

Bill S-213

**Appearance of the CVMA before the Standing Senate
Committee on Legal and Constitutional Affairs in
relation to its study of Bill S-213:
Monday, December 4, 2006, 2:30 p.m.**

**Introduction by Dr. Paul Boutet, President,
Canadian Veterinary Medical Association (CVMA)**

Good afternoon Mister Chairman;

I am Dr. Paul Boutet, President of the Canadian Veterinary Medical Association and I am here representing more than 10,000 veterinarians in Canada. I am also a private veterinary practitioner in Riverview, NB .

Animal welfare advocacy is one of the CVMA's three main priorities. Through its Animal Welfare Committee, the CVMA concentrates its efforts on developing guidelines and standards that address the welfare, humane treatment and care of animals. Basing our position on science, the CVMA has played a leading role in establishing policies and directives for animal owners, farmers and industry groups. Over the years, the Association has formulated informative position statements on animal welfare issues of national and international importance.

The CVMA Animal Welfare Committee consists of a dynamic group of not only our veterinary experts, but also representatives from key national organizations including the Canadian Federation of Humane Societies, the National Farm Animal Care Council, the Canadian Council on Animal Care and the Canadian Food Inspection Agency.

International trade organizations, such as the World Organization of Animal Health (formerly the OIE) are giving more importance to the humane handling practices in exporting countries as trade requirements. There is increasing social pressures for nations to be better stewards/custodians of our animals' welfare. The importance that people place on their pets was amply demonstrated in New Orleans with Hurricane Katrina where owners would forsake their own safety, rather than abandon a loyal and lifetime companion!

We all agree that our legislation urgently needs to be remedied. But when Canada introduces a new Bill, then let's do it right!

The CVMA has been and remains a strong supporter of Bill C-50 or the new Bill C-373 and we are here to address our objections to S-213.

With me this afternoon is Dr. Alice Crook, an expert on animal welfare and Coordinator of the Sir James Dunn Animal Welfare Centre at the Atlantic Veterinary College will elaborate on our views.

**Presentation by Dr. Alice Crook
Coordinator of the Sir James Dunn Animal Welfare Centre
at the Atlantic Veterinary College**

Background

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

The Canadian Veterinary Medical Association has actively supported efforts to amend the Criminal Code regarding cruelty to animals since 1998. We appreciate the opportunity to provide input on Bill S-213. The CVMA believes that the proposed Bill S-213 does not adequately address the urgent need to provide better protection for animals against cruelty. Instead, the CVMA supports Bill C-373, which is a re-introduction of the bill last known as Bill C-50. We believe that Bill C-373 strikes a good balance between protection of animals and protection of lawful activities such as fishing, hunting, trapping, farming and scientific research.

History of CVMA involvement with animal cruelty legislation

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

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

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

Because these premises are not addressed in Bill S-213, CVMA can not support this legislation.

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

Animal abuse is an important social issue affecting animals, families and communities. Animal welfare organizations, law enforcement agencies, domestic violence and child welfare agencies are working together more and more in recognition of "the Link", the indisputable tie between animal abuse and violence towards people. Researchers have recognized and documented that violence towards animals is both a component and a symptom of child, spousal and elder abuse, as well as an indicator of the potential for increasing violence and dangerousness in offenders. For example, in a Canadian study (S. McIntosh, 2004), 56% of pet-owning women seeking refuge in women's shelters in Calgary reported that their abuser had threatened or had harmed their pet. Of those women with children and pets, 65% believed the children were aware of the abuse, and impacted by it.

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

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

Shortcomings of S-213

The sections of the Criminal Code dealing with animal cruelty, 444-447, were originally enacted in 1892, with some minor revisions in 1956. There is a dire need to increase penalties, as well as modify the out-of-date language that leaves some gaping loopholes. However, other than including provisions for increased penalties, S-213 contains the exact same wording for offences as the current Criminal Code legislation. Thus, many of the problems with the current legislation are retained in Bill S-213, as outlined below. [Information about Bill C-373 is included for comparison.]

1. Different protection for different animals

Current legislation refers to different animals and protects them differently. It contains a separate section and offences for cattle (444) and for "dogs, birds and other animals that are not cattle." (445)

[Bill C-373 applies to all vertebrates (182.2), and includes special provisions for the protection of law enforcement animals (182.7)].

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

2. Property section

Currently, crimes against animals are considered property offences. Contemporary Canadian values consider cruelty to animals as a crime in its own right, not merely a crime against property.

[Bill C-373 moves animal cruelty out of the property section of the Criminal Code to a new section, Part V.1, Cruelty to Animals.]

3. Willful neglect

The wording of the current offence of wilful neglect requires proof of a person's intent.

The requirement to prove that a person intended to neglect their animals makes it extremely difficult to lay charges.

[Bill C-373 introduces the term negligent and defines it as "departing markedly from the standard of care that a reasonable person would use." 182.3(2)]

4. Brutal and vicious

The current legislation does not address brutally or viciously killing an animal as a form of violence.

[Bill C-373 would make it an offence to kill an animal with brutal or vicious intent, whether or not the animal dies immediately (182.2.1.b) This would allow the Criminal Code to address particularly heinous forms of violence.]

5. Fighting and training

The current legislation does not make it an offence to train animals to fight other animals, nor to receive money for the fighting of animals.

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

Conclusions

Proposed amendments to the animal cruelty section of the Criminal Code have been before Parliament in various forms since 1999. The most recent version of legislation to amend the animal cruelty provisions was reintroduced in the House of Commons on October 30, 2006, as a Private Member's Bill (MP Mark Holland). The new bill, now called C-373, is the same as the previous legislation, Bill C-50, which died when the Liberal government of Paul Martin fell in January 2006.

The legislation has received careful scrutiny in both the House of Commons and the Senate over many years. Extensive consultation has taken place with animal industry groups, and many organizations, including the CVMA, have provided input through the respective Standing Committees, leading to some changes to the amendments initially proposed. A previous version of Bill C-373, Bill C-10 B, came excruciatingly close to becoming law in 2003 and was supported by the vast majority of Canadians, most animal industry groups, animal protection groups, as well as all parties in the House of Commons, but did not pass the Senate before an election was called.

Like S-213, the amendments in Bill C-373 would replace sections 444 - 447 of the Criminal Code, and would increase penalties for those convicted of animal cruelty. In contrast to S-213 however, Bill C-373 would move cruelty to animals out of the property section of the Criminal Code. Thus, the bill would apply to stray and wild animals as well as owned animals. This means that, for example, cruelty to a stray cat would be prosecuted based on the cruelty involved and the suffering of the cat; the case would not be dismissed because no owner or monetary value for the cat can be established. Stray and wild animals have virtually no protection under current legislation, which only makes it an offence to kill owned animals without a lawful excuse. Bill C-373 would make it an offence to kill any animal without a lawful excuse.

Bill C-373 would provide tougher punishments for killing or harming an animal, or for failing to provide adequate care, and would include new provisions to make it an offence to train animals to fight other animals

or “to kill an animal brutally or viciously, whether or not it dies immediately.” The latter provision would address particularly violent, heinous actions such as the recent incident of extreme cruelty to a dog in Didsbury, Alberta.

The CVMA believes that Bill C-373 strikes the appropriate balance in addressing cruelty to animals as a crime of violence while, at the same time, making it clear that lawful and humane practices regulated or authorized by federal or provincial legislation or applicable codes of practice, such as normal agricultural practices, hunting, fishing, trapping, and animal research, will not be affected. C-373 (like C-50) also affirms traditional Aboriginal hunting and fishing rights (182.5 and 182.6).

Recommendations

Therefore, the Canadian Veterinary Medical Association recommends that the Standing Committee on Legal and Constitutional Affairs reject the amendments in S-213 as inadequate. The CVMA further recommends that the Standing Committee support re-introduction of the amendments embodied in the former Bill C-50, currently introduced in the House of Commons as C-373.

Summary

It is the position of the CVMA that the amendments in S-213 are inadequate. The CVMA strongly supports re-introduction of the amendments embodied in the former Bill C-50, currently introduced in the House of Commons as C-373. This legislation has been carefully scrutinized by both the House and the Senate since 1999, with broad input from Canadians, and has been strengthened and refined by amendments at the Committee stage in both the Lower and Upper House. Such legislation would provide significant new protection for animals – much more effectively than S-213 – while in no way jeopardizing recognized and accepted practices in the treatment and use of animals.

Current legislation - Sections 444-447	Problem	S-213	C-373
Different protection for different animals	Current legislation refers to different animals and protects them differently. It contains a separate section and offences for cattle (444) and for “dogs, birds and other animals that are not cattle.” (445)	No change. Bill S-213 maintains the confusing language of the current legislation, enacted in 1892.	C-373 applies to all vertebrates (182.2), and includes special provisions for the protection of law enforcement animals (182.7).
Property section	Currently, crimes against animals are considered property offences. Contemporary Canadian values consider cruelty to animals as a crime in its own right, not merely a crime against property.	No change.	C-373 moves animal cruelty out of the property section of the Criminal Code to a new section, Part V.1, Cruelty to Animals.
Wilful neglect	The wording of the current offence of wilful neglect requires proof of a person’s intent. The requirement to prove that a person intended to neglect their animals makes it extremely difficult to lay charges	No change Under this legislation, crimes of neglect will continue to be nearly impossible to punish appropriately.	C-373 introduces the term negligent and defines it as “departing markedly from the standard of care that a reasonable person would use.” 182.3(2)
Brutal and vicious	The current legislation does not address brutally or viciously killing an animal as a form of violence.	No change.	C-373 would make it an offence to kill an animal with brutal or vicious intent, whether or not the animal dies immediately (182.2.1.b) This would allow the Criminal Code to address particularly heinous forms of violence.
Fighting and training	The current legislation does not make it an offence to train animals to fight other animals, nor to receive money for the fighting of animals.	No change	C-373 would make it an offence to train an animal to fight and receive money for animal fighting and training (182.1.e-h), activities often associated with organized crime.

Killing an animal	It is currently an offence to kill an owned animal without lawful excuse. For example, animals may be killed in the pursuit of lawful activities such as farming or research. However, there are no provisions applying to wild or stray animals, with or without lawful excuse.	No change. Because the provisions are still in the property section of the Criminal Code, Bill S-213 still would not extend protection to wild or unowned animals.	C-373 would make it an offence to kill any animal without a lawful excuse (182.2.1.c). Examples of lawful excuse include hunting, fishing, farming, euthanasia, protection of life and property.
Penalties	In the current law, the penalties do not appropriately punish perpetrators nor act as a deterrent. The bill also provides different penalties for crimes against cattle. There is currently no provision for cost recoveries for those who provide care and treatment (such as SPCAs, humane societies or veterinarians) of animals who have been abused.	Bill S-213 provides greater flexibility in sentencing by allowing animal cruelty crimes to be prosecuted as either summary conviction or indictable offences. Maximum penalties are either a jail term of up to five years and unlimited fines for indictable offences; or fines of up to \$5,000 and/or imprisonment of up to 18 months for summary convictions. The bill also includes up to a lifetime prohibition on ownership, and those found guilty can be ordered to pay restitution.	C-373 contains all these penalties, and in addition, applies to cruelty to unowned and wild animals.
Definition	There is currently no definition of animal.	No change	C-373 includes the following definition: A vertebrate, other than a human being (182.1).