that that would also result in at least a certain percentage of those facilities upgrading themselves to, if you wish, the gold standard that we maintain.

We have concerns, as were identified by the previous witness, with respect to the extraordinary authorities that Bill 50 will provide to the inspectors of the OSPCA. We view those as police-like powers that will be granted to inspectors who are not fully qualified—and in fact, I am being conservative in that assessment—to deal with the complexity of situations and animals and species that are found in the zoos in this province. They need additional training in order to adequately carry out those responsibilities, and we have some subsequent recommendations dealing with that particular issue.

As for the extraordinary powers that this legislation provides, they are being allocated to individuals who do not have adequate training in the zoo industry, and neither are they fully qualified police officers. In view of that, it is our very strong recommendation that the legislation needs to have accountability mechanisms—that was the point made by the previous witness—and those accountability mechanisms need to be open to the public and transparent and accountable. There is need for an oversight body and a mechanism to ensure that there is appropriate oversight of the program being instituted by the OSPCA under this legislation and that they are fully accountable to government for the actions that they are taking.

1140

I mentioned that in our estimation the present staff of the OSPCA are not adequately qualified to deal with the broad range of animals and species found in zoos in this province. Our association has provided some initial training for some of those inspectors, but it is not anywhere near the level of qualification that we demand, through our accreditation commission, of the inspectors who do our accreditation program. We employ individuals who are renowned in their profession. They have the appropriate extensive educational background and, in most cases, a lifetime career of experience in dealing with exotic and native animals throughout Canada. They have dedicated their careers to that. They are the highest experts in their fields. We ensure that we use only the best in our accreditation program. In comparison, the OSPCA staff presently have a couple of weeks of training, and they simply will not be able to deal with the range of animals and conditions found in the zoos that they are going to be required to inspect. So we have recommended very strongly that there be a team of inspectors who inspect zoos for the standards that will be brought in and that that team include a CAZA-certified

expert as well as an inspector from the Ministry of Natural Resources, in addition to the OSPCA inspector. That would provide the team with the necessary expertise to make appropriate decisions based upon what they see on the ground.

We also believe that it is vital that the standards introduced under this legislation are appropriate and that they are as close as possible in this legislation to those in our accreditation program. We have offered to the ministry and the province to bring together a working group of experts to modify our accreditation standards to meet the requirements in Ontario and the limitations of this legislation. We are pleased that the ministry has agreed to that proposal, and we are prepared to immediately bring together that group of experts to do that work.

Finally, we recommend very strongly that a CAZA representative, an expert with the appropriate credentials and qualifications, be appointed to the Animal Care Review Board, which will provide oversight for decisions taken by the inspectors who are investigating suspected cases of animal abuse etc. Again, we believe that will provide the experience that is required in order to make appropriate decisions based upon cases that are brought to that board.

That, in essence, is the substance of the report that we have tabled for the committee. In making those recommendations—if they are adopted by the committee and by the government—we believe that Bill 50 and its application will be greatly improved. That being the case, we would still like to see the legislation go further than what will be possible in this particular piece of legislation, and we are prepared to work with the government to make that sort of progress in the future.

We would be delighted to answer questions.

The Acting Chair (Mr. David Zimmer): About two minutes per party, beginning with Ms. DiNovo.

Ms. Cheri DiNovo: I think I went first last time.

The Acting Chair (Mr. David Zimmer): No, you're first this time.

Ms. Cheri DiNovo: Oh, really?

Thank you very much, Mr. Peters, for coming. This is not directly related to what you do, but I just was interested in what your opinion on section 6 is. We feel very strongly that this has no place in this legislation. This is the section that deals with calling yourself a humane society by others other than the OSPCA. Do you have any opinion about that?

Mr. William Peters: I have a personal opinion, but our association does not have a stated position with respect to that. We recognize the kinds of concerns. I should say that a number of our members work very directly with their local humane societies and are actively engaged in the work that they do in their communities. I might ask our members if they have particular comments in that vein.

Mr. Michael Takacs: Again, not CAZA's position, but I know our local humane society is upset about it. I believe they are doing a presentation to the committee in

the next few days. We've been a long-time supporter and we understand their concern.

Ms. Cheri DiNovo: Thank you for that. Also, in terms of your own recommendation—clearly, on behalf of zoo animals and fish in aquariums etc., there needs to be some sort of inspection process. This is one of the things we're hoping comes out of this bill, better protection for the animals in these conditions. Your recommendation is—and I just want to be clear about this—that somebody from the Ministry of Natural Resources, one of your own experts and an OSPCA person be that investigative team. Is that correct?

Mr. William Peters: Yes. That recommendation is specifically with respect to the inspections that will determine whether or not the standards that will be introduced through the legislation are being adequately met.

Ms. Cheri DiNovo: Because right now, zoos aren't mentioned in this bill. There is no mention of zoos.

Mr. William Peters: That's right.

Ms. Cheri DiNovo: We hope that there will be something stronger. Do you hope that there is some mention of zoos in this act when it finally goes to press, so to speak?

Mr. William Peters: Yes. We believe very strongly that the standards that are needed, that should apply to zoos, as I've said in my presentation, should be modelled on our existing accreditation standards, and they should be specific to zoos because there are very special requirements.

Ms. Cheri DiNovo: Thanks very much.

The Vice-Chair (Mr. David Zimmer): Thank you. We'll move to the Liberals.

Mr. Mike Colle: Thank you for your presentation. I'm not quite sure—you seem to be advocating for self-regulation. Is that what you're advocating for, that your association in essence regulate itself? Are you opposed to government oversight through the OSPCA?

Mr. William Peters: No, we are not. I should make clear that when we talk about an exemption from inspections, we mean with respect to the maintenance of standards. We do not advocate at all exemption from the abuse provisions, the investigation of cases of abuse. Those are very separate circumstances. Our case with respect to the exemption is based entirely on the reality that our accreditation program, as I have described, has exacting, demanding standards that will be superior to what will be introduced under this legislation, and therefore a provincial inspection would simply be duplicative. We do not advocate at all that there be an exemption with respect to the enforcement of the animal welfare provisions, investigation of cases of abuse etc.

Mr. Mike Colle: Because right now, there are basically no standards of care in those roadside zoos. They're all over the place in Ontario, and not in any way to equate those roadside so-called animal places—I don't even call them zoos, really; it's almost inappropriate to do that—with your organization. I guess what we have to find is a higher level of expertise so the OSPCA can deal with the sophisticated animals that are found in aquar-

iums and the real zoos in Ontario as opposed to the roadside operators.

Mr. William Peters: It's a reality that many of the roadside operators, of course, have a broad range of species, including exotics, and that is a result of the fact that they are not presently required to be licensed in the province, and some of the operations are extremely questionable. They would not be exempted, of course. What we're advocating is that if you meet our accreditation standards and have gone through the extensive, demanding process that I have described, those facilities would qualify for an exemption. But if they do not meet our standards, they would, of course, be subject to this legislation.

The Acting Chair (Mr. David Zimmer): Thank you. We'll move to Mr. Dunlop.

Mr. Garfield Dunlop: Thank you. I'll be very quick, Mr. Chair. Thank you very much for your presentation this morning. I know you do some fine work in the province and I appreciate it.

You mentioned CAZA possibly offering to have someone sit on the Animal Care Review Board. How would you feel—this is just your own opinion; I'm not sure it's a position of your organization—about sitting on a board like that, like the Animal Care Review Board, with representatives from the Ontario Federation of Anglers and Hunters and the Ontario Federation of Agriculture?

Mr. William Peters: We would have no difficulty whatsoever. We would very much support that.

Mr. Garfield Dunlop: Okay, thank you.

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

1150

RONALD HOUSE

FRED LEITCH

The Acting Chair (Mr. David Zimmer): Ronald House, Fred Leitch?

You'll have 15 minutes. I'll give you three minutes' notice at the end. You may want to leave time for questions from the committee, at your discretion. If you'll introduce yourself for the record.

Dr. Ronald House: I'm Dr. Ronald House. I have racehorses, dogs and cats, and I live in the country. In my professional life, I have occasion to review legislation. When I read this bill, I was concerned because of the way it was drafted. I'm not an expert in law and I felt that I needed to retain the services of a lawyer to go over the actual drafting of it.

My particular concern is with section 11, which I thought was way too vague. The other concern that I have, which has been echoed this morning, is the concerns about warrantless search and about the powers that will be given to the OSPCA, which I think historically, at times, may have been somewhat dysfunctional. I'm

therefore surprised that the government would pass these powers on to such an organization.

I've asked Mr. Leitch, then, to take a look at my concerns and to provide the committee with alternative wording or amendments to the legislation. So I'd like Mr. Leitch to take it from here.

Mr. Fred Leitch: Thank you, Mr. Chairman. I was retained, as Dr. House has said, to review the proposed amendments with a lawyer's eye to see if there were any weaknesses or conflicts as proposed. I have set those forth in my brief, which has been filed with you. They are three in number. I'm going to deal with them in reverse order. Firstly, I will deal with medical research; secondly, the police powers which are continued and conferred; and finally, the conflict that I identify with the legislation which protects and permits hunting in the province, the fish and wildlife conservation heritage act and the Fish and Wildlife Conservation Act.

Firstly, in respect of medical research, it's my submission on behalf of my clients, one of whom is a medical researcher, that using animals for medical research needs to be exempted from this statute. It is currently regulated under a provincial statute, which is called the Animals for Research Act, 1997. It seems to me that inasmuch as there's specific regulation of that activity, it should be exempted from the activities of the inspectors under this act.

In respect of the grant and continuation of police powers, it's my observation and submission that those powers, understandably, as we see from the way they are operated in our province, require a comprehensive set of guidelines and procedures to ensure that they're properly applied. The police act and its regulation is the governing act for police activity in the province. There is a comprehensive set of offences described in the police act regulation. There is a chain of command from the police chief down. The public complaints system of Ontario operates as a check of what the police do, and police officers are highly trained, well qualified and go about their business, in my submission, professionally. That kind of supervision, in our submission, is important when you grant those powers to others.

The problem with this legislation is that there's just a general granting of those powers by a person who is an employee of the OSPCA. He is not a police officer. He may be, I suppose, but I would doubt that he would be. There's no scheme to ensure that inspectors appointed by him carry out the powers of a police officer appropriately. The regulation itself gives the Lieutenant Governor in Council the ability to pass regulations in that regard. It's our submission that great care should be taken that that regulation be, at least in draft form, for the purposes of deciding whether or not that grant of power should be in the legislation. You can't, in our submission, give police powers without protection of the public.

Finally, there's a critical conflict with legislation permitting and licensing and regulating all forms of hunting. Hunting is a lawful right under the heritage conservation act of Ontario. It is regulated in the extreme by the Fish

and Wildlife Conservation Act. That is done by a variety of methods, as I point out in my brief, ranging from absolute prohibition, seasons, prohibited methods. There is enforcement by conservation officers who are appointed by and answerable to the Minister of Natural Resources. Police officers are conservation officers by virtue of their office. Under the Fish and Wildlife Conservation Act, there are quite specific powers of search, seizure and arrest. The difficulty is in the offence created under section 11. It creates the offence of causing an animal to be in distress. The word "distress," in turn, is very largely defined in my submission in the definitions section. By its very nature, hunting, which is lawful, causes an animal to be in distress. Indeed, it causes an animal to be destroyed. In circumstances, they are chased by hunters on foot and by hunting dogs. All of that activity is regulated in another provincial statute.

Our submission is that leaving the definition of "wildlife" and "circumstances or conditions" to the regulation power is not the way to go about it, because what will happen is that there will be an apparent level of poaching by the one authority on the jurisdiction of the other.

The offence of causing an animal distress is exempted by clause 11.2(6)(a), which provides that subsection 11.2(1) does not apply to fish and wildlife being lawfully hunted. The difficulty is the question of, what are fish and wildlife and what are the circumstances that will be exempted?

A better way to do it, in our view, is to simply exempt lawful hunting of fish and wildlife, that being lawful hunting in accordance with provincial laws and regulations, namely, the Fish and Wildlife Conservation Act.

There are also some difficulties and conflicts with respect to hunting dogs, which are regulated under the fish and wildlife act, and certain hunting raptors that are also regulated under the fish and wildlife act by licence. It's our submission that the hunting by dogs and hunting by raptors, which impliedly involves fighting with other animals, should be exempted. If it's lawful under the fish and wildlife act, it should be exempted from the OSPCA act. There is simply an inherent legislative conflict unless some care is taken.

That constitutes my submission with respect to the amendments as proposed.

1200

The Acting Chair (Mr. David Zimmer): All right, we have about two minutes and a bit per party, starting with the Liberals this time.

Mr. Dave Levac: Thank you very much for your presentation and recommendations. They're worthy of consideration, and after the hearings we'll be debating those types of amendments that could be offered that would strengthen the bill. I appreciate very much your presentation.

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

Mr. Garfield Dunlop: One of the examples I've heard being used a few times through the hunting community, and they're very concerned with this bill, is

that when you talk about an animal in distress—for example, a hunting dog tracking a deer through the woods. If someone was to find that dog and the dog did not have any water—he was panting, for example, and looked like he was thirsty; that’s what a hunting dog would do in that case. When you look at this legislation, could you find any reason why the legislation would call upon the OSPCA to actually charge the hunter because the dog looked like it needed a drink of water?

Mr. Fred Leitch: Yes, the offence says, “No person shall cause an animal to be in distress.” The section defining distress says, “‘distress’ means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect.” All of that description simply calls for an examination of the factual circumstances and a decision by somebody, presumably an inspector, who would say, “You’re causing that hunting dog to be in distress,” when the dog is doing what it does naturally: chasing a rabbit and getting winded and thirsty. Is that an offence? I think not, because under the fish and wildlife act, the use of the dog is permitted by law and the hunting is permitted by law. That’s the problem. You’ve identified the very problem that exists in the legislation and needs to be solved in some fashion.

Mr. Garfield Dunlop: And that’s what I’m hearing from my constituents. I’ve got a number of angling and hunting organizations in my community and they’re very, very concerned. The government says there’s an exemption here. It doesn’t include hunting and fishing; it doesn’t include agriculture. But when you get into the details, an OSPCA inspector could in fact—the way this law’s written, my understanding is that he could actually be charged because the dog looked like it needed a drink.

Mr. Fred Leitch: The devil is in the detail and the devil is the decision made at the time the facts present themselves. Care should be taken now to ensure that people are not being charged when they’re undertaking what is a lawful activity.

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

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you, Dr. House and Mr. Leitch, for coming and deputing. I certainly agree with your sentiment that this bill leaves a lot to be desired in terms of legal drafting on a number of fronts. Thank you for bringing attention to a couple of them.

I wanted your insight, really, into point number three that you raise. I certainly take to heart the section 11 comments that you made because I think they’re absolutely accurate. It’s confusing, section 11.2(1)—section 11.2.(6)(a) is also equally confusing, and again, overlaps with another bill. For section 3, you say there’s no evident protection for persons engaged in medical research, applying animals for that purpose. I’d like to hear your take, either of you, on what you think those protections should be. In other words, if you feel this bill maybe goes too far, what should be in place?

Mr. Frank Leitch: My submission is that the bill should exempt that activity because that activity is regulated under another provincial statute in the same way that hunting is. The Animals for Research Act creates a licensing and regulating system which is controlled by the province.

Ms. Cheri DiNovo: Yes, I understand that. But this bill purports, at any rate, to deal with animal welfare and to look after those animals that are the subjects of medical research. It perhaps gives sweeping powers to the OSPCA, which we all have some issues with, but it’s pretending, at least, to try to look after those animals. Do you think more needs to be done for animals that are the subjects of medical research, and if so, how would that be enforced?

The Acting Chair (Mr. David Zimmer): Just briefly, if you could.

Mr. Fred Leitch: I guess I would pose the question: Are the animals being used for the purposes of medical research more important than the object of the medical research? That, of course, is a policy decision that you will have to make.

Ms. Cheri DiNovo: Just very quickly for the record: There are ways of doing research on animals that are ethical and unethical, presumably. My question is, how do you enforce the ethicality of the research? I know we don’t have time to get into it. Thank you, Mr. Chair.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and for taking the time to come and visit with the committee today.

SUNNY REUTER

The Acting Chair (Mr. David Zimmer): Sunny Reuter and Samantha Reuter?

Hello. You’ll have 15 minutes to present. I’ll give you a three-minute warning towards the end, and you can leave any time you want for questions at the end. Are you Sunny or Samantha?

Ms. Sunny Reuter: My name is Sunny. My daughter is Samantha. She’s unable to be here today.

The Acting Chair (Mr. David Zimmer): If you could introduce yourself formally for the record, and you can begin.

Ms. Sunny Reuter: Thank you. My name is Sunny Reuter. I’m a resident of Ontario. I thank you for the opportunity to speak to Bill 50.

I became interested in provincial animal legislation after the OSPCA seized and killed our dog Arko while my daughter and I were on vacation in August 2003. I’m here today to share my hope for an accountable, transparent and sustainable animal welfare system in Ontario, one in which the Ontario SPCA, government, industry and animal owners all work together. In order to get there, some difficult truths must be acknowledged.

The issue of OSPCA accountability and transparency: The OSPCA was founded 135 years ago, on July 4, 1873. Fourteen years later, in 1887, the Ontario Board of Police Commissioners appointed a full-time police officer to

deal with the issue of animal cruelty. In 1919, legislation granted the OSPCA the right to investigate cases of animal cruelty. No provision for accountability or transparency was made.

In 1955, legislation gave the OSPCA the power to enter property, carry out investigations and remove animals. Again, no provision for accountability or transparency was made. And in spite of much greater expense to the OSPCA, no provision by the government for long-term stable funding was made. The Ontario SPCA was left with the responsibility to solicit donations to exercise their provincial mandate.

That this model was flawed became apparent in the late 1980s. Ontario Federation of Agriculture President Brigid Pyke approached David Ramsay, the agriculture minister, in 1989, asking that police powers be removed from the Ontario SPCA. Since then, confrontations between the OSPCA and animal owners have been numerous and bitter.

Legal action naming the Ontario SPCA is increasing in number and severity. In several recent cases, the Ontario SPCA has negotiated confidential settlements. The province has given 7.5 million taxpayer dollars to the OSPCA within the last two years. This is a private charity that is not subject to freedom of information.

1210

In spring of 2006, 29 out of 36 OSPCA directors publicly resigned, asking the Premier to remove police powers and investigate spending. Terry Whiting from the Office of the Chief Veterinarian, Manitoba Agriculture, Food and Rural Initiatives, writes in the Canadian Veterinary Medical Journal, November 2006, "Private funding of policing activities poses challenges to credibility and maintenance of a just and transparent enforcement process. Animal welfare policing services should be provided as a professional public service and not linked with self-funding initiatives." In a publicly funded enforcement model such as that in place in Manitoba, animal protection officers have similar powers. However, appeals of actions of officers are made directly to an elected official, the Minister of Agriculture.

Bill 50 more than blatantly ignores significant repeated requests for OSPCA accountability and transparency; it seeks to grant even greater police powers, including the right to warrantless entry. The Ontario SPCA is officially recognized, mandated, empowered, and recently significantly funded by the province. It has all the characteristics of a provincial governmental organization. I'm asking the committee today to consider recommending reclassification of the Ontario SPCA from a charity to a provincial governmental organization. That would then ensure it falls under the jurisdiction of the Ontario Ombudsman and make it subject to freedom of information, which would begin to address accountability and transparency issues.

The issue of advocacy and enforcement in the same hands: The OSPCA website states that the society's programs and services include "cruelty investigations" and "government and industry advocacy." The question is,

should advocates be enforcing legislation? Who decides "adequate" food and water, "adequate" shelter? Who is the ultimate authority? Ontario SPCA inspectors, most of whom are not familiar with animal husbandry standards and practices, are legislated as the ultimate authority.

The Ontario SPCA considers itself to be at the forefront of animal welfare. It openly advocates the abolishment of certain farming practices. It also is openly associated with animal rights/anti-captivity organizations. Should the Ontario SPCA be the ultimate authority to interpret and enforce Ontario's animal welfare legislation?

I'm asking the committee to recommend that detailed standards of animal care be put in place before Bill 50 becomes law. Not doing so would be like mandating Mothers Against Drunk Driving to autonomously enforce the Highway Traffic Act with all the speed limit signs removed. Citizens of Ontario have the right to know exactly what is expected of them.

Nowhere to turn: In 2003, OSPCA Chief Inspector Mike Draper stated, "You are guilty until proven innocent." I asked the Ontario SPCA vet for permission to see my dog one last time and take home his collar. I was told, "He is evidence, and you are a suspect in a criminal investigation." I was repeatedly threatened with criminal charges. None were laid. The OSPCA did lay 10 charges against the kennel owner, all of which were dropped mid-trial without explanation, apology or compensation. I felt I was in a nightmare. "Who is this OSPCA and where did they get their power? To whom are they accountable?" I was determined to understand. I wrote to Minister Kwinter. His office advised that the day-to-day dealings of the Ontario SPCA were not under the care of the ministry. The Ombudsman said he had no jurisdiction. I had been made clearly aware of the OSPCA's mindset and power, and the media only sang the OSPCA's praises. Where to turn?

In November 2003, I stumbled across a story in Better Farming magazine, "The Limping Pig." Jack, a large black boar born with a limp, was shot in his pen because the OSPCA assumed he had been abused. The farmer was criminally charged. Those charges were dropped pre-trial. Since that time, I have come across court documents and stories like this proving that accountability is a serious issue.

A Dutch warmblood horse, born with short tendons and a stiff gait, was also killed for the same reason. After the Ontario SPCA left, the farmer mounted a video camera on a ladder and filmed himself cutting the legs off the dead horse. He wrapped them and placed them in his freezer for analysis by the Ontario Veterinary College. The farmer knew this was the only way he could hope to prove his innocence. Charges were laid and later dropped without explanation, apology or restitution.

Another family had 87 animals seized on a first visit. The father suffered a heart attack immediately thereafter. The animals were ordered returned to the farm by the Animal Care Review Board. The family could not afford to pay OSPCA seizure costs. Criminal charges were laid.

The farmer states he pled guilty to a single charge of a dirty budgie cage. The Ontario SPCA is currently suing this family civilly.

Recently the OSPCA seized horses near Minister Bartolucci's home riding. The farmer attempted suicide. An old sheep farmer came home from shopping to find notices of abandonment on his property. He was intimidated into surrendering his sheep the next day.

There are court rulings with significant charter violations by OSPCA inspectors. Two successfully moved forward. These painful stories must no longer be ignored by the OSPCA or the government. Only transparency and accountability will ensure Ontario's animal welfare system flourishes under Bill 50.

In closing, I have had the privilege of meeting with the OSPCA recently and sincerely hope my speaking here today does not close this door. Ontario SPCA CEO Kate MacDonald and chief inspector Hugh Coghill exhibited great trust and candour. The province has chosen a private charity, the Ontario SPCA, to be the cornerstone of Ontario's animal welfare system.

I have also had the privilege of meeting with both Minister Kwinter and Minister Bartolucci and his staff to discuss the need for legislatively enshrined accountability for the Ontario SPCA. I would like to acknowledge respectfully the amount of work and good intentions that went into drafting Bill 50. Animal welfare is a political minefield, with differing opinions and strong-willed participants at every turn. I commend the minister and his staff.

Five years ago, I resolved to one day stand in the Legislature and tell my story. I resolved to put my efforts towards changing the provincial animal act to legislatively enshrine OSPCA accountability and transparency. I thank you for this opportunity.

The Acting Chair (Mr. David Zimmer): A little more than two minutes per party, starting with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much, Ms. Reuter, for your words. We have met in the past a couple of times on this legislation. I commend you for coming forward today. I don't really have any questions for you at this point. I think it's pretty well self-explanatory.

Do you have a presentation for us?

Ms. Sunny Reuter: No. I can e-mail you something.

Mr. Garfield Dunlop: Okay, thank you.

Ms. Cheri DiNovo: Thank you, Ms. Reuter. That was very heartfelt, and I absolutely agree: There needs to be accountability and supervision of OSPCA, and it needs to decide and we need to decide whether it's a charity or a government agency. I really appreciated the suggestion that the Ombudsman have oversight. We're big fans of the Ombudsman. We think that Marin's office does a wonderful job, and this would be an extension of that.

I'm also sorry for your personal loss. I can't imagine what that must be like. To have to deal with that, being pointed at as a kind of criminal, with all the shame it entails, is absolutely unconscionable. You can rest assured that certainly I will do everything possible to

make sure it doesn't happen to somebody else. Thank you, and certainly I would love to have a hard copy of your presentation. I know Mr. Dunlop has said the same, so if we could get that I'd really appreciate it.

1220

Mr. Mike Colle: Again, Ms. Reuter, I want to say thank you, really, for your passion and your dedication. I think by your commitment you've done a great deal, hopefully, to make this a better piece of legislation. You're really to be congratulated on the courage you've shown and the commitment, because it's not easy to do what you have done over the last five years, so I think you deserve—because what you've done is not only for yourself, obviously. It's for people in Ontario and also for the animals that need protection, so I want to thank you again for that heartfelt passion.

The Acting Chair (Mr. David Zimmer): Thank you, Ms. Reuter. The clerk will speak to you and tell you how to get your presentation into the committee so that it gets distributed to all of the members.

WILLIAM SCHOENHARDT

The Acting Chair (Mr. David Zimmer): William Schoenhardt?

You will have 15 minutes. I'll give you a three-minute warning towards the end. Any time that you don't use will be taken up by committee questions. If you'll identify yourself for the record.

Mr. William Schoenhardt: Good morning. I'm Bill Schoenhardt, basically a private individual who came to indicate some personal things that we are. Nine years ago, I retired from business and moved to a farm north of Georgetown, some 100 acres. So I moved from the urban setting to the rural setting, and in some ways it has been an interesting eye-opener from my urban background and my business background.

We now operate a farm where we grow hay and other crops actively. My wife is the full-time farmer so she's not here. Don't tell her where I am, though, because I should be home working. As well, we operate a dressage training, coaching and boarding facility. Our partner is an international rider competing at the FEI level, which is the international level, the highest level, so she does ride at a high level. She has trained in Germany for a year and a half, university—all of those things.

Over the last nine years, I've come to better understand the rural setting versus the urban, and there is a difference. When we first moved to the country I brought this urban background with me. Some of the little things—these are slices of life, nothing as dramatic as the previous presenter, thank goodness, from being selfish. But barn cats: We look after our barn cats. My wife feeds them, has them vetted, all of that stuff, because the traditional barn cat is—I don't have the word—a rural cat that just wanders. We look after our barn cats. Guess what? They disappear because coyotes eat them. People from the city go, "What? Coyotes?" Yes. They come into the barnyard and nail the cats at night. When I'm indi-

cating that we look after the cats, they have no reason to wander. They're neutered. That's another straightforward subject on the farm. Here I won't bring it in, because of the urban setting. But barn cats do disappear.

You really do need barn cats for rodent control. You have mice. You have rats. The barn across the road was torn down and the rats moved from his barn to our barn. This is another situation. Back in the urban setting, a raccoon or a mouse is a major item. We're talking rats, because there's feed in the barn. Our barn is looked after. I'll joke with you about the dressage fees. It costs you about 1,000 bucks a month to have a horse in our barn. It's looked after. People say it's cleaner than their house. But you still have mice and rats because of the feed when the horses are eating.

Another slice of life, let's call it: groundhogs. They dig holes. If a horse—it doesn't happen often—steps in one of the holes and breaks its leg, effectively you put the horse down. Racehorses, yes, they try to recoup, and you know what the outcome is there.

The other one that I didn't write was possums. We have a hate against possums. I'm going to look you in the eye and say the best possum is a dead possum, because I like you. You're related—but the manure, let's call it, of a possum is poisonous to horses. It creates a nervous disorder which is not treatable, recoverable-treatable, for a horse. So I'm going to tell you right now that if I see a possum, I want to kill it, that type of thing. I remember back in Brampton we were going to tai chi, and somebody had a possum by the side of the road and phoned the SPCA. I'm going, "Will they kill it for me?" This is the difference between rural and urban, and a lot of what I see here tends to be—I'm sorry. In the urban setting where I came from, I was in the toy industry and, Lord, you know, legislation there.

Basically, section 11, in Dr. House's presentation, much more eloquent than mine—lets the inspectors interpret training methods as they see fit. We use whips—and the word is "whips"—on horses, and that's another one, by the way: If you don't ride—I ride as well—the word "whips," and I won't go there either, is the word we use. We use lunge whips to lunge a horse. They're used in normal training, in coaching, in riding. I'm going to say that by the inexperienced or untrained inspector it can be interpreted as causing distress, because in some ways, for a horse to learn, you put it through some distress. At times you will draw blood with the whip, not intentionally but inadvertently.

Then you have people, friends of the people who board horses and that, visiting the farm. If they make a complaint or if an inspector comes in, you have the experience of a trained equestrian person, university-educated at the University of Guelph, a year and a half in Germany, versus an untrained, inexperienced inspector who has, though, the authority of a police officer. So we look at all of this section 11 and, lo and behold—I'd be the type of person, I'll tell you right now, who would order them off the farm, and you'll charge me with criminal offences. I just get tired of this, "They know

best," when they don't have the experience but they have the authority.

In a nutshell, in essence, that's section 11—I knew I wasn't going to go to my 15 minutes, and you folks will get off early for lunch—as presented by Dr. House and others. That ends my short presentation. Any questions?

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

Ms. Cheri DiNovo: Thank you for coming and deputing and for detailing the difference, and it's true that we're pretty urban here. We heard part of your presentation before, as you've alluded to, and I'm sure you wouldn't be in favour of warrantless search and seizure, and I'm not sure that the federal Criminal Code would be either.

Under section 11, which is a bizarrely worded little section anyway, it does say, "activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry," and then it goes on to say "a prescribed class of animals or animals living in prescribed circumstances"—it doesn't say what those are. One might assume, and obviously it needs to be better written, that that might include horses, for example, and certainly farm animals. We've heard other deputations around that. In your opinion, this isn't good enough?

Mr. William Schoenhardt: That's correct; yes.

Ms. Cheri DiNovo: Okay. Just for the record. Thank you.

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

Mr. Dave Levac: Thank you very much, Mr. Schoenhardt, for coming in and sharing the two pieces of your education regarding urban and rural. It's funny that you bring that particular item up as barn cats, because we did have a discussion around that, and I'm familiar with barn cats, recognizing that the inspectors are looking at barn cats in understanding the value of what they bring on the case—

Mr. William Schoenhardt: Ironically, our local Upper Credit Humane Society will not give us a cat for a barn cat. They have excess cats coming out of their yinyang; they will not accept more cats. If we ask for a cat and we say it's a barn cat, they will not give us one.

Mr. Dave Levac: Most barn cats are capable of making sure the numbers are pretty high if taken care of in a natural process that you've described: the coyotes and the natural system. You described in detail some of the experiences—did you go through those experiences with care of horses and an inspector coming in to give you a hard—

Mr. William Schoenhardt: No, I did not. I'm saying that under this act it could happen.

1230

Mr. Dave Levac: It could happen. Okay.

Under the circumstances, would there also be recognition that the inspector might be looking and knowing what they're seeing, as opposed to what the assumption is?

Mr. William Schoenhardt: There could be, yes. I would be pleasantly surprised to find out that they had experience; that's correct. But I know from our trainer's point of view, interacting with her, the level at the national training levels, which is what she is capable of and what she is doing, is much different than the normal "knock-down lessons."

Mr. Dave Levac: Not many people would have been exposed to the level that you're talking about.

Mr. William Schoenhardt: That's correct.

Mr. Dave Levac: Quite frankly, thank you for supporting and talking about section 11. We indicated earlier that these types of recommendations will be listened to carefully by the government. I suspect that we might be getting some amendments from the opposition as well to deal with some of these issues.

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

Mr. Garfield Dunlop: I'd say, only about 100 amendments so far.

I did want to comment on something along the lines of what Mr. Levac had just mentioned about your differentiating rural and urban Ontario. I quite often think that we lose that at Queen's Park. I brought up the case a while ago with Dr. House about hunting with a beagle or whatever it may be and then someone coming across and actually having a charge. In your statement, I think you mentioned horseback riding and that sometimes you might inadvertently draw blood on a horse when it's whipped.

Mr. William Schoenhardt: I have seen it happen.

Mr. Garfield Dunlop: Those are the kinds of concerns I have with this bill. What will the impact be on rural Ontario and on things like agriculture, on hunting and angling? If we just go through the whole lifestyle we live in rural Ontario, what could the impact be in the end? I think you, along with Dr. House, have brought some very, very positive things forward in the fact that you've brought it to our attention. We hope, in the end, there are a number—not only the warrantless entry and section 6, but section 11 also needs some major amendments to get this bill right.

We look forward to the recommendations you're making today and all the deputants who are here giving us good, positive feedback.

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

TORONTO HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): The Toronto Humane Society, Mr. Tim Trow.

You'll have 15 minutes. I'll give you a three-minute warning. You can leave whatever time you want toward the end of your presentation for questions. Please introduce yourself for the record.

Mr. Tim Trow: I'm Tim Trow. I'm the volunteer president of the Toronto Humane Society.

I have a package here—I hope everyone received a copy—with some material and some background about the Toronto Humane Society, and I have a very brief, formal written set of comments in there.

We appreciate very much the opportunity to be here and to talk to you about Bill 50. In our package, we have some background material in which we discuss our concerns, which we gave to Grant Thornton when they investigated the Ontario SPCA for Minister Kwinter. We certainly support a lot of the accountability and other issues involved with the OSPCA, but today we've limited our comments to Bill 50, section 6. We're extremely concerned about this section.

In that regard, I'd like to just point out to you our statistics, which is the second document in our material. It's a colourful blue document. I'd like to tell you how proud we are of these and what wonderful statistics they are, given the difficulties that pounds and shelters and other people who care for animals in the public domain face. We work terribly hard to produce these kinds of figures—thousands and thousands of animals, all of which arrive frightened and terrified; most arrive sick and in very bad shape. When you see the incredible job that we do in taking these thousands and thousands of animals and finding so many homes for them—our current euthanasia rate right now, for animals that come in to be euthanized from folks who can't afford to have their own vet do it, is about 4% for cats and about 2% for dogs. The euthanasia rate in the city of Toronto pounds is over 50%.

I want you to know how hard we work at the Toronto Humane Society to help animals and really to laud the people who are there, who manage the shelter and supervise the folks who actually care for the animals. I've asked them to come in. I wondered if it was appropriate for me to ask them to stand and allow me to introduce them. They're sitting over there. Folks, if you could stand up, these are the shelter supervisors at the Toronto Humane Society: their boss, Vijay Kumar, in the doorway; the operations manager, Gary McCracken; there's Derrock Martindale to my right; then Liz Anderson, Will Robinson, Shannon Caulfield, Jhia Humayun, Glenda Neatt, Shazwar Ahmadarahman and Surrinder Birdi. I've left out Bernard Bignall in the back corner. That's really why I'm here.

I'm also here with Joan Milne, in the front row, who's our vice-president. We're both here for the same reason: Section 6 of Bill 50 gives us great concern for the future. These are the future, ladies and gentlemen; these are the young people who have special skills with animals, who have had the courage to go into the public area of animal care. A lot of them have training in animal care arts—in caring for animals, in veterinary clinics, in dog husbandry. Bernard is an expert in health and safety. He's hiding in the corner, but he's very large; it's hard for him to hide. In the past few months, Bernard got the society the highest accreditation you can get for health and safety in the past few months. I don't know how to impress upon you what an amazing achievement that is with so

many frightened and terrified animals. It just goes to show the quality of care.

Joan and I are here. There are a few other board members here, Valerie Jones and Gino Innamorato, and a member of our volunteer committee, Anand Thansingh. If they would like to stand up. We're all here because we're concerned about the future and the wonderful things that folks like these can do in the future.

We believe that section 6 will have two effects on us. We don't see how it can be avoided by changing it or tinkering with it. We believe that initially, and I think almost forever, because we're so well known—we were the first organization in Canada to use the words “humane society.” Every other animal welfare group chose the words “society for the prevention of cruelty to animals.”

We're known across the province as the humane society that has the hospital; I believe we're the only humane society with a hospital. We employ 10 veterinarians and nurses. We have a very large operation. About a third of the people we help at the Toronto Humane Society aren't from our territory at all; they're from across the province. People have come to us in the past six months—I checked—from all of your ridings, including down in Ottawa. We help people without any question, without any means test. We help people adopt animals by helping them with their veterinary care—spaying and neutering them. We microchip animals for them. We're very concerned that people won't be able to find our services when we no longer have our name. We've had our name for 121 years. What other name will be left to us?

The other thing that we're very concerned about is our fundraising, because our fundraising is based on that 121 years of community service—people knowing that we provide this kind of a dedicated and humane care source—and name recognition. That's how you raise money: name recognition. We think that our revenue would plummet.

The minister and others have said that the reason section 6 is in the bill is because of potential confusion and a potential fraud. I can't imagine that anyone believes fraud in the context of the Toronto Humane Society. If we were going to do it, we would have done it in the last 121 years. Confusion? We're not aware of any evidence of confusion even at this point, let alone in the future. Why would there be confusion? If we were to leave the Ontario SPCA, which is when the bill would kick in, we wouldn't be carrying out any government program; we wouldn't be doing policing. There'd be nothing that could confuse people. Surely, no one would suggest that we'd put on a uniform and walk around saying that we were someone we weren't. I just think the fears—we can't support them, and neither could Grant Thornton, by the way. Minister Kwinter, in 2004 and 2006, commissioned two quite extensive and expensive studies of the Ontario SPCA, and my submission to that body of investigators is in the material. They reported no issues of confusion or fraud as regards the integrity and the running of the Ontario SPCA itself and its policing.

1240

Quite frankly, we can see no reason for section 6. We think it's superfluous to the animal protection provisions. Fines for people who are cruel, abilities of investigators to do their jobs—how can this have anything to do with that? It's just superfluous. It can go. I don't think that it affects in any way the scheme of this bill. Section 10 must go, of course, but I don't think the loss of section 10 is any great loss either. It actually outlaws some current organizations, which is silly because they exist anyway. There are 235 Ontario animal welfare organizations registered in Ottawa as charities, and there are many, many others. There is even an animal political party that ran a candidate in Ottawa last time. So I honestly don't think that we weaken the bill by asking you to support removing section 6 from it.

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

Mr. Dave Levac: Thank you very much for your presentation, Mr. Trow, and the concern that you've expressed. You may not have been in the room when I mentioned it earlier, listening to the people regarding section 6—there will be some amendments offered by the government to ensure that the name issue is dealt with immediately.

Number two, I want to clearly tell you that the government, in my understanding and my questions and briefings, did not and will not make accusations that the Toronto Humane Society was acting in fraud. Their comment, based on people who have gone door to door posing as either the SPCA or the Toronto Humane Society or any humane society, was to avoid that type of fraud. We wanted to make sure that those terminologies are protected, so that in the amendment, what we're going to end up doing is ensuring that we can still deal with the fraud that could be taking place. I can attest to you that it's happened to me at my own house, where somebody showed up at the door and said that they were from the SPCA—and finding out that they were not—trying to raise money from me because they knew I had a dog and I was an animal lover.

Another comment or question: I do understand the concern of 121 years' worth of marketing and labelling. You're aware of the court case with WWF, when the World Wildlife Fund took the wrestling people to court. The wrestlers used the same argument, which said, “Our brand is going to go down. We're going to lose.” Well, because Vince McMahon is as good as he is, the WWE is thriving and doing well. But that's only a sidebar, because we will be dealing with an amendment to number 6.

Mr. Tim Trow: He's not raising money, sir.

Mr. Dave Levac: Oh, he raises a lot of money.

Mr. Tim Trow: He's charging—he's making a lot of money.

May I talk about the fraud, because—

The Acting Chair (Mr. David Zimmer): Sorry. That's about two and a half minutes. We have to move to Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for your presentation, Mr. Trow. First of all, I want to compliment the Toronto Humane Society on the chart you've provided us with today—dropping down to just 6% under euthanasia in 2007, when in 2001 it was 27%. That's substantial. It's a great decrease, so I want to compliment you on that.

I wanted to ask you: Does your organization receive any provincial money or any municipal money to help you succeed?

Mr. Tim Trow: Not a cent. We have no grants, no operating subsidies whatsoever. A hundred per cent of what we use to help animals we raise ourselves.

One of the most unfortunate things about the current OSPCA Act is that that act gives the Ontario SPCA freedom and exclusion from municipal taxation, and it denies it to all other humane societies. It's not part of my presentation, but, boy, I don't see why it shouldn't be equal for us all. We pay an awful lot of taxes in Toronto, and it sure would be nice to spend that on medical care and helping people in the community keep their animals.

There's a terrible incident going on as we're here today, out on the Danforth, where people have been forced from an enormous apartment building because of a terrible fire that may have toxicity. Our investigators are on the scene right now and people can't get in, because, of course, it's dangerous to go in. We're sheltering dozens and dozens of animals, and we're taking food and helping people. You don't know how sad it is for some of these people to have to come out with a cat in their arms in the middle of the night or, even worse, leave them behind. This is the kind of thing that we do all the time, and we do it entirely on the money people in the community dig deep from their pockets.

Ms. Cheri DiNovo: Thank you, Mr. Trow, in particular for the campaign. I've received hundreds of e-mails now about removing section 6. I hate to be cynical, but I'm a politician. I think that's why you're hearing some good things from the government side.

Quite frankly, there's no place for section 6 in this bill. That's the opinion of the New Democratic Party. Fraud is a complete smokescreen. Fraud is covered by the Criminal Code already, so you can't fraudulently use the name of somebody else. This is a turf warfare section, because the government was coming down on the side of the OSPCA and against humane societies. It's about money; we all know it's about money. It's about the capability of the Toronto Humane Society and other humane societies to raise money. The OSPCA wants that turf. That's what section 6 is about. The only reasonable amendment for section 6 is to completely take it out. That's what we'll be fighting for. Certainly, we know that this section is not about the four-legged, the finned or the winged; it's about the two-legged animals out there and what they want.

Suffice to say, thank you so much for the work that you do in humane societies across this country, particularly the Toronto Humane Society. Thank you also for galvanizing the public campaign, which is hopefully going to get rid of section 6.

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

Mr. Tim Trow: Sir, may I just respond to the gentleman on the fraud issue, just one sentence?

The Acting Chair (Mr. David Zimmer): Take a half-minute.

Mr. Tim Trow: I want to say that of course I wasn't suggesting that you were suggesting we were frauds. My point was that section 6 will apply to humane societies, not to other groups, not to these folks you're talking about. There are those kinds of groups with hockey teams and every other thing. This will apply to humane societies from 30 communities across the province, all of whom are like us—all of whom were built from scratch by the community, all of whom are above reproach, all of whom are managed by volunteer boards from the community.

Mr. Dave Levac: Better reread your first page.

Mr. Tim Trow: Better reread it, then. I'm not a great scholar. Thank you, sir.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to present. That concludes the morning hearings. We'll reconvene at 2 o'clock.

The committee recessed from 1248 to 1401.

BURR FOUNDATION

The Acting Chair (Mr. David Zimmer): Welcome to the afternoon session. We're going to start with Michael O'Sullivan from the Burr Foundation.

You have 15 minutes. I'll give you a three-minute warning, and you can leave whatever time you want for questions at the end of your presentation.

Mr. Michael O'Sullivan: Robert and Anne Burr send their regrets. They're the foundation I'm representing. The other people who sit on the board also have extensive experience in animal protection. One of them served as the chief executive officer of the BC SPCA for 17 years and has worked in animal protection for 25 years. Robert Burr served on the board of directors of the Ontario Humane Society, chaired a number of committees, was an OHS inspector, and also worked and ran the Oakville Humane Society.

The ground I'm going to cover is fresh ground. I'm not going to repeat what I said earlier today.

I did have a couple of observations. As we said originally, we believe that self-governing bodies have an inherent conflict of interest. I've heard suggestions that more people should be added to the Animal Care Review Board. We would respectfully suggest that in fact the Animal Care Review Board be phased out and replaced with a court process. I think we're underestimating the ability of the courts to deal with matters. They deal with hundreds, if not thousands, of issues from a wide range of problems that face society, and I think they're eminently capable. To have either the OSPCA or other special-interest groups reviewing cases which could result in criminal charges, I think, is an inherent conflict of interest and should not happen.

I did say earlier, too, that I believe the OSPCA should continue its function but not under the current mechanisms or the way it's structured. As many of you know, at a federal level, the Corporations Act is going to be amended and a new section struck to deal specifically with charities. The provincial government is also following suit, and it will in fact require all charities to reapply for their corporate papers under that act.

Our recommendation is that the OSPCA be split into two functions, one which is a law enforcement unit that reports directly to the minister, the same way any other police force does, with all of the inherent mechanisms and fail-safes; and secondly, that the OSPCA be able to carry on its good charitable work to help animals, shelter animals, education, legislative proposals and so forth. That would eliminate some of the conflicts of interest that you've heard today.

I listened very carefully to the presentation from the Canadian Association of Zoos and Aquariums. I'm not sure if they're still here or not, but one recommendation I have would be that if they say that their voluntary standards are superior to what this bill proposes, perhaps the committee and the Legislature could take a look at their standards and incorporate them into the regulations, and the fail-safe would be that failure to follow those regulations would result in attendant penalties.

I'm aware that the OSPCA has been investigated by the Attorney General's office, the Solicitor General's office and the Ontario Public Guardian and Trustee seven to eight times combined. I refreshed my memory with a 1982 report that was written, and regrettably, although it had good suggestions, 26 years later many of its recommendations have still not been implemented.

This legislation is critical because it not only gives us a chance to look at legislation that has not been amended in 53 years, but perhaps even more significantly, it's going to chart the progress of animal protection for the next 20 or 30 years to come. So I think everyone would agree that it's very important that we get it right.

Mr. Trow mentioned the inherent unfairness with the property tax relief, and I'd like to amplify that. Our charity, along with any of the other 600 groups that are operating throughout the province, whether they're incorporated or not, doesn't receive any tax dollars. We didn't receive any of the \$7 million that you've already given to the OSPCA, and any of us that have property still have to pay taxes. We would respectfully suggest that unless you're prepared to grant those types of exemptions to any registered charity working to help animals, the Ontario SPCA not be given that special privilege. It's prejudicial and it's unfair.

With respect to section 10, we're very concerned about it, as we said earlier. Perhaps even more disconcerting is that there has been a great deal of public controversy around this entire piece of legislation, there has been tremendous debate during first and second readings by the MPPs concerning the legislation, and when any reference is made to any part of it, in particular to section 10, the OSPCA is missing in action. No one

has heard anything and no one has seen anything on their website. As far as we know, no one has received any communications from them. In our respectful view, that just makes things worse. If in fact it's not their intention to misuse this authority, then why haven't they come out and said that they are not going to?

Again, there's an even more important issue at stake here with respect to the reputations of organizations. This bill has not only been formulated over a period of a couple of years, but it's had second reading, so they've already been able to convince the Legislature that other groups are somehow doing something wrong, and that's also going to be a public perception. So if you move forward and you remove people's names, you're going to completely cut the legs out from underneath them with respect to reputation and goodwill. They are not going to be effectively able to disagree with government policies or with the policies of other groups that could be harmful to animals. More importantly, you'll tell the public that in their eyes, the reason why they lost their name and their identity was because they did something wrong. None of us has done anything wrong except disagree.

We also believe, as I said earlier, that you need better training for the inspectors. Again, I would call on specialists like the Canadian association of zoos, parks and aquaria. If they say their inspectors are better trained than OSPCA inspectors, then maybe they could be enlisted to train OSPCA inspectors. Again, I have to repeat myself, I guess: In a perfect world, everything would be voluntary, but that's not the world that we live in. In my opinion, self-regulation by any body, including humane societies, is a recipe for disaster.

About seven weeks ago, I went to the OSPCA headquarters in Newmarket. I didn't have an appointment, and so the chief executive officer was not able to see me. I asked for a copy of their bylaws, and after a lot of to-ing and fro-ing, I was told that the bylaws were secret and I was not allowed to look at them. We could not find them anywhere through Industry Canada, through the corporations branch, or through any searches that we did. I heard someone describe some groups as "private charities." There is no such thing as a private charity; they're a public charity. You can't be a public charity and a public police force and, when you're asked questions by people, say, "That's secret. You're not allowed to know."

When we asked how we could become a member society or apply, I was shown a piece of paper for an individual membership, which would have required me to sign a legally binding affidavit that, sight unseen, we agreed with their bylaws now and forever and would agree to uphold them. You can't ask someone to do that. It's impossible.

Other concerns we have: There obviously are a lot of stakeholders. We reiterate that we think there should be much broader public consultations, and we would respectfully urge the committee that when the Legislature reconvenes, this not be put to a third reading, that there be six to eight months of public consultations. We know that the committee put an ad in the newspaper in North

Bay, London and Ottawa; we think it ought to go into more places than that. There were only five and a half days' notice given as a deadline before people could respond, and of course we're in the middle of summer vacations. I suspect there are a lot of people who would like to appear before the committee or would like to make submissions, and they simply don't know about the opportunity.

That concludes my presentation. I'd be glad to answer any questions you might have.

1410

The Acting Chair (Mr. David Zimmer): We have about two and a half minutes per party, starting with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much once again for your presentation. I think you sum it up in a fairly accurate way. I'm hearing the same thing that you've actually mentioned here today, like the consultations. Even when the bill was introduced, this briefing note came out from the ministry and said that all this consultation had taken place, and yet when we checked with the organizations that were mentioned, virtually no consultation had taken place. I'm with you on this and I hope the government will listen to some of these concerns, because I think that when we get to third reading we're going to have some people very disappointed in the outcome in light of the fact that I don't expect the government will make a lot of amendments, because they've got a majority here at the committee hearings. But I hope they'll listen because, as we look at all the organizations across the province that have some real concerns about the warrantless entry and things like that, I think we're going to find even more of the kinds of concerns you've brought forward today. So I'm with you on that and I really appreciate your support.

Mr. Michael O'Sullivan: Thank you. I can't say enough—again, I think the intentions are good. I think there has been some very self-interested and bad advice and I'm hoping that people will sit back.

One of the conflicts of interest I spoke about is that the chief inspector is the chief police officer. He, right now, has an agent sitting on his board of directors. Imagine Julian Fantino showing up at an Ontario police commission meeting and finding out that a constable who reports to him sits on the board and is his boss. You can't have that kind of a mechanism because it's a recipe for disaster.

Mr. Garfield Dunlop: If we're going to pass this legislation, let's get it right.

Mr. Michael O'Sullivan: I think, again—

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

Ms. Cheri DiNovo: Thank you again, Mr. O'Sullivan. Of course, I just want to reiterate that I'm in perfect agreement with what you've had to say.

You had begun to answer in the last round one of the concerns of Mr. Levac. I would cede some of my time so that you could continue on; you were lopped off there. He had said that section 6 was there to prevent fraud:

somebody coming to your door, impersonating an SPCA or a humane society. I suggested that fraud is covered by the Criminal Code already. But you were about to say something further to that, and I'm wondering if you could just continue.

Mr. Michael O'Sullivan: Absolutely correct. There are already sufficient mechanisms to deal with that issue: the Competition Bureau, consumer affairs, the newspapers, the police. The suggestion that use of the name "humane society" or "SPCA" is anything less than about money, power and politics is just simply not the case.

For 53 years, the Ontario Humane Society failed to enforce the current section 6, which goes even further and says that any group, meaning any two people, incorporated or unincorporated, right now who profess to say they're working for the welfare of animals have to become a member of the OSPCA and agree with them. The section has never been enforced and right now there are 600 groups in the province that are in violation of the law, by looking at it. This again, by amending it, would hone in—it's about fundraising competition. It has nothing to do with animal welfare or fraud.

Finally, I was threatened with the section of the act that exists now when I ran the Windsor/Essex County Humane Society, because we were not affiliated with the OHS. We deliberately disaffiliated with them because there was a great deal of dysfunction at work. They threatened to use this section and I said, "Fine, let's go to court and sort this out once and for all." And they never made good on the threat. So they're coming to you asking for something they can't get any other way because no one is going to listen to them because it's absolute nonsense.

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

Mr. Dave Levac: Mr. O'Sullivan, this afternoon's deputation was on behalf of the Burr Foundation?

Mr. Michael O'Sullivan: That's correct.

Mr. Dave Levac: And you're a member of the Burr Foundation.

Mr. Michael O'Sullivan: I'm a director on the board.

Mr. Dave Levac: A director on the board of the foundation, and Robert couldn't be with us.

Mr. Michael O'Sullivan: That's correct.

Mr. Dave Levac: And everything that you've said, including previously said, is believed by the Burr Foundation to be words of—

Mr. Michael O'Sullivan: The remarks I made earlier were on behalf of the Humane Society of Canada; the remarks I made this afternoon I cleared with the Burr Foundation.

Mr. Dave Levac: Okay, thank you. I just wanted to make sure that people who see you twice understand why we're doing this—

Mr. Michael O'Sullivan: Absolutely. As I mentioned in my presentation, Robert and Anne have worked in animal welfare for 40 years, and Robert actually sat on the board of the OSPCA, was an OSPCA inspector and ran the Oakville humane society, which is an affiliate, and worked for the Toronto Humane Society, and

actually founded and sat on the board of the Upper Credit Humane Society, which is also an affiliate. So he's very well versed in these matters.

Mr. Dave Levac: Thanks for that clarification. That's an important thing to do for people when they hear the same deputant make two presentations.

Mr. Michael O'Sullivan: I appreciate that.

Mr. Dave Levac: The points you continue to make are—I want to make sure I get this right—that you believe there's an inability of the OSPCA to fulfill their mandate by their training or by their action for power. Am I getting this right?

Mr. Michael O'Sullivan: What I'm saying is that I think the OSPCA should continue with its work. But after observing them closely and working with them for 40 years, they can't do it under the current mechanisms by which they operate. It's not fair to them, it's not fair to the public and it's not fair to animals.

Mr. Dave Levac: And then, by extension, it's one of power and money.

Mr. Michael O'Sullivan: In terms of the use of the name, absolutely.

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

Kurt Suss?

RICHARD HERVIEUX

The Acting Chair (Mr. David Zimmer): Richard Hervieux?

Mr. Hervieux, I understand from the clerk that because of a disability you would rather have someone else read your presentation. Is that correct?

Mr. Richard Hervieux: Right.

The Acting Chair (Mr. David Zimmer): Is that person here today?

Mr. Richard Hervieux: Yes, my wife. But she also has one to read. Is that all right?

The Acting Chair (Mr. David Zimmer): Are they the same?

Mr. Richard Hervieux: No, a different one.

Ms. Colleen Hervieux: I have my own presentation.

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

Would you identify yourself for the record?

Ms. Colleen Hervieux: My name is Colleen Hervieux.

The Acting Chair (Mr. David Zimmer): You have 15 minutes. I'll give you a three-minute warning. Any time that you don't use will be used by the committee for questions.

Mr. Mike Colle: On a point of order, Mr. Chair: Colleen and Richard are from the same family. Is it possible that we could combine them? You want it different? Okay.

Ms. Colleen Hervieux: They're totally different.

The Acting Chair (Mr. David Zimmer): Yes. The clerk canvassed that earlier. They're different submissions, I understand.

Mr. Mike Colle: That's fine.

The Acting Chair (Mr. David Zimmer): Go ahead.

Ms. Colleen Hervieux: "My name is Richard Hervieux. I am a 55-year-old disabled person. I have had five major back surgeries, which means I am limited in what I can do. I also suffer from depression and anxiety attacks. I take great pride in the fact that I can work with and understand animals. I know what it is like to live in distress, therefore I treat my animals to the best that I can offer. We also have a feed and country farm store which my wife and children run.

"At this time I would like to talk about my life in northern Ontario. We bought five acres of land in 1996. Since this time we have rescued more than 60 horses from certain death. We have taken the horses from many different situations and have given them a second chance at life. One of the horses that we saved was kicked in the head by a stallion, and the jaw, although healed, give it a huge setback in its ability to grow. After a period of time it has grown to be a trusting, well-mannered horse who loves to get attention. This horse was well trained in many different ways.

Another situation that comes to mind is that a pony was dropped off at our place the morning of a visit from the OSPCA. They would not listen to any part of what we were saying. They just wanted us to hear what they were saying. This pony had extremely long hooves which were in need to be trimmed. We only had this pony about an hour and we told them we would get the hooves tended to as soon as possible. I, along with my daughter, have worked with all of these horses.

"In the summer of 2007, my life as I knew it would change forever. The OSPCA entered our home and business with a search warrant in hand. When they did not find what they were looking for, they went to our other property, for which they did not have a warrant, and removed most of our horses. At this time I was stripped of all my rights and treated as a criminal. I was even put into a police car because I was so upset and I wanted answers to why they were removing my horses. This meant that I was no longer there to support my family.

1420

"They even removed two horses that did not belong to us, yet we were told that if we co-operated, they would return these horses to the owner, which they never did. To this day, they have never contacted the owner of the horses. As for our horses, we had to surrender them to the OSPCA because after two months we could not afford the bill. So in October 2007, we hand-delivered a letter to their head office in Newmarket asking them to keep the 10 horses in lieu of the bill. Three weeks later, we got a letter back stating that we should get ourselves a lawyer because they were not going to take our horses, and by then they estimated that we would owe \$18,000. By December 2007, the OSPCA sent our lawyer a letter saying that the amount owing was increasing and we would now need to surrender our horses so that they could be sold to recover some of the high boarding costs, which by then had reached more than \$25,000.

“In my mind, this is extortion. To this date, they have sold or given away seven of the 10 horses, and three of them they still have. None of my family has been charged with any criminal charges, so how can we owe such a large amount of money? I call this extortion by stealing my animals.

“A couple of weeks after the removal of my horses, their senior inspector had come to my home and told me that if I ever wanted to see my horses again, I was going about it in the wrong way. Going in front of the Animal Care Review Board was the wrong way. This sent me into a deep depression so bad that I attempted suicide by taking my morphine pills. I was then arrested and brought by ambulance to the hospital. I was kept there for about a week and then released. The next few months were very hard for me emotionally. I struggled with losing my horses, with the thought of letting my family down and a system that greatly failed me. I feel that I was intimidated by the misuse of their police powers. Their extortion has left me in a great financial struggle and I feel I can no longer provide for my family.

“There are a number of other people in the north who face the same situation as my family, but they are either too afraid to speak out about their experience or could not make the expensive trip to the south.

“When the OSPCA acts with police powers based on a third party vendetta, this is wrong. When the OSPCA does not use the same set of standards throughout the province, then I think it would be a big mistake to even think of passing such a powerful bill as Bill 50. I think the OSPCA should have someone to govern over the society to make them accountable for what they do before they are given any more police powers or warrantless entry to any property, whether it is private or public. I also think that if this bill is even considered to be passed, then the Ontario Society for the Prevention of Cruelty to Animals should at least have a veterinarian as their chief inspector or more training than they currently have. There is a lack of knowledge when it comes to different breed requirements among different animals.

“I leave you with one last thought: Have you even thought about the animals in our national parks, such as Algonquin? Who is responsible for the care of these animals? The last time I checked, it was the Ministry of Natural Resources. Does this mean they will need to answer to the OSPCA?

“Thank you for your time and for allowing me to speak.

“Richard Hervieux.”

The Acting Chair (Mr. David Zimmer): Thank you. We have almost three minutes per party, starting with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much, Richard, for the submission. We too in the New Democratic Party are very concerned about these extraordinary powers being given to the OSPCA, and I just want to say that we feel for what you’ve been through and certainly we’re here to work to see that doesn’t happen. Thank you very much for deputing.

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

Mr. Dave Levac: Richard, just a question that I have regarding the comment at the end about the MNR and the SPCA. You’re aware that jurisdictions between each of those are taken to a certain point and then the power is above the guidelines. For instance, for farm animals, if those are not cared for within the codes that are already in existence, that’s the only time that the SPCA—

Mr. Richard Hervieux: But they have their own codes.

Mr. Dave Levac: Yes, and if those codes are broken, that’s the only time the SPCA is allowed to—

Mr. Richard Hervieux: But the SPCA—we have guidelines, too, that you guys set up, for farmers, and papers—

Mr. Dave Levac: Yes.

Mr. Richard Hervieux: I get them at the Kitchener sale. They make their own rules up as they go. They do not follow the Ontario guidelines at all.

Mr. Dave Levac: And if they don’t, that’s when the SPCA comes in.

Mr. Richard Hervieux: No, it’s the SPCA that does this.

Mr. Dave Levac: Oh, the SPCA.

Mr. Richard Hervieux: Yes. They tried to nickel-and-dime me. I put in a new shelter for the horses, what they wanted. I put in water bowls, what they wanted. All of a sudden, they said, “We don’t like this. We’d like to see heated water bowls.” So they try to nickel-and-dime you so you can’t go to court or fight them.

I buy some of these animals from Kitchener-Waterloo sales. They pass at the sales barn from the SPCA, but when I get them home, they do not pass. Why are there double standards?

Why is it that an inspector can come to my house—I had a Limousin cow and a Charolais calf. On the reports I got, they called my Limousin cow, a purebred Limousin cow, a Hereford. So they didn’t know the difference between these farm animals. And they said that the Charolais was its baby, which it could not be. It’s a pure Charolais. They did not know the difference at all between these animals.

I mentioned one time to the Ontario inspector—he came in; he had a symbol on his jacket and it wasn’t the SPCA. The SPCA guy walked right by a horse and the hooves were about that long. I mentioned to one of the Ontario guys, “You see what I mean? He’s walking by this, and he should be checking on this,” because that is the cruelty right there. You know what? I got a letter within three weeks—not even three weeks—stating that if I didn’t quit talking bad about the SPCA, I would get sued by the SPCA.

The Acting Chair (Mr. David Zimmer): Thank you very much. We’ll move to Mr. Dunlop.

Mr. Garfield Dunlop: Richard, I want to thank you for having the courage to come today and tell your story. There’s been a few of these other stories floating around, and you know what? I don’t think there’s a person in this province who wants to cause any distress to animals.

Mr. Richard Hervieux: No, I do not. I think they want money. That's all they want.

Mr. Garfield Dunlop: In the end, all we're saying is, let's get this legislation right. As we move through this process and we're having these kinds of concerns come forward—obviously, there are a few of them, because we've had a lot of recommendations here from the 10 or 12 people we've met with so far. I don't really have any questions for you. I just wanted to thank you for taking the time out of your schedule and for having the courage to come here. I know it's an intimidating place at times. Congratulations for having that courage.

The Acting Chair (Mr. David Zimmer): Thank you for your presentation and for coming in to the Legislature today.

ONTARIO FEDERATION OF AGRICULTURE

The Acting Chair (Mr. David Zimmer): The Ontario Federation of Agriculture, Peter Jeffery.

So, 15 minutes, and I'll give you a three-minute warning. You can leave whatever time you want at the end of your presentation for questions, which the members may or may not ask.

Ms. Wendy Omvlee: I'm not Peter Jeffery. My name is Wendy Omvlee.

The Acting Chair (Mr. David Zimmer): For the record, could you introduce yourself.

Mr. Peter Jeffery: I'm Peter Jeffery.

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

Ms. Wendy Omvlee: Good afternoon. My name is Wendy Omvlee, and my husband and I operate a 500-head dairy goat farm in Haldimand county. As well, I'm a member of the Ontario Federation of Agriculture's executive committee.

The Ontario Federation of Agriculture is the voice of Ontario's farmers, supported by approximately 38,000 individual farm family members and 30 affiliated organizations. The OFA represents farm family concerns to governments and the general public. The OFA is active at the local level through 51 county and regional federations of agriculture, the farmers' voice on national issues.

1430

Although we have a total of 20 recommendations for amendments and changes to the Provincial Animal Welfare Act in our submission, I'll emphasize three: the need for amendments to ensure oversight and accountability for SPCAs, our fundamental opposition to searches without a warrant, and the use of established livestock codes of practice in place of standards of care for farmed animals.

We've provided the committee clerk with copies of our submission; I trust that you will read it carefully.

I now will take any questions that you may have.

The Acting Chair (Mr. David Zimmer): We've got about 13 minutes. We will start this round with Mr. Levac.

Mr. Dave Levac: I appreciate the opportunity to ask a couple of questions. I didn't get a chance to read the entire brief; I'm just getting to it now so that I can ask the questions. I just want to know, off the top, if you're aware that we're expressing that an exemption be provided and that the codes that are established—the only time there would be an intervention from the OSPCA would be that if those codes were broken, they go beyond the code, so that our hands are not there going into agriculture. You're aware of that in terms of this bill?

Mr. Peter Jeffery: We don't believe it really says that. It says that agriculture is excepted, not exempt, and it doesn't specifically refer to the existing codes of practice for agricultural animal care that are in existence. It refers to standards of care, but it doesn't specify the specific livestock codes of practice that have been in place and developed by experts in the animal agriculture field, humane society personnel etc.

Mr. Dave Levac: So the concern is that it's not specific enough to maintain the distance between the OSPCA moving in on a farm operation—you would normally do something with cattle or you would normally do something with sheep or whatever under common practice, and that only if there were practices done to animals that would go beyond that is when the SPCA would be called in. You're looking for more specific denotation of the practices?

Mr. Peter Jeffery: We're looking for recognition of those existing codes of practice.

The other thing is that the SPCA inspectors tend to operate on a complaint-driven process. They do receive anonymous complaints and are obligated to follow through on them, but that doesn't mean that the complaints, at the end of the day, have any veracity.

Mr. Dave Levac: As I said, I need some more time to go over the recommendations, but I would suggest to you very respectfully that your brief and the consultation that you've been receiving so far will continue before the bill's final reading and that we'll take those under consideration and advisement. I appreciate the participation.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop, you have about three and a half or four minutes.

Mr. Garfield Dunlop: I appreciate you being here today.

I'll give you a quick story about how we got involved with the OFA, or the Simcoe County Federation of Agriculture in my area. The day the bill was introduced—and I brought this up earlier today, but I don't think you were here—Dave Riddell, the president of the Simcoe County Federation of Agriculture, called me and said, "Hey, how's this bill going to affect farming?" I said, "Not at all. Do you know what? It's all about roadside zoos. They've got a press conference out there; it's all about the different organizations that are worried about regulating roadside zoos. It's got nothing to do with agriculture whatsoever." It couldn't have been further from the truth. As we go through these hearings, we're hearing more and more how it may impact agriculture.

I didn't get a chance to read all the recommendations you've made here. I do know, though, that you have

some concerns that I would be really concerned about as any kind of an agricultural operation in the province today. I know that these are not easy times to be in agriculture today. Just the other evening, I spent a couple of hours with the Simcoe County Federation of Agriculture's board discussing the different issues they're facing with fuel costs etc. They've got enough problems without having some other headache on their side at this time.

The one thing that I wanted to ask you is, do you feel that, in the drafting of the regulations for a bill like this, you could contribute expertise from your end that would help?

Ms. Wendy Omvlee: Between the OFA and OFAC, which is the Ontario Farm Animal Council, we have been meeting with OSPCA representatives. Although we're confident that the people we had spoken to at that time would treat the act as reasonable and use the codes and work with the farmers, there are no guarantees. People move on, promotions, people retire, so clarity needs to take place because, although we're confident, perhaps the people in the leadership roles at present may not always be so. That's one thing that I would like to stress, and that's some clarity in regards to the term "distress" and the use of such, "acceptable" husbandry practices and those types of things. There just needs to be more clarity.

Mr. Garfield Dunlop: How about the Animal Care Review Board? Do you think that you should have a seat on that, as part of the legislation? It's important. I think you should, to be quite honest with you, but—

Ms. Wendy Omvlee: There's been some discussion. I don't know if we've come to an answer per se, but one thing that we do want to see—and it is one of our recommendations—is that whatever animal is being discussed, a veterinarian who specializes in that type of animal be present, so not to have a small animal vet be part of the review board and we're discussing beef cattle.

Mr. Garfield Dunlop: My final comment is that this morning a group from the Canadian Association of Zoos and Aquariums—the 25 largest zoos in the province—felt that they should have a seat on this cruelty review board. I asked them whether they would have any opposition to having the Ontario Federation of Agriculture or the Ontario Federation of Anglers and Hunters having a position on that board, and their answer was yes, they should. I wanted to point that out to you.

Thank you very much for your presentation, and we're with you on this.

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

Ms. Cheri DiNovo: I've just breezed through this really quickly, but certainly we agree that section 11 is very badly written and very vague and subject to interpretation. That's where the devil's in the details—in the enforcement, in this case, which has been given willy-nilly to the OSPCA. As we've heard from other deputies, there are concerns about the way that the OSPCA is already enforcing under their own jurisdictional regulations.

My first question really is, have you seen instances from your membership of the OSPCA overstepping their boundaries? Because what we hear from the government side is that this is all alarmist; that they're not going to overstep their boundaries; that if you're a reasonable farmer doing reasonable things, they're not going to make your life difficult. We've heard that in fact it's happened in other instances. Has it happened for your members?

Mr. Wendy Omvlee: Peter, I'll let you take that one.

Mr. Peter Jeffery: Yes, we are aware of instances where inspectors have come in and written orders, and after a review by a veterinarian, the recommendations and observations in terms of the animal's health and care are completely false.

Ms. Cheri DiNovo: Right. So here we have a bill that's going to give them even more power to do investigations, and clearly they're not trained to do them in many instances. You mention here too Alberta's Animal Protection Act and Manitoba's Animal Care Act. For your members, would those be seen as models for a possible way to go to look after farm animals?

Mr. Peter Jeffery: We think that both of them provide examples of wording that our membership would be better served by.

Ms. Cheri DiNovo: I'm just reiterating the concerns that everybody seems to be having with the OSPCA doing their job now. And what this legislation from the government side is doing is giving them even more power—unsupervised power—to do even more of it.

Thank you very much for coming and deputing. Again, our hearts go out to you and to those members who have suffered already. We'll try to do what we can to prevent them from suffering any more.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation this afternoon.

1440

COLLEEN HERVIEUX

The Acting Chair (Mr. David Zimmer): Colleen Hervieux?

Just for the record, if you'll introduce yourself.

Ms. Colleen Hervieux: My name is Colleen Hervieux.

The Acting Chair (Mr. David Zimmer): Again, 15 minutes, a three-minute warning, and you can leave time for questions if you wish.

Ms. Colleen Hervieux: Before I begin, I would like to take this opportunity to thank everybody for allowing me to speak on such an important topic.

When I first heard about Bill 50, I had not given it much thought, but as the days went by, I knew that this bill may need a more intense look. I began to think about Bill 50 more each day. I thought about the day the Ontario Society for the Prevention of Cruelty to Animals came to my home and business and how it impacted my life. Neither I nor my family ever had any charges against us, yet we lost 10 of our precious horses. That day the

Ontario Society for the Prevention of Cruelty to Animals walked onto my property with a search warrant in hand and went to the other property, which they did not have a search warrant for, and removed my horses. This is an outrageous act the OSPCA has done to me.

So if you're looking for my public support, I do not support Bill 50. The OSPCA already goes beyond the law and makes their own rules to suit their needs. They do not need this Bill 50.

As days passed and I had more time to think about Bill 50, I began to realize the importance and impact of such a bill. If done in the right manner, this bill can be a good thing, but if it's not carefully planned, it can have a very huge impact on all our lives.

First, I think about the fact that I am from northern Ontario. I was disappointed to hear that the only discussion on this topic in the north has been cancelled. I know we are the same province, but being about six hours from here, we have a great expense in just coming here. We all know, with the price of gas, that most people can't make that trip. Maybe next time we could look at a satellite discussion at one of the colleges.

Then I think about my provincial representative, Mr. Mike Brown. Since mid-August of 2007, I have been trying to meet with him to discuss the OSPCA and how it can impact people's lives. I also wanted to discuss the importance of governance of the OSPCA because there is no one out there that this non-profit organization has to answer to. They do not answer to the Ombudsman, the provincial or the federal government. Our provincial government has given the OSPCA more than \$7.5 million in the past two years and yet there is no accountability.

It is my thought that if Bill 50 is to be put in place, then we should have someone they must be accountable to. They already have police-like powers, but the police can't stop them from overstepping their boundaries. I believe that before Bill 50 is passed maybe more thought should be given to what some of our top agricultural groups such as the OFA, the CCFA or OMAFRA have to say about it. These are three of the main groups that could have a valuable input on how Bill 50 could impact the farmers across our great province. Agriculture plays a very important role in our economy here, and if this new Bill 50 is not thoroughly thought out, then it could have a negative impact on our farmers. Back in 1989, OFA president Brigid Pyke formally asked for the province to remove the police powers from the OSPCA.

Now it brings me to the topic of prescribed standards of care. I would assume that this refers to the recommended code of practice. Our provincial government, along with the assistance of professionals such as veterinarians, has spent valuable time and money to create these guidelines to benefit the industrial and the hobby farmer, along with people who have pleasure animals. These codes are a valuable tool and source of information when it comes to the care of animals, but for the OSPCA the codes are modified to suit their needs.

The topic of distress now brings much concern from a farmer's point of view. The definition of "distress" is a

kind of suffering or stress. This is a very vague definition, so where do we draw the line? A calf loses sight of its mother and begins to bawl. This is a form of stress—or maybe it's time to wean that calf. This is also stress to the calf. What about shearing sheep? Just by doing an act we believe is beneficial to sheep, we are putting it in distress. What will happen to the transportation of animals? Each time you put an animal into the trailer, you have separated it from its herd, not to mention the motion of driving to the destination point. They both add stress to the animal. What about debeaking, the removal of the sharp points of the birds' beaks to prevent them from pecking at each other? What about castration? Where does the level of stress factor in here? I believe that veterinarians, having 10 years of schooling plus experience, should be the professionals to help determine the factors, unless the OSPCA is going to invest more time and money in training its investigators.

That brings me to the topic of veterinarians and the question of where we draw the line on what they must report. I know that most farmers have a very good working relationship with their vets. Your vet has a very important role when it comes to your farming practices. He may only come to the farm a couple of times a year, but when you need him, you can count on him any time, day or night. Most responsible animal owners seek valuable advice from their vets on a lot of animal issues, and this new Bill 50 will cripple the system that works so well because of a fear of being reported to the OSPCA. People who can't afford to go to the vet for advice will try to do home animal care with no guidance. This will cause distress to the animals.

Another concern I have, being Metis of Ontario, is how this will affect my rights or the aboriginal rights of my forefathers. We all know that we do hunt and fish this great land of ours to help provide food for our families. Has anyone taken the time to consider the impact it could have on our culture or traditions? What about a moose that has been hit by a motorist? Who would be responsible for the destruction of the animal? I know that at present the OPP or the Ministry of Natural Resources is. What about a cub orphaned when its mother gets killed by a transport? Once again it's the Ministry of Natural Resources, and they place it in a zoo. Do we give these responsibilities to the OSPCA? I think you'd better look at giving them much-needed training before you give them more police powers.

There is one last thought that comes to mind at this point: What will it do to the criminal courts and justice system? We are already backlogged in our courts and overcrowded in our jails. To give warrantless entry and police powers to a charity means that you now have a walking time bomb.

In summarizing my thoughts, I think that if Bill 50 would be passed, there should be a panel or a board put into place to make the OSPCA accountable for its actions. This group should be a combination of law enforcement, veterinarians, OMAFRA, OFA, CKC and an accountant.

Thank you for giving me the time to speak on such an important topic.

The Acting Chair (Mr. David Zimmer): Thank you. There are about two minutes each, beginning with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. I don't really want to say much more than what I mentioned to your husband earlier. I didn't realize at the time that you travelled so far for this meeting today, so I applaud you for that. I think you've given some good written presentations. It's something for us to consider. You've got some excellent points in here.

You're right about things, like when an animal is killed on the side of the road or if a deer drowns in the lake or something like that, that there's nobody to help you in that situation. Up in our area this year we had a deer fall through the ice. I guess he froze, and in the spring no one wanted to take the responsibility to get the deer out even though the dead deer floated up on a dock somewhere. No one wanted the responsibility. If you shoot a deer out of season, there will be someone all over you, but do you know what? If a deer dies and falls in the lake, no one wants to help get the deer out of the lake. It's that kind of thing. I think we have to clear up some of those issues as well while we're going along. That's what you've brought out here today, so I thank you for that.

Ms. Cheri DiNovo: Thank you, Ms. Hervieux, for coming down all this way to depute, and thank you to your husband and to your family. Again, heartfelt prayers for you. You've gone through so much and you've gone through it without a lot of support. What this bill is purporting to do, as you know, and that's why you're here, is to make life even worse for other people. That's what we in the NDP want to prevent from happening.

1450

I'm more and more concerned, the more I hear deputants today, that the OSPCA seems to be some kind of rogue organization with no accountability, no oversight from anybody, and, for those who are caught by the OSPCA, no right of appeal. I'm extremely concerned—far more concerned than I was this morning when I walked into this place—about how this organization is running itself and why it's not here. So my question is, where is the OSPCA? Where is their communiqué with us? Where is their deputant? We should be hearing from them. They have a lot to defend themselves about in this forum. I'll let that suffice and just leave it there, but again, thank you for being one of the ones to come forward, and I'm sorry for all you've had to go through, including the expense of having to depute here.

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

Mr. Dave Levac: Thank you for coming to present. I think it's three family members? I appreciate it very much.

There was a scheduled hearing in North Bay, and it was cancelled because not enough people signed up to come, in case you weren't aware of that.

Contrary to the characterization that one member on this committee has made, I'm not too quick to take a

dagger and stab the OSPCA, their intent and what they've done in the province over the years, along with the Toronto Humane Society and many other animal protection groups that have done a good job of trying to keep animals safe and secure. There probably is and always will be room for everyone to get better at what they do, and that's the purpose of this particular bill. What we're going to try to accomplish here is to listen to every deputant with respect, and we'll continue to do that. You've given us some food for thought which we will take into consideration, and we will ask some of the staff to review this with us. So thank you very much for coming.

Ms. Colleen Hervieux: Could I make two more comments?

The Acting Chair (Mr. David Zimmer): Briefly, yes.

Ms. Colleen Hervieux: To have your discussion held in North Bay, we still have a lot of people who are up in Thunder Bay. That is 12 hours from North Bay, which is a long way still to go, so I don't think things were done very fairly to us in the north.

The other thing I would like to let you know is that the day the OSPCA came in and took my horses, I loaded my stock trailer with every animal I owned and I brought it to an auction just to try to get away from them. They sit in front of my house just to see what they can find on me, and when I phone the police for protection, they say, "There's nothing we can do." That is wrong, and that's what you need to consider. Somebody has to govern this group.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to present to us today and for coming all the way down from the north.

ASHLEY HERVIEUX

The Acting Chair (Mr. David Zimmer): The last member of the Hervieux family: Ashley.

As I've told the others, 15 minutes. I'll give you a three-minute warning, and you can leave time if you want for questions from committee members.

Ms. Ashley Hervieux: All right. My name is Ashley Hervieux. I'm 21 years old, living in northern Ontario my whole life. Last summer, my family and I went through a rough time dealing with the OSPCA. They came in and took half the animals and forced us to sell most of the other animals. They never returned 10 of the horses out of all the animals they took. These horses meant the world to me.

Over 12 years, there have been 60 horses that went through the farm. We've been rescuing horses from cruel fates and giving them a second chance. Three out of the 10 horses were born on the farm. I had them so well mannered and well trained at young ages that by the time they were two to three months old, they would let the farriers do their hooves.

These horses were my life. I always spent my money on them. I used three other horses for transportation: two

saddle horses and one harness horse. I never got my licence, since I always chose something for my horses over getting it. Two times a week I would take one of the horses into town to check the mail. I was a well-known rider in northern Ontario until my name was ruined by the OSPCA. I couldn't even go to the horse shows after they took the horses. They had me so upset I had fallen off of my horse over it and was rushed to the hospital because I couldn't get up without pain.

Still today, I'm not showing as much as I used to. I only went to three horse shows out of 17 already done this summer in my area, trying to avoid people who are talking about me and asking me where my two mares are that I used to show.

I lost a lot of my friends over the OSPCA. Only a few stayed by me, because they knew I took good care of my horses and only used farriers who would not hit my horses, since in the past there have been some who have.

My horses were so trusting of me that I could stand on their backs and jump from one to another and ask them to cross things such as ditches full of water, tarps, bridges and swamps. I could even sit backwards on them and have them run full out, and then just at the word "whoa," they would slow down to a stop.

When I told the OSPCA about the horses and all their information, they did not care to listen. Instead, they took it upon themselves to guess the breeds and ages, and a lot of the time, they were wrong big time. When they took the horses, they had them so upset that it caused one of them to bite an OSPCA agent. This horse never bit anyone or even tried kicking anyone in his life. When they loaded the horses in the trailer, they also had one upset. I'm the only one this horse trusted to load her, and they would not back off and give her her space. Instead, they kept making her so upset that she whacked a guy in the head with her head while backing off her when I was upset as well. They called horses "kickers" even if they weren't kickers.

These horses were like children to me. I loved them to death. I would have never rehomed them to homes or people that weren't suitable for each horse. The training techniques I used were non-force. The horses chose when they were ready to do something. They always joined up with me to see I wasn't going to harm them in any way. I could walk under their bellies, sit under them, and they would never kick me or hurt me. In less than a week, I could have a new horse at the age of three years old riding with just kindness. People still ask me today how I get my horses to follow me around at the shows without asking them. If the OSPCA had taken the time to watch me work with these horses, they would have seen that I truly loved the horses.

I fought for almost a year with a horse because his foolish previous owners had gotten him caught up in page wire fencing and did not want to deal with it and instead shipped him to an auction. He was destined for a slaughterhouse, being that all four of his legs were cut up so bad that he'd be scarred for life. I begged my parents to buy him since no one else was bidding; I knew the

meat buyers soon would be, since he was down to five cents a pound. This sweet little guy didn't deserve the fate at the slaughterhouse.

It doesn't matter what farm, ranch or stable you go to; there's always going to be an animal hurt. There's no perfect place in the world. If Bill 50 passes, many lives will be ruined, because there will always be something wrong at a farm, stable or ranch. If they took a little better look at the auctions and how the horses come in and fined the owners who brought in horses that were hurt or needed farrier attention, then maybe less horses would be in this situation and then the ones who do save these horses—and not punish the family, as they did with my family.

The OSPCA needs to be accountable for their actions. Instead of taking animals from farms such as my family's farm, they should go in and educate the family and help them improve things, not come in and take the animals in excellent health, which shows they're well taken care of.

Instead of using the 1 to 5 scale our top Ontario vet has produced, they use the old 1 to 9 scale the Texans made, which is more complicated to use than the 1 to 5 scale. Only vets can tell the difference between each, since a lot of normal people cannot tell the difference between them on the 1 to 9 scale.

1500

A horse is like a human. They all have their own personalities and body types, all depending on their breed and bloodline. You can take the same breed of horse but just different bloodlines—one can naturally be skinny and the other overweight, such as humans can be. Every horse is different. Those charts aren't a for-sure answer; just a guideline. Someone who has never seen the horse before in their life cannot say if the horse is skinny or overweight without knowing the horse. It also matters what the horse is used for. If you take a horse like a standardbred harness-racing horse, to most people it's okay for them to be thin, yet it's not okay for a quarter horse who barrel-races. Also, when it comes to a mare with a foal on her side, to most people it's wrong if she's skinny, but in all truth, she's giving everything into making milk for her foal, such as a dairy cow that produces milk for us to drink. Why is it okay for a dairy cow that produces milk to be skinny but not a mare producing milk for her foal? A dairy cow that is stocky, heavy like a beef cow, does not produce milk as good as a skinny one. The same is for a horse, but no one really took that into consideration when it comes to a mare with a foal on her side.

I've always had a love for horses. Truly, I know in my heart that if the OSPCA doesn't become accountable for their actions, answering to someone, we will lose a lot of people who do save these horses and other animals from certain death. Many animals are dropped off on the road because they're no longer wanted—and nowhere to turn to bring these animals. They don't want to bring them to the shelters to be killed. Many cats have this fate of being dropped off on the road because their owners did not want to fix them so there is no multiplying of cats.

Many people are afraid of the OSPCA, which is wrong. I used to be with the OSPCA on how they rescued animals till they took my beloved horses. I was heartbroken, being they were my life. Everything I did revolved around them. Two of my horses I used to teach riding lessons to kids. Since this happened I have not taught a single lesson over it. No one wants to bring their kids to the farm now to learn to ride. I had trouble getting people to even let me train their horses after, but finally one person let me, and slowly some other people are letting me again, but they are afraid the OSPCA will come in and take their horses if I'm training them at our farm.

They should have answered to someone why they took my horses from me. They never listened to what I told them about each horse, such as one who needed a blanket in fall/winter/spring, since she gets sick easily and is easy to colic with her on grain. She was a very sensitive mare before all this happened. The horses we did get back were troublemakers—the four—except something had turned an older mare very cross in the barn. She would get so upset you couldn't enter her stall without her kicking you. We're not sure what had gone on for the month she was with the OSPCA but she was not the same once she came home. She was bitter, not the kind mare she was a year ago when she came in, who was willing to be trained the first week at the farm at the age of eight years old. Most say horses over seven years old are untrainable, but I've proven that wrong more than once. If they would have not touched her at the OSPCA, she might have still been okay today in the stall.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, a minute or so.

Ms. Cheri DiNovo: Thank you, Ashley, for coming down. This must have been so difficult for you. I just want to tell your family, I hope you're putting in for the compensation that you get for travelling to Toronto. I know that's not compensation for what you've gone through, but at least know that you're eligible for that.

I also want to say something about the way these deputations have been conducted. There have only been about five and a half days of notice given to people to depute. There certainly has not been enough time and it's not far-ranging enough to include people from the north, such as yourselves, to be able to come and depute before this committee. Just for the record, it's not only the bill itself but it's the way the bill is being looked at that is problematic.

Thank you, and again, I know that we in the NDP will do everything possible to try to make sure this does not happen to others. To do that, of course we need support from across the province. So I would just ask you, everybody who is listening to this and everybody who is taking part, to please let everybody know to write in to this committee and to write to Dalton McGuinty himself and let him know how you feel.

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

Mr. Dave Levac: Thank you very much for your presentation, Ashley. I appreciate that there is a strong

connection between you and the horses and that's a very special thing. I appreciate the difficulty that you and your family went through.

To be clear, when accusations that the deputations are set up—that the government is being impugned for the committee's structure: The subcommittee, which is made of three members, one from each party, decided on how the rotation would take place and they all agreed upon it, so that you're aware that we tried to do the best we could. We all agreed that North Bay would be the one spot we'd go to, and unfortunately not enough people put their names forward, and therefore we met again as a committee and we decided to do that.

The other thing we decide to do sometimes, which I took into consideration when your mom made her presentation: We will seriously give some good thought to what should happen more often, and that is the availability of using the TV—remote spots that would be advisable to do, which has been done in the past and which we'll continue to do.

Thank you for your deputation. We appreciate your tough, emotional stance.

Mr. Garfield Dunlop: I don't know what to say. Your story is a sad story and I feel for you. I know that you wouldn't be here if you didn't want to voice those concerns so that whatever happened to you doesn't happen to someone else. I don't know how many days we've set aside for clause-by-clause, but I think we're going to need more than one for sure. Congratulations once again for having the courage to come down. I really appreciate your presentation today.

The Acting Chair (Mr. David Zimmer): Thank you very much for coming down from North Bay and presenting today.

Mr. Garfield Dunlop: They came from Massey.

The Acting Chair (Mr. David Zimmer): I'm sorry, from Massey.

BURLINGTON HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): The Burlington Humane Society.

If you would introduce yourself for the record; you have 15 minutes. I'll give you a three-minute warning. You may leave time at the end of your presentation for questions if you wish.

Ms. Jolene Regan: I'm Jolene Regan, volunteer president of the Burlington Humane Society.

Ms. Judy Coney: I'm Judy Coney, volunteer adoptions director.

Ms. Jolene Regan: I've included in my package a more detailed presentation. I'm only speaking on the highlights. Also, in the appendices I have backup information.

Before 1970, the Ontario SPCA, then called the Ontario Humane Society, operated a branch in Burlington, called the Burlington Humane Society, and provided animal control, cruelty investigations and adoptions of stray and abandoned animals to the city and surrounding

area. After that branch abandoned the city as of December 31, 1969, no organization provided animal rescue services to Burlington's animals except the city of Burlington animal control, and with limited funds and boarding facilities euthanized most of the animals taken into its care or sent them to research facilities.

In 1974, the Society for Animal Aid (Burlington) Inc. was established to rescue some of those animals. Since that time we have provided shelter, medical care and adoptions for many of Burlington's stray and abandoned animals.

1510

In 2006, plans were being made to build our own shelter, and we felt at that time that a name change from "Animal Aid" to "Burlington Humane Society" was necessary in order to further identify our mission. Therefore, on November 16, 2006, we legally and officially changed our name to Burlington Humane Society, a process that took approximately six months at a cost of approximately \$10,000.

Section 6 of Bill 50: We are not against Bill 50 in its entirety and commend any effort to provide stiffer penalties for animal abuse. We know we will be forced to change our name if section 6 of the new proposed act is approved.

The Burlington Humane Society has never attempted nor insinuated that we provide animal cruelty investigations in the city of Burlington, as that right has been given to the Hamilton SPCA. As of 1999, the OSPCA had set new boundaries for all affiliates and branches, and the city of Burlington was included in Hamilton SPCA's territory. Between 1970 and 1999, the police were usually called for a case of animal cruelty in our city.

In 2002, the Hamilton SPCA began harassing us, and on January 28, 2003, they sent a letter to the city of Burlington stating that they reserved the right to request enforcement of section 10 of the OSPCA Act against us. That section is called "Prohibition." That threat was withdrawn in January 2005 after a newspaper reporter began investigating the issue.

Then, after changing our name to Burlington Humane Society in 2006, we received another threat, this time from Jennifer Friedman, legal counsel for the OSPCA, on behalf of the Hamilton SPCA, informing us that the OSPCA and Hamilton SPCA had exclusive use of the name Burlington Humane Society, again quoting section 10 of the OSPCA Act, and threatening legal action if we did not immediately cease using the name. The name Burlington Humane Society had not been used or registered since 1970, a period long enough to deem any claim to the name null and void. Michele Ballagh, our lawyer, asked Ms. Friedman several times for proof that our name was in contradiction of the OSPCA Act, but that was never provided.

The last of three letters we received from Ms. Friedman, dated June 4, 2007, stated that legal action was forthcoming. To date, we have received no further action.

Ironically, in attempting to file "Burlington Humane Society" as a trademark name, Industry Canada will not recognize the words "humane society" as a trademark, as the words are considered generic. In other words, they cannot be considered trademarks or the exclusive property of any particular organization, in the eyes of a neutral expert. Our lawyer, Ms. Ballagh, a trademark law specialist, also queries whether the province has the authority to enact legislation in this regard, as trademarks, unlike business names, are considered federal jurisdiction.

Change requested to Bill 50: Section 6 of the proposed Bill 50 must be removed. If it is not, Burlington Humane will no doubt be stripped of its name and its well-earned reputation in the Burlington community. Please help the Burlington Humane Society and other animal welfare organizations continue to provide necessary services to communities in Ontario. These independent organizations operate at no expense to the government and save thousands of animals each year that would otherwise be euthanized. If you agree to pass Bill 50 including section 6, you will be giving the Ontario SPCA the power to continue on its path of bullying Burlington Humane and others who only want to spend their money on the animals, not on legal issues. For the \$10,000 it would cost us to change our name again we could spay 100 female animals, neuter 180 or vaccinate 285. Section 6 of this bill has the mark of Jim Sykes written all over it. Mr. Sykes is CEO of the Hamilton SPCA and chairman of the board of the OSPCA, the same organizations that have been harassing Burlington Humane since 2002.

I would like to ask, who has more right to use the name "humane society": an organization such as Burlington Humane, that cares for all stray animals regardless of age or health problems and does not euthanize unless recommended by a veterinarian due to serious illness or behavioural problems; or an organization such as an SPCA that only takes in the cream of the crop, highly adoptable animals, and also takes in animals from the US with much publicity, while animals in their own city are being euthanized at a rate of 5,000 or more each year? Please remove section 6 of Bill 50 and allow Burlington Humane and other independent humane societies across Ontario to continue their good work without bearing the brunt of bullying by the Hamilton SPCA and the Ontario SPCA. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. We have about three minutes for each party, beginning with Mr. Levac.

Mr. Dave Levac: Thank you for the presentation from your society. I appreciate it. You might not have been here when I indicated that we would be looking at an amendment to section 6 to avoid the use. There are other components inside of section 6 that we probably will be continuing to look at to avoid the fraud issue and to protect the agencies, both kinds of agencies, and no matter whose name, we use it to protect them from the tricksters out there who go door to door, somewhat similarly to the gas people and other organizations that

don't have anything whatsoever to do with the safety of animals. You can rest assured that the name will stay the same.

Ms. Jolene Regan: I heard that this morning. Thank you.

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

Mr. Garfield Dunlop: Thank you very much for being here today. It's amazing when you get thousands of signatures on petitions. I asked the minister the question in the House, "Will you remove section 6?" Of course it's not called "answer period," it's called "question period," so I didn't get an answer. However, it looks like the government is going to cave on this one particular area. We don't know what the amendment will actually say, but we're with you as well. We think that section 6 has to go, plain and simple, and there's just absolutely no reason to have it there. I applaud you all for coming forward, all the different humane societies and the people who signed those petitions, asking for section 6 to be removed. Thank you.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, about two minutes.

Ms. Cheri DiNovo: Thank you for coming forward and thank you for deputing. If there was ever a more graphic example that this section is not about fraud—has nothing to do with people going door to door, that's a federal matter, it's already covered—this is about bullying by one organization to other organizations. It's about turf warfare and it's about warfare by the SPCA over humane societies. They want your turf; they want your ability to fundraise. That's what they're about. It's very clear. You've finally put a name to a face, this Mr. Sykes. I'd love to hear from him. Where is he? It would be interesting to hear his deputation in this room.

I'm appalled that this has been going on at your expense and at the expense of animals and those who would be their owners and who care about them. Again, we are absolutely in favour of removing the entire section 6 from this bill. There's no reason whatsoever that it be there.

Again, thank you. Don't be snowed by spin. We'll continue to fight; you continue to fight and keep those letters coming in, because until the section's removed, it's still there. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for coming in to present to the committee.

1520

CANADIAN KENNEL CLUB

The Acting Chair (Mr. David Zimmer): The Canadian Kennel Club, Lee Steeves; so 15 minutes. I'll give you a three-minute warning. If you leave some time at the end, members will use it to ask questions.

Ms. Lee Steeves: Thank you. My name is Lee Steeves and I'm the director of the Canadian Kennel Club from Halifax, Nova Scotia. I'm also the chair of the responsible dog ownership committee for the Canadian Kennel

Club, and that's why I'm here today. Members of the kennel club from across Ontario have expressed significant concern about the amendments to Bill 50 and they've asked me to bring a presentation to you today.

The CKC was established in 1887. It's an organization that's supported dogs and their owners throughout Canada, promoting ethical breeding practices and breeder accountability for well over 100 years. Included in our mandate is cooperating with governments at all levels in Canada and the development of legislation that will effectively control the activities of irresponsible dog owners and breeders without unduly restricting responsible owners and breeders, and also promoting the knowledge and understanding of the benefits that dogs can bring to Canadian society and the means by which these benefits can most effectively be enjoyed. As a national organization, we take these responsibilities seriously and we work regularly with municipalities, with provincial governments and with federal staff to further responsible dog ownership in Canada.

Today, we hope to offer to you supportive input to the proposed amendments to Bill 50. At a time when pet ownership is rising to never-before-known numbers in North America, it is commendable and we thank this government for reviewing the existing legislation and considering the necessary amendments to present responsible ownership and to respond to situations where there is notable irresponsibility. We commend your forethought and we thank you for moving forward.

There are areas of the current proposed amendments, though, that if reworked would better support improved care and monitoring of companion animals. You've heard, I'm sure, this morning concerns surrounding section 11. Perhaps our most significant concern with this amendment is the lack of the addition of an independent oversight committee. A self-policing organization with no separate and independent review mechanism lends itself, even if unwittingly, to public criticism and the impression of nepotism or worse. With the addition of such a committee, the province would be in a position to better support the decisions of the OSPCA through a credentialed and independent structure. This would offer the OSPCA the impartial response required for this type of government-funded organization and would assure Ontarians that their rights and privileges associated with pet ownership are being taken seriously, and with due diligence being paid the decision-making process.

The Canadian Kennel Club is willing and would like to offer to support this independent structure, and offers our resources, at no cost, to the province to assist in the development of the mandate and structure, as well as offering to take a seat on the committee at the province's discretion.

While we understand the challenging nature of an SPCA inspector's duties, it is unclear to us, as specialists in dog breeding and animal care, why the decision was taken to provide all "powers of a police officer" to individuals not trained to assume this role. While this degree of decision-making may have been required in

decades where the police presence in areas such as rural Ontario was meagre, this is no longer the case. The training and competence of our police forces, and certainly of our Ontario police forces, is among the best in the world. Given that fact, unless the province is intending to provide an equal level of training to all of its OSPCA inspectors, it is recommended that these duties requiring a policing presence should remain with the police. Both from a safety and an evidentiary standpoint, these trained professionals are in a much stronger position to respond to the legal and potentially dangerous situations surrounding search and seizure, situations that are not everyday occurrences and that are better handled by those with professional training and experience. Limited policing powers may be necessary, but the full powers of a police officer provide an overreaching mandate that will not serve to better protect either Ontarians or their animals.

Section 11.4: We again commend you for requiring that inspectors now provide to those citizens with whom they are dealing evidence of their appointment and urge you to delete “on request.” With emotional situations where animals are involved—and we’ve just heard of those—and serious decisions being taken by the OSPCA, it should be a matter of course for the agent to professionally identify him or herself in every case.

A mechanism to deal with dogfighting and those who support and encourage it is well placed in this amendment. We would encourage you to go one step further with the addition to section 11.2 and define animal fighting equipment and structures so that there can be no mistake of the seriousness of the offence and the evidence of its existence is made clear to inspectors.

Given the relative ease of obtaining a search warrant using technology as outlined in this document in your amendments, it is recommended that “without a warrant” be limited to extreme situations where an animal’s life is at stake and the time necessary to obtain a warrant not available. In all other cases, a warrant should be necessary. It is important to note that many boarding facilities throughout this province are private premises on private residential property, not incorporated businesses. These facilities run from the homes and buildings of private citizens. Warrantless search and seizure should not be possible in these cases.

Section 12.1(3): The ability to care for animals is a highly specialized process. Many of our companion animals are being treated by veterinarians for illnesses that even a decade ago were undiagnosed because no treatment was available. To ensure that an animal’s life is not compromised, it is recommended that at the end of this clause there should be additional wording: “He or she may”—he or she is the inspector—“in addition to any other action he or she is authorized to take under this act, supply the animal with food, care or treatment by a veterinarian.” The OSPCA inspectors should not be treating animals. They don’t know what treatment the animal is already under, and they could and will do more harm than good should this stay as it’s written.

Section 15.1: Given the abundance of purebred dogs in society, as well as the increasing awareness of the general public in the area of identifying pets for the purposes of repatriation should they become lost or stolen, it is recommended that the act acknowledge the existence of and make provision for examination of the animal for the evidence of a tattoo and/or microchip prior to assessing the animal found or seized as having no owner.

Section 15(2)(c) and (d): Add to the end of both sentences, “Based on industry rates.” Neither the province nor individuals who are being charged in these areas should be charged exorbitant amounts. If you use the industry rates and norms that are applied, those questions won’t arise.

In clarification of the bill’s intent, it notes that section 1 of the act is amended to clarify that if the owner or custodian of an animal is a minor, the minor’s parents or guardians are deemed owners for the purposes of the act. It is recommended that this be taken one step further and that the bill be amended to note that if a minor is deemed to have offended—whether or not he or she is the owner—under this act, the parents/guardians be held responsible for damages incurred.

In summary, the Canadian Kennel Club is appreciative of your efforts as a government to better support animals in a safe and humane environment in the province of Ontario. We recommend an annual report be required to be presented to the Legislature providing the government and the citizens of this province a full accounting of the activities of a society so heavily funded by government.

We’ve provided today our thoughts on moving this legislation forward in an even more positive way, increasing accountability of citizens and of the government in an effort to improve our society. In the addition of an independent oversight committee, the limitation of policing powers for those not fully trained to perform policing functions, the limitation of situations not requiring a warrant to only those that are critical, and the clarification of the areas as outlined in this presentation, this act will be strengthened in a way that will meet the objectives of this government, of the OSPCA, and of the agencies and entities with whom you are working to better support Ontario’s citizens.

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

Mr. Garfield Dunlop: Thank you very much. It’s been a long day here. I think we’ve got a few days ahead of us like this.

I don’t really have a lot—you’ve brought out some good points here. I think the last time I saw a lot of comments from your organization was on the pit bull legislation.

Ms. Lee Steeves: We’re back.

Mr. Garfield Dunlop: I think that was the largest pile of emails I’ve ever had in my life. They were from all over the planet.

There are some good points here and we'll be considering these as we go through the debate.

Ms. Cheri DiNovo: Just further to what Mr. Dunlop said, you'd think the government would learn after the pit bull legislation to not make the same mistake again, but here we go again.

Thank you very much for your submission, and thank you also for making the points that some other deputants have made. It just adds weight to what they've said.

I'm interested too in what you had to say about the role of a veterinarian and of course the warrantless search and seizure. I want to make it very clear that we in the New Democratic Party are not in favour of warrantless searches and seizures unless necessary. That's absolutely critical. If an animal's life is at risk or in danger, then certainly people need the right to go in there and save it.

So again, thank you. We'll certainly do everything we can to make—I've made note of your recommendations; I think they're all good. We'll see if we can't get them in place.

Mr. Mike Colle: I just have a question about your recommendation vis-à-vis section 11.2. Could you please expand on that, the animal fighting provision, making it stronger?

Ms. Lee Steeves: What we would like and what we would recommend are definitions of the types of equipment that the inspector should look for, that actually have been proven to be used throughout North America for dogfighting, dogfighting rings. There are specific pieces of equipment. I don't think OSPCA inspectors would necessarily know what they were looking for, so if they have a list and it's incorporated in the act, it will be very clear to them. If they anticipate that they're going into a situation where dogfighting may be part of the issue, they should know specifically what it is they're looking for.

Mr. Mike Colle: The equipment description, but not only dogfighting, there's bird fighting, there is all kinds of animal fighting taking place in this province that right now is basically legal. There's no prohibition.

Ms. Lee Steeves: That's right. We're the CKC; I can only speak to dogs. But as far as the equipment goes, we do have some expertise. We can work with the government if you're interested in getting a list of the types of equipment that would be used if you're dealing with dogs. We're heartened to see that this is being added to the act. Again, we speak to dogs because that is part of the Canadian Kennel Club.

Mr. Mike Colle: There was quite a sophisticated ring broken up in the Windsor area early this year. It involved birds that were being trained to fight with all kinds of equipment on their claws on so forth. Anyway, thank you very much for your very thorough submission.

The Acting Chair (Mr. David Zimmer): Thank you for coming in to make a presentation today.

Committee, Diana Shore, was to present at 4:45. We've called her and she's expected here to present at 3:45, in about 10 minutes. I propose we just stand down—

Mr. Dave Levac: Mr. Chair, can we take a recess, please?

The Acting Chair (Mr. David Zimmer): Yes. So I propose we stand down until 3:45 or so.

The committee recessed from 1532 to 1611.

DIANA SHORE

The Acting Chair (Mr. David Zimmer): Hello. How are you? This is the committee. Are you Diana Shore?

Ms. Diana Shore: Yes, I am.

The Acting Chair (Mr. David Zimmer): Thank you very, very much for making the effort to get down here. Your time was at 4:45 but you came early to help us out with our schedule.

I'm the Chair of the committee. These are the Liberal members, the NDP member and the Conservative member. You get to sit at the table here. You'll have 15 minutes to make your presentation. You can use all of the 15 minutes or any part of it that you want. If you don't use all of your time, the members of the committee may or may not have some questions. I'll give you a three-minute heads up that your time is about up, but you can use as little or as much of it as you want.

Ms. Diana Shore: Okay. Thank you, David.

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

Ms. Diana Shore: Diana A.F. Shore from west Lincoln, landowner and farmer.

Ladies and gentlemen of the elected council, greetings from west Lincoln. I come to you today as a voter to express the concerns of your constituents, my neighbours, whom you have promised to represent through your office.

Today I'm here to discuss concerns over proposed changes to Bill 50, the Provincial Animal Welfare Act. Primarily, I have a major concern as to what kind of organization the OSPCA actually is. Is it a charity organization? If so, why has the OSPCA received over \$7.5 million in provincial funding over the last two years? This tax money is from the people of Ontario going to charity. I did not vote for a representative to increase my taxes on one hand to give to a charity organization on the other. With the provincial funding and the government empowerment dictated by Bill 50, then technically the OSPCA should be considered a provincial government organization. The Ontario SPCA would then fall under the jurisdiction of the Ombudsman and the freedom-of-information act, which would begin to address accountability and transparency issues.

As for the existing empowerment and proposed increased empowerment given to this charity organization, this gives the organization free rein to bully, falsely accuse, intimidate and harass your constituents with little or no recourse to accountability. This has been, and is currently, happening. This will continue, and passing the changes to this bill will increase the incidence of unjust action and charges set upon rural constituents.

This has led to the formation of the OLA. No doubt, you have heard of the OLA; I hope so. This consists of over 20 regional landowner associations throughout Ontario. As an elected representative of the people, you must consider why the people who voted you into office feel that they need to protect themselves from your governance. Why has it become necessary for rural Ontario voters to band together to form such associations? Rural people in Ontario have gathered together to protect themselves from unrealistic and unjust governance such as the proposed changes to Bill 50.

If the reason of the formation of this association doesn't bother you, then you have not lived up to your duty to represent the people. This includes rural Ontario. Your job is to find out what went wrong, fix it and stop doing it. Passing changes to Bill 50 will force even more of your constituents to have to defend themselves.

Currently, there are hundreds of incidents of OSPCA and MNR officials who have trespassed onto private property at various times, day and night, including homes. Officers frequently misrepresent themselves to gather information. In the case of my family, two officers came to our property and identified themselves as Jehovah's Witnesses while having a tape recorder under their jacket they did not identify, which allows them to transcribe the conversations word for word. These are actions not permitted today, yet they are being practised with regularity. Giving this unregulated charity organization more empowerment will only increase the bullying and the intimidation. Charges are being made with our tax money "donation," defending our accusers while we pay out of pocket for our own defence. There is no reimbursement to the defenders when they win.

When a charge was laid against my family member—and this is on the record—it ended with a complete dismissal in our favour, and the MNR agent shook hands with my family and stated, "It was the best decision." It just left my family with a bill of \$2,324. There is no recourse for obtaining that money that was lost—not only that, but the income tax money used for MNR to take it to court in the first place.

Just to move along, changes targeted in Bill 50 include 7(1), subsection 11(1): "For the purposes of the enforcement of this act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the society has and may exercise any of the powers of a police officer." Let me ask you, why is it that a real officer must advise a suspect of his or her rights, but an OSPCA and MNR officer does not have to? How does a hired person with little to no background check and only five days' training get to exercise police powers equal to or greater than real police officers? Personally, this brings about a feeling of fear and defensive behaviour when I see an MNR or OSPCA officer approaching my property, unlike the peaceful greeting I would offer a real police officer.

Section 11.3: "Every veterinarian who has reasonable grounds to believe that an animal has been or is being abused or neglected shall report his or her belief to an

inspector or an agent of the society." I ask you, will you feel comfortable taking your animal to the vet in fear of repercussion? I believe this law, if it's passed, will prevent people from taking their animals to the vet, which will cause more suffering.

There are several other points here. I'll just quickly go through them so that we don't run out of time.

"No person shall hinder, obstruct or interfere with an inspector or an agent." Whose interpretation of obstruction do we follow: their interpretation or ours?

"Every person ... shall comply with the prescribed standards of care." I'm assuming they mean the recommended codes of practice? Again, it's perspective.

"No person shall cause an animal to be in distress." Again, we've been hassled. What about weaning, castration, de-beaking, tethering, shearing, transportation and competition? There is distress in that. We can be bullied by these people if this law is passed, because there's no law saying that we can't do this. It's much too vague.

An animal may be killed if a veterinarian determines it should die. There is no second opinion from another vet. We cannot call our own vet. We are going by the say-so of a vet who is hired by the OSPCA. That vet has everything to gain by siding with the OSPCA. The animal would be put down with no comment from our vet, no input as far as records, and in the destruction of the animal, they don't even have to contact the owner. This has happened. There are many situations where animals have been put down at boarding facilities where the owner was not notified until after the animal was put down.

If an animal has been seized or destroyed, they shall let the owner know in writing. There's no hand-delivering, no faxes. The owner is liable for any expenses, food, care or treatment incurred by the society. So why do the invoices include inspectors' time and mileage? There should be a recourse if an animal is ordered to be returned.

1620

Some are arguing that the chief inspector should be, at the very least, a veterinarian, since he or she hires, trains and oversees the inspectors. These employees have no minimum education requirement. Several have minimal to no knowledge of the animal species that they are taking care of. There is no training course required for them, except for the five days. There are occasions documented where a white boxer was confiscated because the OSPCA officer couldn't identify that it wasn't a pit bull, and the owners had to go to court. A Boston terrier was confiscated under the same thing—they couldn't tell the difference between a Boston terrier and a pit bull, and these are the people who are enforcing these laws.

There are also several points to warrantless entry, which is a direct challenge to our Charter of Rights and Freedoms—passed by someone that most of you probably know, Diefenbaker. If we want to go back and destroy the Charter of Rights, then we can go through some of these points also.

The OSPCA has the right to warrantless entry anywhere, with as many people as they deem necessary, except your residence or a veterinarian's office.

Warrants to search places that exhibit or use animals for entertainment, boarding, hire or sale will be issued automatically if an inspector feels that a search may be obstructed or has been obstructed.

Warrants and telewarrants for homes continue to be issued if they believe an animal may be in distress.

Automatic entry anywhere an inspector believes an animal is in immediate distress—once inside, they can examine and/or take anything they wish. Once they have conducted their test, they shall “dispose of the sample or carcass” in any way they wish.

Once inside, they can seize anything “in plain view”: papers, records, tools, carcasses, answering machines, computers. If they believe the thing may have been used to commit a crime or may contain evidence, they can take it.

They have to report the seizure to a justice of the peace, who may order the OSPCA to return it. I don't know a justice of the peace who is open on weekends, holidays, or after work hours.

The OSPCA can enter at any time to inspect the status of an order.

The OSPCA can revoke any order complied with and “serve notice of the revocation in writing.”

The justice of the peace may make the order and authorize the society to keep seized animals if the owner has been charged or if they had been told that the animal may be harmed if returned to the owner.

Basically, the Charter of Rights—I will read you some of the points that are the most notorious to us, as free Canadians:

“The Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” For the Charter of Rights to be limited, the limit must be prescribed by law, reasonable and justifiable in a free and democratic society.

The right to life, liberty and security of the person: All Canadians have the right to life, liberty and security of the person. The state cannot take away these rights, unless the principles of fundamental justice are followed. The rights under section 7 are not just about criminal law. Security of the person is about protecting people from serious harm to physical or psychological well-being, such as unwarranted search or trespass on private property. The rights under section 7 are directly about the person. They do not include business rights.

If the state takes away rights under section 7, it must follow principles that are fundamental to fairness and justice. Section 1 can justify limits on charter rights—“Guarantee of Rights and Freedoms—

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

Ms. Diana Shore: Okay. But section 7 rights are so basic that violating them would rarely be justified.

Protection from unreasonable search and seizure: All Canadians have the right to a reasonable expectation of privacy. Section 8 limits how and when police or other officials can search you personally or search your property. Police or other officials must get search warrants from a judge before they can search your property. Why would you break this rule with the OSPCA?

People are protected from cruel and unusual punishment, such as punishment that degrades human dignity, which is out of all proportion to the offence, or shocks the public's conscience. In the rural countryside, we property owners are the public conscience. Our conscience is shocked that our fundamental rights to life, liberty and security of the person are no longer protected from unreasonable search and seizure where a warrant is required to search our person and property.

That these are fundamental violations of the Charter of Rights and Freedoms by an elected government, which has taken an oath of office to uphold the laws of the land, supply good government, protect the people and their rights; has deliberately and with malice aforethought broken the contract of trust with the people that was created through the democratic election process—and the elected government of Ontario is itself placing upon the people what constitutes cruel and unusual punishment.

Therefore, the Clean Water Act and its supporting legislation, Bill 50, are both unacceptable as written until such time as the appropriate amendments specifically stated are made.

You can read the rest if you want; I'm running out of time.

In closing, I ask these changes not be passed for Bill 50 and to have you all consider and hopefully restructure the role of the OSPCA. There is an absolute need for legislatively enshrined public accountability of the OSPCA. In other words, legislation must be changed to hold the Ontario SPCA accountable forever.

Thank you for your time.

The Acting Chair (Mr. David Zimmer): We've got about 15 or 20 seconds left, so I'll speak on behalf of the committee. Thank you very much for coming down and giving your presentation, and thank you especially for adjusting your schedule to accommodate us. We do appreciate it. I know we have your written submission, and my colleagues will consider it carefully.

Ms. Diana Shore: Thank you. Any questions?

The Acting Chair (Mr. David Zimmer): We've run out of time for questions.

MARINA KORCHOUNOV

The Acting Chair (Mr. David Zimmer): Marina Korchounov, you will have 15 minutes to make your presentation. I'll give you a heads-up when there are three minutes left. If you leave any time in your 15 minutes, the committee members may or may not have some questions. You can use any or all of your 15 minutes. Please identify yourself for the record.

Ms. Marina Korchounov: My name is Marina Korchounov. I am a resident of the Richmond Hill area.

Here are two of my kids who have been involved in our story. I have to share my story with you. I will read it because it's difficult for me. This is the letter I sent to the board, and I will read it.

The Acting Chair (Mr. David Zimmer): And we all have it.

Ms. Marina Korchounov: No, this is another letter.

"The reason I seek your attention and help is the fact that my dog who has been living with me for the last 13 years in three different countries and has always been considered a member of my family and treated respectfully was taken by the representatives of SPCA, along with the police forces, on June 1, 2006 at 4:05 p.m. by force.

"I view this act as illegal and cruel because the dog, being old and helpless, may suffer serious emotional problems as a direct consequence of it. This, in my opinion, is a real cruelty, which I personally strongly object to. Despite the dog's poor health condition due to his age, I made efforts and attempts to do my very best to help the dog feel comfortable and safe. In fact, in August 2005 he started having problems with his eye and paws. We invited a vet over to our house, Dr. Jia Asianova, who diagnosed the dog with arthritis (which is a common condition for German shepherds of this age, according to her opinion). An ointment and eye drops were prescribed to alleviate his eye condition. In addition to that, a heart problem was diagnosed and it makes the use of anaesthetic treatment highly risky to his health. According to the vet's conclusion, arthritis in dogs is an incurable condition and there is a high chance that the dog may not survive the surgery of eye tumour removal. So, following the vet's recommendation we just tried to make the rest of Terry's life as comfortable as possible, giving him our love, affection and care. All members of our family love him and my kids," at that time nine and seven years old, "are especially attached to Terry. Seeing him being taken by force caused serious psychological trauma to them.

1630

"On Friday, May 26, at 2:28 p.m., Inspector Linda Goczan ... came over to my house, following our neighbour's call to [the] SPCA claiming, without any reason of factual proof, that our family doesn't take care of Terry. The order was left, demanding us to take the following steps in order to comply with the SPCA requirements: 'Have the animal examined by a veterinarian with special attention to left eye and general health.' This was supposed to be done by Monday, May 29, [at] 9 a.m. The time given to us was not reasonable because it was [a] weekend. However, I managed to contact the veterinarian, Dr. Asianova, who attended Terry in August 2005. She was unable to come immediately and she confirmed her opinion: She can try the surgery but chances are slim [that] the dog will survive. In case we decide in favour of surgery, it should be done either before June 4, 2006, or after June 10, because she will be out of Toronto within this period. It's a tough decision because, in case Terry dies I will blame myself for the rest of my life, and due to my financial situation I can pay for the surgery after June

5, 2006. We agreed that after Dr. Asianova returns to Toronto, I would give her a call to arrange an appointment for the surgery.

"Having explained all this, I believe I made my point clear: We don't want our friend and member of the family to suffer the shock of being separated from home and loving owners and strongly believe that in the interests of his well-being, it would be best to have him back and join our family. I expect that your understanding and co-operation will help us."

Another letter:

"On June 1, 2006, our dog, German shepherd Terry Korchounov, was taken from our house by force by the OSPCA representatives and police forces. This act of cruelty towards Terry and disrespect caused emotional shock and psychological stress in all members of our family, especially our children. Seeing him being taken by force caused serious trauma to them.

"Our kids never saw people in uniform talking with their parents in such unrespectful manner, blaming them for [the] dog's sickness. Terry was [a] nanny for our kids and he was our first child. But unfortunately his poor health condition was a result of his age and common for German shepherds.

"When the SPCA agents and police forces came into our house, Terry was lying down on the floor and scared. He didn't follow their command to stand up because he didn't understand English and was trained to listen [to] just his owners.

"Kids were hugging the dog, crying and ask to leave our dog with us. Oldest daughter took her savings and asked policemen, 'Please take money and let him live with us!' My husband Dmitri was sitting on the chair (his English very poor) and trying to say something but agents didn't listen [to] him. They just blamed us. When Dmitri was trying to stay, the policemen immediately called for [a] support unit. One of [the] policemen talked to me how bad owners we are. Agent Goczan threw the order and told me, 'You can continue to watch your TV. We will take care of your dog!'

"They grabbed Terry—he was crying—and took him to the car. Two OSPCA cars, four police vehicles have been too much for our small community. Now our neighbourhood [is] thinking we have problem with law.

"Our life was changed. We still can't believe it happened with us. Terry [had] been part of our family over 13 years in three different countries and [had] always been loved and treated respectfully—been taken away by force.

"We can't believe it can be done in [a] democratic country. It [was] possible in Stalin's Russia.

"What kind of lesson our children took?"

"How it will be reflected in their lives?"

How did the SPCA help our dog? Nobody gave us the answers.

The rest of the story: We took our dog back after two weeks. My husband lost his job because he was always with me. I lost my position—I was a senior sales director with Mary Kay cosmetics—because I was not working the time. After this huge shock, I'm still recovering.

After we took Terry home, two months later he was paralyzed after the shock. For almost three months, my husband and I carried him in and out for his needs. Later, he died.

You can see this picture on the other side of my letter. This is the picture my oldest child made after Terry's death. She had been a student at an art school, and she finished her education at the art school because she just can't make any pictures after this. Maybe you will take this as a sign. After they took Terry for cremation, I found this exactly after. I took this as a sign, because I think we made everything right and what we met with was just not fair.

Thank you.

The Acting Chair (Mr. David Zimmer): We have about two minutes for each caucus, starting with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much, Mrs. Korchounov, for coming and deputing before us. Also, thank you to your children. It sounds like a horrible ordeal.

We're here—certainly I'm here for the New Democratic Party—to try to make sure that never happens again. The more I hear—and you're not alone; we've been hearing from deputants all day, many of them with similar stories about the OSPCA—I'm absolutely shocked and appalled. This is an agency that gets government money and no government oversight, clearly.

I wonder where they are. One of the deputants said that in the States, you can actually compel people to come and depute before a committee such as this. I wonder where the chair and the CEO of the OSPCA are, because they should be here. They should have to answer to you and to families like yours who've gone through this. I think it's unconscionable. I think it's awful.

I'm glad these are being televised. I'm glad they're being Hansarded; you'll be able to read about this. I know that animal activists and folk who care about animal rights will be with you in spirit and will hear about this all across this province. Thank you very much.

Ms. Marina Korchounov: Thank you.

Mr. Dave Levac: Thank you for your deputation and thank you for being here as quickly as you were.

Did you take your case to the Animal Care Review Board?

Ms. Marina Korchounov: Yes, we did.

Mr. Dave Levac: And the consequences of that?

Ms. Marina Korchounov: The board review took place when Terry had been in the OSPCA shelter about two weeks. They made the decision to give Terry back.

Mr. Dave Levac: So there was recourse for you to take and you took it. Were you satisfied with at least the Animal Care Review Board's decision?

Ms. Marina Korchounov: We were satisfied just to take Terry back.

Mr. Dave Levac: As a result of your experience, you've read the bill over. Is there any aspect of the bill that you're favourable to? Bill 50: Is there anything in Bill 50 that you are in favour of?

Ms. Marina Korchounov: I think my goal is not to destroy the SPCA, because we need some society to help the animals. Of course, there are lots of worse cases, but they have to be truly trained, not just two weeks or two months. They have to have psychological courses. My point is, do not have them have police force. A private charity, a non-profit organization, can't use police power. It must be government force.

Mr. Dave Levac: Thank you very much.

Mr. Garfield Dunlop: I really have nothing further to add except to thank you for coming today and for the story we've heard.

I guess if anything, I would have thought today there would have been a lot more positive comments about the bill and different areas. We've heard a lot of negatives today, and that just kind of added to it, so we'll seriously consider your recommendations.

The Acting Chair (Mr. David Zimmer): Thank you for coming in to present to this committee, and thank your children.

Ms. Marina Korchounov: Thank you very much.

Ms. Cheri DiNovo: Point of order: I think Mr. Dunlop was going to make the same one, but I understand that we need to pass a motion to be able to compensate the Hervieux for coming down from where they had to come from—Massey. So I just want to know if you can pass that—

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

Mr. Mike Colle: It's standing policy.

The Acting Chair (Mr. David Zimmer): Yes, of course. Is there a seconder?

Mr. Garfield Dunlop: I would second the bill for their expenses.

The Acting Chair (Mr. David Zimmer): I'm going to ask the clerk just to provide some background information that led up to this issue of the deputants coming in rather than being looked after up there.

The Clerk of the Committee (Ms. Susan Sourial): As members will know, in the subcommittee report one of the points was that we needed eight witness requests to travel to any location. The subcommittee report also mentioned that where we didn't travel we would offer conference or teleconferencing to the witnesses if they didn't want to travel to Toronto. The Hervieux were offered to make a conference call if they didn't want to travel to Toronto.

Mr. Mike Colle: Question?

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

Mr. Mike Colle: Isn't there a standing policy that witnesses coming from afar can be compensated by the legislative committee for the travel?

The Acting Chair (Mr. David Zimmer): This is a motion and it's a debatable motion. The majority of the committee has to approve it. I thought it was important that you know some of the background. Mr. Levac?

Mr. Dave Levac: For clarity purposes, is the motion for the deputants who came from the north who were not provided with the opportunity to be here? Is that the implication or is it all deputants? I need to get clarity for that.

Mr. Garfield Dunlop: The Hervieux family.

Ms. Cheri DiNovo: For the Hervieux family; for them specifically, coming from Massey. It's a long way.

Mr. Dave Levac: We have no problem with that.

The Acting Chair (Mr. David Zimmer): All in favour? Carried. Thank you.

So that concludes the hearings. Thank you very much. Ms. DiNovo, just for a moment. The clerk has reminded me to remind everybody to be at the Skyservice Esso Avitat location at 7:30 a.m. because the plane leaves at 8 a.m.

The committee adjourned at 1643.

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CONTENTS

Monday 21 July 2008

Subcommittee reports	JP-59
Provincial Animal Welfare Act, 2008, Bill 50, Mr. Bartolucci / Loi ontarienne de 2008 sur le bien-être des animaux, projet de loi 50, M. Bartolucci	JP-60
Canadian Coalition for Farm Animals	JP-60
Ms. Stephanie Brown	
Mr. Bill McIntyre	JP-62
World Society for the Protection of Animals	JP-63
Ms. Melissa Tkachyk	
Humane Society of Canada	JP-66
Mr. Michael O’Sullivan	
Mr. Tony Kenny	JP-69
Canadian Legal Accountability Watch.....	JP-71
Ms. Lynn Pitney-Miller	
Canadian Association of Zoos and Aquariums	JP-73
Mr. William Peters	
Mr. Michael Takacs	
Dr. Ronald House; Mr. Fred Leitch	JP-75
Ms. Sunny Reuter.....	JP-77
Mr. William Schoenhardt	JP-79
Toronto Humane Society	JP-81
Mr. Tim Trow	
Burr Foundation	JP-83
Mr. Michael O’Sullivan	
Mr. Richard Hervieux	JP-86
Ontario Federation of Agriculture	JP-88
Ms. Wendy Omvlee	
Mr. Peter Jeffery	
Ms. Colleen Hervieux	JP-89
Ms. Ashley Hervieux.....	JP-91
Burlington Humane Society	JP-93
Ms. Jolene Regan	
Ms. Judy Coney	
Canadian Kennel Club	JP-95
Ms. Lee Steeves	
Ms. Diana Shore	JP-97
Ms. Marina Korchounov	JP-99