



The Mark Holland Update

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Mark Holland, Member of Parliament, Ajax-Pickering

MPs must hear concerns on animal cruelty

By Mark Holland
MP Ajax-Pickering

(This article was published in the Sept. 2007 Canadian Pets & Animals Magazine, which supports C-373).

In recent months, a number of high-profile animal abuse cases across the country has made many Canadians aware of how woefully inadequate and outdated Canada's laws against animal cruelty are.

In Windsor, a German Shepherd-Rottweiler named AK was found whimpering and bleeding after his ears were cut off to make him look more fierce. In Niagara Falls, a dog later named "Queen Waldorf" was found abandoned with two five-pound dumbbells tied to her neck. In Edmonton, at least a dozen cats have been found mutilated to death recently. When a Toronto Humane Society investigator saved the life of Cyrus, a Rottweiler left baking in a vehicle, and was suspended from his work for handcuffing the dog's owner, thousands came to his defence.

These well-publicized incidents have prompted thousands of Canadians to sign peti-



Mark Holland recently visited the Winnipeg Humane Society, where he is pictured with Executive Director Vicki Burns and an abused dog. Mark found the stories of abuse heartbreaking.

tions and write letters to Members of Parliament demanding reform of our animal cruelty laws, which have changed very little since 1892.

There are currently two private members' bills before Parliament to reform the Criminal

(Continued on page 2)

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(Continued from page 1)

Code sections on animal cruelty.

My Bill C-373 is a comprehensive bill that not only increases penalties, but also closes off the many loopholes that allow animal abusers to walk away scot-free. There's little sense increasing penalties if you can't convict people. In fact, currently only one quarter of 1 % of animal cruelty complaints actually result in conviction!

C-373 is identical to the former Bill C-50 introduced by the previous Liberal government. My bill has the support of such major animal welfare organizations as the Canadian Federation of Humane Societies (CFHS), the International Fund for Animal Welfare (IFAW) and the Canadian Veterinary Medical Association (CVMA).

My bill, however, has consistently been opposed by several hunting organizations that fear, incorrectly, that it will interfere with their activities. In particular, they object to part of C-373 that would make it an offence to kill an animal, or allow it to be killed, "brutally or viciously." Nothing in my bill would interfere with responsible hunters who use guns or bows in a lawful manner, so it's a mystery to me why these groups feel the need to kill animals "brutally or viciously."

The hunting groups and some animal industry groups are supporting a rival bill, S-213, introduced by Senator John Bryden, which is opposed by the major animal welfare organizations. The tougher penalties in S-213 are almost identical to my C-373, but in all other substantial respects, S-213 keeps in place the 1892 laws – leaving wide open the loopholes that allow animal abusers to walk free.

To give just one of many examples, the current laws and S-213 say it is an offence to "willfully neglect" an animal – something that is almost impossible to prove. My bill, instead defines "negligence" as "departing markedly from the standard of care that a reasonable person would use." Abusers can no longer get off by claiming

they didn't intend to neglect their animals.

Unfortunately, S-213 is much further through the legislative process than C-373. This is not because it is a better bill, but because the rules of Parliament favour private members' bills introduced in the unelected Senate. S-213 moved quickly through the Senate, and was then fast tracked into the House of Commons, while C-373 remains stuck in a long queue of bills introduced by MPs. As a result, S-213 was debated and passed at second reading in the House in late spring. Due to prorogation of Parliament, it will need to be passed again by the Senate and will receive a new bill number, but this may go quickly as the bill has already been debated. Once it returns to the House, it will resume where it left off, being reviewed by the House of Commons Justice Committee.

Making matters worse, the Conservative government is supporting S-213. Although many in the Bloc Québécois support my bill, they have unfortunately taken the position that they will support S-213 as an interim measure. The NDP supports my bill, and Liberals are divided between the two bills, with

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a number of rural Liberals siding with the hunting groups. This means, unless support changes, or unless there is an election, Bill S-213 has a good chance of being passed in the fall or next spring.

I don't accept the view S-213 is an interim measure, and the major animal welfare organizations reject this argument too. Senator Bryden introduced his bill only when many animal industries such as farming organizations were moving to support an earlier version of my bill. It was a diversionary tactic pure and simple, and it's a placebo bill that does virtually nothing to protect animals. If S-213 is passed though, I fear that Parliamentarians will put a checkmark beside the animal cruelty issue, and consider it dealt with.

Only if animal welfare advocates across the country make themselves loudly heard by MPs of all parties as the House returns this fall can we hope to see effective animal cruelty legislation in Canada.

Fears of anglers, hunters, animal industries are unfounded

The strongest opponents of effective animal cruelty legislation have been angling and hunting groups, who have raised fears that Bill C-373 would affect their activities. In the past, these groups have sought exemptions from animal cruelty legislation, and currently they support the ineffective placebo Bill S-213.

But are hunting and fishing really jeopardized by C-373? Supporters of the bill say that responsible anglers and hunters have nothing to fear.

There are two sections of C-373 that most concern these groups:

Subsection 182.2 (1) (c) says it is an offence to “willfully or recklessly...[kill] an animal without a lawful excuse.”

Clearly this section doesn't apply to hunters and anglers because hunting and fishing are recognized in common law and statute law as lawful excuses. The same applies to killing animals for meat, euthanasia, pest control, self defence and a number of other legal reasons. Rather, this section is aimed at those who may kill an animal “for the hell of it” or to get revenge on the animal's owner, or some other reason not protected by law. Hunters and anglers have nothing to worry about, as long as they practice their activities responsibly.

The other subsection that most concerns angling and hunting groups is 182.2 (1) (b), which

makes it an offence to “willfully or recklessly... [kill] an animal, or being the owner [permit] an animal to be killed brutally or viciously, regardless of whether the animal dies immediately.”

The reason for this is that it closes a legal loophole that has allowed animal abusers to escape the law. In the past, some abusers have killed animals in the most repugnant ways, but have argued that they should not be convicted as the animal died immediately and didn't suffer. The wording of this section is intended to deal with those situations, but it is clearly aimed at those who kill animals maliciously – not responsible hunters.

Other animal industries also support the diversionary Bill S-213, but these groups such as farmers, ranchers, the fur industry, and medical researchers did support a bill almost identical to C-373 as recently at November 2004 when they wrote to former Justice Minister Irwin Cotler and urged him to pass it.

While many animal lovers object to the activities of those industries, it is important to understand that C-373 is an amendment to the Criminal Code of Canada aimed at those who maliciously or recklessly abuse animals. Its purpose is not to regulate lawful industries – something more appropriately done by provincial legislation.

Here's how you can help to pass an effective law

The most effective thing you can do to help pass effective animal cruelty legislation is to inform yourself about the issue and the different bills and then share your views with your Member of Parliament. Tell him or her you care about animal cruelty and want to see an effective bill passed.

Remember that MPs receive hundreds and hundreds of e-mails a day on many issues. A personal phone call to your MP or a carefully written letter with your address to indicate you are a constituent is more effective than a mass e-mail or a petition, but everything helps.

Writing letters to newspapers, or discussing the issue with friends are also ways to raise awareness. Join a group in the community, or

perhaps a forum on Facebook where you can meet others who share your concern for animal welfare.

Write to Justice Minister Rob Nicholson and tell him that you are not satisfied with the Conservatives' support for Bill S-213. Tell him you would like to see the government introduce an effective bill based on C-373.

Write to Senators and urge them not to pass S-213 in its present form when it is reintroduced under a new number in the new session of Parliament. Tell them you want a stronger bill.

Links to address lists for MPs, Senators, and ministers, as well as more information on this issue can be found on the internet at:

<http://www.fortheanimals.ca>

Animal Cruelty: Bill S-213 versus Bill C-373

- Both bills increase penalties to a jail term up to five years and unlimited fines for indictable offenses, and up to 18 months jail and/or a fine up to \$10,000 for summary convictions. Both also allow the court to make an order prohibiting an offender from keeping an animal and may require payment of restitution. This is the only common ground between the two bills.
- Bill S-213 leaves in place the dysfunctional term “willful neglect” requiring the court to prove motive for neglecting animals. For example, a farmer who starved his sheep despite repeated warnings was found not guilty because the court couldn’t prove he intended to starve them. Bill C-373 instead uses the term “negligent” which is defined as “departing markedly from the standard of care that a reasonable person would use.”
- Bill S-213 leaves in place wording that allows stray and wild animals to be killed for any reason, or even for no reason. Bill C-373 makes it an offence to kill an animal “without a lawful excuse.” Under common law and statute law, lawful excuses include hunting, fishing, farming, euthanasia, research, pest control, and protection of life and property.
- Bill S-213 leaves in place wording that allows people to kill animals brutally and viciously if the animal dies immediately. For example, someone who ties an animal to a train track can get off by arguing that the animal died quickly and didn’t suffer. Bill C-373 makes it an offence to kill an animal with brutal and or vicious intent, whether or not the animal dies immediately.
- Bill S-213 leaves in place different protections for various animals in an illogical way. For example, cattle are in a class of their own, and wild animals and strays are unprotected for some offences. Bill C-373 protects all vertebrates, owned or unowned. It also adds special protection for law enforcement animals, “Brigadier’s Law,” something that S-213 also fails to do.
- Bill S-213 fails to define “animal.” Bill C-373 defines an animal as a “vertebrate other than a human being.”
- Bill S-213 leaves animal cruelty in the section of the criminal code dealing with protection of property. C-373 puts animals in a new section, reflecting the modern view that animals should be protected because they are feeling, sentient beings. This change, however, continues to recognize that many animals, both livestock and pets, are property.
- Bill S-213 does nothing to address training animals to fight other animals or betting on such fights. C-373 prohibits these practices.

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