



Lawyers for Animal Welfare (LAW)

July 7, 2011

VIA EMAIL to: minister.omafra@ontario.ca

The Honourable Carol Mitchell
Minister of Agriculture, Food and Rural Affairs
1800-393 University Avenue
Toronto, Ontario
M7A 2S1

RE: Animal Cruelty Laws in Canada

Dear Minister Mitchell:

It has come to our attention that the federal, provincial and territorial ministers of agriculture will meet in New Brunswick on Friday, July 8, 2011. Among other issues, we understand the agenda for the meeting includes a discussion of consistency in Canadian animal protection laws, regulations and enforcement.

Lawyers for Animal Welfare (LAW) is a charity dedicated to advancing public knowledge of animal practices and preventing the abuse and killing animals through the enforcement of existing laws. The purpose of this letter is to draw your attention to some substantial inadequacies with federal and provincial animal welfare law. We hope this information will be of assistance to you during your discussions.

I. Federal Law

There are laws at both the federal and provincial levels that operate to protect animals in Canada.

Federally, the primary protections for animals are found in anti-cruelty provisions in the Criminal Code (Sections 444-447). These Criminal Code provisions have not been meaningfully updated since 1892 and have been criticized by many Canadians as inadequate to protect animals from cruelty.

One deficiency with the current criminal prohibition against causing suffering to animals is that the level of intent necessary to make out the offence is “willful”. This imposes a very high standard of intent, such that prosecutors must prove beyond a reasonable doubt that the accused intended to cause unnecessary suffering to the animal(s) in question.

A second deficiency is only “unnecessary suffering” is prohibited by the Criminal Code. This loophole allows animals to be treated in ways that would otherwise be criminal, so long as there is any justification that an accused can advance to show that causing the suffering was necessary to some human purpose. If the goal is preventing animals from experiencing suffering, it should

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matter less why the suffering occurs (i.e., if there is a human-based purpose) and more that the suffering is occurring in the first place, regardless of why.

Other federal law, like the *Health of Animals Act* and the *Meat Inspection Act*, set welfare standards that must be met for animals used in farms and slaughterhouses

II. Provincial law

The provinces and territories have enacted their own anti-cruelty legislation to supplement the provisions found in the Criminal Code, such as the *Ontario Society for the Protection of Animals Act* in Ontario. These acts may lay out stronger protections than those provided in the Criminal Code, and may prescribe standards of care that must be met for some classes of animals.

One key problem with the provincial anti-cruelty regime is that it has created a patchwork approach. Some jurisdictions have relatively robust measures to protect animals, and other jurisdictions have legislation that is deficient in many areas. The problem of inconsistency is articulated clearly in a report issued by the Animal Legal Defense Fund in May. The *2011 Canadian Animal Protection Laws Rankings* report (see: <http://www.aldf.org/article.php?id=1713>) provides an in-depth examination of the strength and comprehensiveness of each jurisdiction's animal protection laws. It concludes that there are substantial differences between the various jurisdictions, and while some provinces fare better than others, all jurisdictions have room to improve upon their legislation.

The current patchwork approach to anti-cruelty laws is problematic in that it creates a regime where animals are treated very differently depending on which side of a provincial border they happen to reside. A coordinated approach to provincial anti-cruelty law would help ensure that the strongest possible measures are in place, across the board, to protect animals from harm.

Some provinces also have legislation designed to protect animals in other contexts, such as animals used in scientific research and laboratory testing. Again, there is a patchwork approach to legislating protections for animals in research. Some provinces, such as Ontario, have relatively comprehensive legislation, yet other provinces have no laws specifically governing the treatment of animals in research facilities.

III. Enforcement

Another area of concern is the enforcement of existing animal protection laws. The comprehensiveness of enforcement and responsibility for enforcement also varies greatly from one jurisdiction to another.

In some jurisdictions, the provincial SPCA enforces provincial animal welfare law. In other jurisdictions, provincially appointed veterinarians fill this role. Sometimes the RCMP or police are responsible for enforcement. Although provincial inspectors may be able to lay charges for violations of provincial law, the RCMP must be brought in to assist in cases where criminal cruelty is suspected.

One area of concern is the level of funding provinces provide to those responsible for enforcing animal protection laws. The provincial funding available ultimately has an impact on the number of inspectors that are available to enforce the law. Some jurisdictions provide no funding at all to inspection agencies like the SPCA, and others provide only minimal funding, leaving the organizations to fundraise the remainder of the resources required to enforce the law.

Assigning more provincial animal welfare inspectors is desirable, as it generally means that inspectors are more effective in detecting and prosecuting animal cruelty.

In closing, we note that provinces, territories and the federal government are continually making incremental improvements to laws that protect animals. However, it is LAW's view that there remain a number of deficiencies, including the lack of a coordinated approach to provincial legislation.

We hope this letter will be helpful to you in your discussions at the upcoming meeting. Please do not hesitate to contact LAW should you wish to discuss any of this further. We would be happy to provide advice and information on animal protection laws in Canada.

Yours sincerely,

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