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Chair

Mr. Anthony Housefather

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• (0850)

[English]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good morning, everyone. Welcome to the Standing Committee on Justice and Human Rights as we resume our study on Bill C-84, an act to amend the Criminal Code (bestiality and animal fighting).

It is a great pleasure to be joined by three very distinguished witnesses today.

First I would like to check. Professor Crook, can you hear me?

Dr. Alice Crook (Adjunct Professor, Health Management, Atlantic Veterinary College, Canadian Veterinary Medical Association): Yes, I can.

The Chair: Perfect.

We're joined by the Canadian Veterinary Medical Association, by Alice Crook, who is an adjunct professor of Health Management at Atlantic Veterinary College. She's appearing by teleconference.

Welcome.

Dr. Alice Crook: Thank you.

The Chair: Then we have Ms. Barbara Cartwright, who is the chief executive officer of Humane Canada.

Welcome.

Ms. Barbara Cartwright (Chief Executive Officer, Humane Canada): Thank you.

The Chair: Then we have Ms. Camille Labchuk, who is the executive director of Animal Justice.

Welcome.

Ms. Camille Labchuk (Executive Director, Animal Justice): Thank you.

The Chair: We normally start with the person by video conference, because we don't want to lose them.

Professor Crook, you have 10 minutes. The floor is yours.

Dr. Alice Crook: Good morning, Mr. Chairman and committee members. I am very pleased to have the opportunity to address the committee.

I'm a member of the Canadian Veterinary Medical Association, which I will call the CVMA, and I'm currently adjunct professor in the department of health management at the Atlantic Veterinary College, where I teach about animal welfare. I'm a past chair of the

CVMA Animal Welfare Committee. I was honoured last year to receive an international animal welfare award from the World Veterinary Association in recognition of my work toward the humane treatment of animals.

Besides animal welfare in general, my particular areas of interest are animal abuse and effective veterinary response, pain management, welfare-friendly veterinary practice and enactment of effective animal welfare legislation. Besides teaching, I've given numerous presentations and written articles on these topics. I was one of two lead authors during the creation of the CVMA website on addressing animal abuse.

The CVMA provides a national and international forum for over 7,200 veterinarians working in all of Canada's provinces and territories as private practitioners, researchers, educators and public servants. In addition, the association counts 7,300 veterinary technicians and technologists as affiliate members. Veterinary practitioners provide services to owners of pets, livestock and other animals. Animal welfare is a priority for the CVMA and its members.

Veterinarians provide unique expertise on the health and welfare of all types of animals, in addition to specific expertise in animal health and disease, and knowledge and understanding of the biology of domesticated and wild animals. Veterinary practitioners provide services and understand the care and management of animals and have practical experience in recognizing signs of suffering in animals.

With respect to animal cruelty and neglect, veterinary practitioners are commonly the first professionals to examine a vulnerable and abused animal, including in cases of sexual abuse and animal fighting. An affected animal may be brought into the veterinary practice by the owner or a family member, or a veterinarian may be asked to assist animal protection officers with an inspection, or a veterinarian may work directly with animal welfare organizations to provide medical care and document evidence after animals have been seized.

The CVMA is a participant in the Violence Link Coalition, which the minister referred to in the committee hearing last week, and is keenly aware of the very well-documented link between abuse of animals and other family members, including child, spousal and elder abuse. To protect the animal victim, and because violence may be a sentinel for other violence that is occurring, it's crucial that veterinarians deal effectively with instances of suspected animal maltreatment.

Through the website that I referred to, the CVMA provides numerous resources to veterinarians on the subject of animal abuse, including sexual abuse and animal fighting. We also have presentations at our annual conference and lots of resources like that. If you wanted to look at that website, it's easy to find: It's just CVMA animal abuse, and it will take you to that.

The CVMA has actively lobbied for a number of years for amendments to the Criminal Code aimed at strengthening the law with respect to animal cruelty. In this regard, CVMA is very pleased to support Bill C-84, which provides an unambiguous definition for bestiality and a much more comprehensive treatment of animal fighting.

The CVMA, along with other interested stakeholders from the agricultural and animal welfare communities, noted in a letter to the Minister of Justice in late 2017 that gaps currently exist in the law with respect to bestiality and animal fighting. I know you have seen that letter.

With respect to bestiality, the CVMA believes that Bill C-84 will close a gap that currently exists that effectively legalizes sexual abuse of animals that falls short of penetration. As proposed in Bill C-84, bestiality means any contact for a sexual purpose with an animal. Bestiality, also called animal sexual abuse, can involve a distressingly wide range of animals and result in a wide range of suffering and injury, including death.

It may or may not include other physical violence, and there may or may not be visible injuries. Signs that may be seen in animals that have been sexually assaulted include traumatic injury to the anus, rectum, vulva or vaginal area; recurring vaginal or urinary tract infections; foreign objects within the genital/urinary tract; and internal injuries. It's certainly worth knowing that these are the very same types of injuries that are seen in children who are subject to sexual abuse.

Bill C-84 recognizes that harmful sexual behaviour is an affront to animal welfare in Canada. In CVMA's view, the bill will help support what is referred to as one welfare, that is, benefiting animals as well as addressing the sexual exploitation of other vulnerable members of society, including children.

With regard to animal fighting, CVMA recognizes that the current legislation does not include as an offence maintaining a facility for animals other than cocks, nor does it recognize as an offence the training of animals to fight. The CVMA is pleased that Bill C-84 updates the Criminal Code provisions to deal with these gaps, so as to include all species of animals, and to add the offences of training animals for fighting and profiting from such activities.

For the purpose of this presentation, I will focus on the realities of cockfighting and dogfighting, as these are the species most commonly affected in Canada.

I'm going to talk about sentience for a minute. Animal welfare science has contributed greatly to our understanding of the pain and suffering, both emotional and physical, that animals experience during acts of cruelty. There's abundant scientific support for the existence of emotions in animals, also called sentience, accompanied by the identification and understanding of the brain processes that underlie such emotional experiences. This evidence-based under-

standing is now being applied in cases of animal cruelty. I'd be more than happy to provide references on this or to answer questions about this.

I'm going to focus now on the suffering involved in dogfighting and cockfighting, where aggressive animals are pitted against each other or against bait animals in a confined space. The fight ends when one animal dies or is cowed or is seriously injured. In dogs, the behaviour of the aggressor includes chasing, biting, wrestling and lunging until one dog is incapable of continuing or is withdrawn. Behaviours of the animal victim, which might be the losing dog or a bait animal, include distress calls, attempts to retreat or escape, defensive behaviour, appeasement gestures, cowering and trembling.

Typical injuries in dog fighting include multiple bites on the face and legs, bite injuries to the belly and groin, or so-called ringing or degloving injuries on the leg when a dog firmly seizes the leg of an opponent who is trying to pull away.

Also typical in fighting dogs are multiple injuries in different stages of healing. These types of injuries are not typical of fighting that may occur between normal dogs. I'd be glad to elaborate on that, if the committee wishes.

I want to speak about the emotional experience of the animals involved, both the aggressor and the victim. They will likely experience anger, fear, panic, helplessness, extreme pain from serious bite and ripping injuries, and lasting pain and discomfort from disabilities, such as nerve, muscle, tendon or bone damage.

You may wonder what a bait dog is, as I've referred to. These are smaller dogs that are used in training dogs for fighting. Cats, rabbits and kittens are also used as bait animals. Clearly, such bait animals suffer extreme injury and fear and panic from which they are unable to escape. Survivors may experience anxiety and fear in circumstances similar to those in which the cruel act took place, such as in the presence of other dogs.

In conclusion, the CVMA is pleased to see notable progress in improving the welfare of animals in the form of amendments to the Criminal Code through Bill C-84. CVMA is actively involved in organizations such as the National Farm Animal Care Council and the National Companion Animal Coalition, as well as with partners such as Humane Canada, allowing us to collaborate with other stakeholders, including industry, to work to ensure that Canada has high standards with respect to the humane treatment of animals.

We are ready to assist the Government of Canada in any way to further enhance legislation to protect animals from cruelty and abuse, and in this way help to build a more humane and compassionate Canada.

● (0855)

The Chair: Thank you so much, Professor Crook.

I will go back to the order of the agenda right now, and we'll go to Ms. Labchuk.

Ms. Camille Labchuk: Good morning. Thank you.

I am an animal protection lawyer and the executive director of Animal Justice. We work to ensure that animals have a voice in Canada's legal and political systems. We work with legislators and citizens to improve laws protecting animals and we push for the vigorous enforcement of laws that are already on the books.

We also go to court to fight for animals when necessary and it was in this context that we first started working on the issue of bestiality. Animal Justice intervened in the Supreme Court case of D.L.W., which has brought us all here today. We were the only intervenor. We tried to convince the court to interpret the bestiality offence to include all sexual contact with animals. Unfortunately, we weren't successful.

After the D.L.W. decision came out, we heard from countless Canadians, as I'm sure this committee has as well. Most were shocked and had a really difficult time understanding how it could be that something so appalling as the sexual abuse of animals could be considered legal in Canada.

My own response was that, unfortunately, it was no surprise at all, because federal animal cruelty laws in this country haven't been updated since the 1950s. The D.L.W. case was perhaps the most headline-grabbing manifestation of how problematic our cruelty laws are, but there are countless other ways and other examples I could point to that show how our outdated and poorly crafted laws let down animals.

We've fallen very far behind other western nations and very far behind our own values as Canadians as well. People in this country do care deeply about animal protection, and I think that sentiment only grows as we learn more and more about the cognitive and social capacities of animals and more and more about how they suffer at human hands.

I was pleased to hear the Minister of Justice say at the last committee meeting that Bill C-84 is only a first step towards overhauling our cruelty laws, because clearly, more must be done. When Mr. Erskine-Smith's Bill C-246 was defeated, the government committed to a comprehensive review of the animal cruelty provisions in the Criminal Code. That was more than two years ago, and we're still waiting for news on that review. The public, and I believe most importantly the animals that are victims of cruelty, are deserving of a timeline and clarity on next steps.

To move on to the bill, Animal Justice supports what Bill C-84 does. I won't spend too much time explaining why we do, but I will propose two very straightforward amendments to make Bill C-84 even more effective at protecting individual animals. Rather than just penalizing offenders, we want to ensure that this bill provides tools for law enforcement and judges to protect animals from further harm.

To start with the bestiality provisions, there's no disagreement in this room that bestiality is abhorrent and heartbreaking. We've advocated against it since the D.L.W. case. We assisted Mr. Erskine-Smith with his Bill C-246, which would have closed the bestiality loophole, and with Ms. Rempel in her Bill C-388, which would have done the same thing.

Bill C-84 does close the loophole by ensuring that the term "bestiality" encompasses all sexual contact with animals. That's a very good thing, but it misses one other glaring loophole. That's the

fact that right now there's no sentencing tool for judges to ban a person convicted of bestiality from owning, having custody of, or residing in the same location as animals in the future. Judges can already impose this type of ban, which is known as a prohibition order, in the case of somebody who's been convicted of an animal cruelty offence. We think it's very important that judges have this option as a sentencing tool for bestiality offenders as well.

I assume that the reason it wasn't already proposed by the government is simply due to the historical location of the bestiality offence in the Criminal Code. The general animal cruelty offences, apart from bestiality, are in sections 445 through 447, but bestiality is in section 160 of the code, housed with other sexual offences. This is because bestiality historically has been more about punishing deviant sexual behaviour than about punishing or enjoining conduct that's harmful to animals. Prohibition orders—bans on keeping animals—just were never contemplated for sexual offences, so it makes sense that the bestiality offence hasn't had an accompanying tool such as this.

Clearly, however, we're here today because the bestiality offence has evolved and is evolving. Today our rationale for criminalizing it is not just to protect humans but also to ensure the protection of vulnerable animals who cannot consent to sexual conduct. This vulnerability justifies protecting animals from those convicted of bestiality offences as well.

● (0900)

I'm proposing that this can be done by adding the bestiality offence to the sentencing provisions in subsection 447.1(1) of the existing Criminal Code. This would let a judge impose a prohibition order for all of the animal cruelty offences and also the bestiality offence. I will provide the committee with my proposed amendments after this meeting so you can take a look at them.

Many prosecutors will tell you that one of their top priorities in sentencing is not just how much jail time they get for an offender or how much of a fine they can get, but actually getting that prohibition order, so they can keep animals away from individuals convicted of abusing them. I don't think I need to elaborate on why it's a monumentally bad idea to give people convicted of bestiality free and legal access to more animals.

Many other jurisdictions have already empowered judges to use prohibition orders this way in cases of bestiality. This includes our neighbours south of the border: the states of Alaska, Illinois, Maine, Missouri, Nevada, Tennessee, Texas and Washington.

I will now move to the animal-fighting provisions. Forcing animals to fight, injure and kill one another for the trifling sake of human entertainment also, obviously, deserves our consideration. I was pleased to review the government's charter statement on this piece of legislation. It recognizes that in the proposed animal-fighting section, section 2(b) of the charter, freedom of expression, may be implicated, to the extent that the bill restrains communication between individuals about issues. The government points out that violent expression, such as promoting animal fighting, does not promote the values underlying section 2(b) of the charter, and so wouldn't be implicated here. We see this as a very important recognition that our laws do value animals and preventing violence against them.

I take no issue with the provisions in the bill, but I do propose considering a further amendment to repeal subsection 447(3) of the Criminal Code. That's the mandatory provision that imposes an automatic death sentence on any birds seized from cockfighting rings. This issue was raised at the committee's last meeting.

There is a clear intent in the Criminal Code to outlaw all types of animal fighting. Paragraph 445.1(1)(b) is the main existing animal-fighting offence, and it prohibits all fighting of animals or birds. The code doesn't distinguish between different types. It doesn't matter what species of animal is used.

The amendment in this bill to subsection 447(1) transforms the offence of keeping a cockpit to one of keeping an arena used for any type of animal fighting, so there is a clear intention to bring all animals in equally. Yet subsection 447(3) requires only the killing of birds seized from animal-fighting rings, not for dogs or other species. In our view, this is completely needless, and it ties the hands of authorities when there may be a better option for the birds.

We think the fate of any bird seized should be decided on a case-by-case basis. This is already done for dogs and other animals rescued from fighting rings. There is no principled reason that roosters or birds forced to fight should be automatically killed. It may be appropriate to rehabilitate them. It may be appropriate to send them to a sanctuary, where they can receive lifelong care and still enjoy a high quality of life.

Repealing the provision wouldn't interfere with the ability of authorities to humanely euthanize birds when that situation is deemed to be appropriate. This is already done with dogs, if the need should arise. Provincial legislation generally empowers enforcement agents to do this, with the assistance of a veterinarian who can make the assessment about the bird's well-being.

I'm concerned that there's a real danger the public might lose confidence in the administration of justice, should they see a situation where an automatic death sentence is imposed on the animals for a seemingly senseless reason.

One recent high-profile dogfighting case in Ontario proves this point. I know Mr. MacKenzie will be familiar with it, as it occurred close to his riding.

There was a bust of a dogfighting ring in Chatham, Ontario, in 2015. I will skip through some of the details, but the Crown and the OSPCA sought an automatic death sentence for most of the dogs implicated in the case. The public was outraged by this. I attended

those court proceedings. We had some involvement in the case. There were protests outside the courtroom every time there was an appearance. People were shocked that the dogs could be automatically killed without an individualized and appropriate assessment.

In the end, there was a reasonable solution reached. There were new assessments done on these dogs and most of them were sent to a rehabilitation facility in Florida, where most of them are doing pretty well.

The laws in this case are different, but I use this to illustrate the point that there's no public appetite for the mandatory killing of animals, without considering that they are each individuals and that they have individual circumstances and individual needs.

● (0905)

We already treat offenders as individuals in sentencing. That's a well-established principle in criminal law, so I would say it's only fair to treat animals who are victims as individuals too and treat them with compassion, because their lives do matter.

Here's a quick note on how many birds may have been killed under subsection 447(3). There are no national statistics on animal cruelty prosecutions, so it's difficult to know for sure, but here are a few numbers. A 2008 bust in Surrey, B.C., resulted in 1,270 birds being seized and killed, a 2009 bust in York Region resulted in 74 birds being seized and killed, and a 2016 bust near Cornwall resulted in 38 roosters being seized and killed. We're talking about a significant number of lives.

That's it for my submission. I'll be happy to respond in the question period.

● (0910)

The Chair: Thank you very much.

Ms. Cartwright.

Ms. Barbara Cartwright: Good morning, everyone. I am appearing before you today to express support for Bill C-84 on behalf of humane societies and SPCAs across the country and their millions of public supporters.

Although our name is now Humane Canada, you may know us better as the Canadian Federation of Humane Societies. We were founded in 1957, in part, out of this very institution. One of our three founders was a senator, Senator Frederic A. McGrand from New Brunswick. He was a visionary whose keen interest in animal protection and child protection led him to identify early on the direct links between animal violence and human violence and to take action to protect animals and to create a safer society.

In April 2018, we changed our name to Humane Canada. We are the only national organization that represents humane societies and SPCAs, the very humane societies and SPCAs in all of your ridings, upon which Canadians depend not only to care for the abused and abandoned animals in our communities but also to enforce the law, to advocate for greater care and protection of animals, and to provide resources, research and humane education. These local and provincial organizations have served the Canadian public for 150 years, making them one of the oldest and most trusted social institutions in our country today.

We represent 56 diverse members from all 10 provinces and two of the territories, from the largest urban centres to the smallest coastal communities. We are proud to represent the largest SPCA on the continent, which is BC SPCA, who you will hear from on Thursday, and some of the smallest, like Happy Valley-Goose Bay SPCA and the NWT SPCA.

More than 40% of humane societies have a role in the enforcement of our law, so they are community safety officers. They investigate more than 100,000 complaints a year, so Humane Canada has worked for many years to update the Criminal Code of Canada.

As well, it is often your local humane society or SPCA that takes in the victims of these crimes, the animals, to rehabilitate them and find them new homes where they can rest assured of not being victimized any further. Enacting Bill C-84 is a key step in reducing the victimization of animals and vulnerable people in Canada. Strengthening bestiality and animal fighting sections of the Criminal Code deals with two egregious crimes that are also closely linked to human violence and that compromise our community safety.

That said, Bill C-84 is also modest in that it is only addressing issues in the existing offences that have fallen out of step with current society. I will not focus on the suffering that occurs in violent crimes against animals, because it is already well recognized in Parliament that these two offences are crimes and have been part of the Criminal Code for more than 100 years. Rather, I will focus on how these offences have fallen out of step with society's current understanding of the scope of the crime.

I will start with the crime of bestiality. As you have already heard, due to the recent Supreme Court decision in *R. v. D.L.W.*, a legislative gap has opened up, effectively legalizing sexual abuse of animals that falls short of penetration.

Historically, sexual acts with animals was referred to in the Criminal Code as buggery with an animal. In 1955, Canada's criminal laws were amended to introduce the word "bestiality" into the English version of the code, specifying that sex with animals was a vice that was to be criminally sanctioned. The term, though, was not explicitly defined anywhere in the text.

Further revisions were made to the Criminal Code in 1988, outlawing the forcing of children to commit or watch bestiality, as measures of child protection. What did not change, though, with those amendments was the continuing absence of an explicit definition of bestiality in the Criminal Code.

Meanwhile, our social norms as to the acceptance and morality of animal abuse and sexual exploitation have changed over time, to the

point where any touching of an animal for a sexual purpose is clearly recognized as deviant behaviour.

I don't know if you've talked to any of your constituents, but no one wants to even talk about this issue at all. It's that much of a taboo in our society. For example, the Combating Paedophile Information Networks in Europe project, also known as COPINE, has a tool that they use to identify the severity of child pornography on the child. It categorizes bestiality along with sadism as the most severe offence in the rating system of the severity of images of child abuse and the impact on the victim.

Bestiality on this scale is defined as "pictures where an animal is involved in some form of sexual behaviour with a child". It does not limit the act to penetration nor does it limit the impact of the act based on a lack of penetration. Sexual acts with animals shares this highest category of severity with sadism, which in this system is defined as "pictures showing a child being tied, bound, beaten, whipped or otherwise subject to something that implies pain".

It is also clear now that animals are victims of domestic and interpersonal violence, often used as tools to coerce and control children and intimate partners in abusive relationships.

● (0915)

In December 2018, the Canadian Centre for Child Protection released a report on the direct links between animal sexual assault and child sexual assault. In the 38 cases with reported decisions involving animal sexual assault and child sexual assault, the courts did not adhere to the strict legal definition of bestiality as the term was sometimes applied both to penetrative and non-penetrative sexual acts. In fact, oral sexual acts and manual stimulation of the animal were more common forms of abuse than penetrative acts.

At the same time, society's understanding of animal behaviour, emotion and psychology have evolved. We now know there are physical and psychological aspects of neglect and abuse, particularly sexual abuse. We understand the scope and implications of consent with regard to sexual acts more today than ever before. Simply put, there can be no consent given on behalf of the animal, and the victim cannot report the crime or testify on its behalf.

With these developments, Canadian society is no longer served by using the historic common-law definition of bestiality as buggery with an animal. The definition of bestiality must be broadened to include any act for a sexual purpose.

Sadly, while it may not be evident to everyone, cases of sexual assault of animals are far too frequent, and humane societies and SPCAs struggle with the limited scope of the current definition. Fixing this loophole has been delayed for too long. As Justice R. Abella observed in her dissent in *R. v. D.L.W.*, “since penetration is physically impossible with most animals and for half the population, requiring it as an element of the offence eliminates from censure most sexually exploitative conduct with animals.” However, since the majority of the court found that this was Parliament’s historic intent, an act of Parliament moving beyond the common-law definition of bestiality to include all sexually exploitive conduct with an animal is required to fix this gap. We support the simple amendment before you to fix this egregious problem.

The status quo risks normalizing deviant sexual behaviour, decreasing animal welfare in Canada and ultimately increasing the sexual exploitation of vulnerable members of our society, not only animals, but children as well.

Bill C-84 also addresses the historic flaws in the Criminal Code’s animal-fighting provisions, which are woefully out of step with current society and inconsistent with the crime of animal fighting as it happens today. Historically, bear-baiting and bull-baiting were both popular blood sports in Canada that were made illegal through the Criminal Code. As these fell out of favour, we saw the rise of cockfighting and dogfighting. Dogfighting is now the predominant form of animal fighting in Canada. However, our laws have not been updated to reflect the evolution of this crime. The limitations and inconsistencies in the current animal fighting provisions are as follows:

First, encouraging, aiding and assisting at the fighting or baiting of animals is already an offence under the Criminal Code. However, the use of the term “at the fighting or baiting of animals” risks our only being able to prosecute those actually caught in the act or at an animal fight. It narrows the offence to just one brief moment in the whole crime. It neglects the training, transporting and breeding of animals, which often are even more cruel than the actual fight itself.

Second, as with other crimes, animal fighting is moving online, and our current laws are not equipped to deal with it. For example, it is no longer necessary to be at an animal fight to be part of the wagering that happens around it. The entire fight may be broadcast online. Worse still is a new form of fighting called trunking. Animals are placed in the trunk of a car to fight to the death while somebody drives them around the streets and stops every once in a while to check in on the animals and report out to all the people betting on the fight. Bill C-84 expands the scope by stating “(b) in any manner encourages, aids...arranges, assists at, receives money for or takes part in” an animal fight.

Finally, maintaining a facility for cockfighting is an offence, but maintaining a facility for all other animals is not an offence. It is an inconsistent approach to an activity that has more than one target species.

Dogfighting is also linked to a range of other crimes. The links to gangs and illegal gambling stand out in this regard. According to a report by the ASPCA in the United States, virtually all dogfight raids involve the seizure of illegal drugs and about two-thirds result in the seizure of illegal weapons. Such raids often result in the arrest of

offenders who already have outstanding warrants. The same associations with gangs and criminal organizations exist in Canada, but are often underestimated and under-reported.

The Ontario Veterinary Medical Association recently reported that after the 2014 creation of a major case unit, the Ontario SPCA reported three investigations in less than a year which resulted in 11 search warrants executed in different regions of the province and the seizure of 64 fighting dogs, documents, photos, veterinary supplies, electronic equipment and hundreds of items related to training animals to fight.

● (0920)

Since these activities are linked to criminal undertakings and often linked to organized crime as well, it would be logical public policy to eliminate all animal fighting, and the breeding and the training that support it.

In conclusion, we appreciate the minister’s commitment before this committee to ensure all protections are extended to the most vulnerable in Canada. Bill C-84 is an important step forward in the pursuit of this commitment. It provides greater protection to the most vulnerable in our society: animals and children.

On behalf of the community organizations, the humane societies and SPCAs that enforce these laws in many of your ridings, I urge you to support the swift passage of Bill C-84.

Thank you.

The Chair: Thank you so much to all the witnesses for testifying about an issue that, as you mentioned, is sometimes taboo and difficult to discuss, and we need to discuss it.

We’ll now move to a round of questions.

We’ll start with Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Mr. Chair. Thank you to the witnesses.

Let me begin with Ms. Labchuk.

First of all, I think that your proposed amendment with respect to prohibiting an individual convicted of a bestiality offence from owning, having custody or control, or residing in the premises of an animal makes eminent sense. Certainly, in looking at proposed subsection 447(1), it would seem to be the subsection that would be most appropriate for that amendment to be made. I’d be very interested in seeing the text of your proposed amendment. I just wanted to convey that and to thank you for bringing it to our attention.

I want to ask you something with respect to your second proposed amendment, which is to eliminate subsection 447(3), which provides that, in the cases of cocks, they shall be seized and destroyed. Would it potentially make sense, instead of eliminating that subsection, to see that it be amended so that the last part of it, that the cocks shall be destroyed, be removed from the subsection? The proposed subsection does provide authority for a peace officer to seize and take them in.

I was wondering what your thoughts are of potentially such an amendment.

Ms. Camille Labchuk: I would certainly have fewer concerns with the existence of subsection 447(3) at all if that last part requiring their destruction were removed.

I think the problem here is not that they're being seized, which I think is something that everybody supports, removing them from that situation. The problem is just the automatic death sentence.

I think that law enforcement agencies rely on a variety of provisions in the Criminal Code to justify seizing animals. It can be done pursuant to provincial legislation as well. There would still be existing tools that they could avail themselves of, even if that subsection were removed.

I think it would be fine to leave it in if the last part, destroying the animals, were removed, but if the subsection were deleted in its entirety, it wouldn't significantly affect law enforcement activities in any way. They would still have that ability to seize animals.

Mr. Michael Cooper: I presume that if an amendment were put forward to delete the latter part of subsection 447(3), you would support a further amendment to expand the applicability of the subsection to animals other than just cocks.

Ms. Camille Labchuk: Right, to include dogs or other animals.

Mr. Michael Cooper: Yes, to include dogs, etc.

Would you have any proposed language or proposed amendment that would encompass or satisfy that, having regard for the fact that when we're talking about animal fighting, quite often there are other animals, particularly dogs.

Ms. Camille Labchuk: Where you're going with this makes a lot of logical sense. The distinction in this subsection of the Criminal Code between birds and other animals doesn't seem to cohere with the rest of what this committee, and this legislation, and what the Criminal Code itself say in distinguishing between them. I think that would have some degree of logic to it. I'd be happy to send something to the committee, after this meeting, with some proposed language.

Mr. Michael Cooper: Thank you.

Ms. Cartwright or Professor Crook, do you have any comments with respect to subsection 447(3)?

Ms. Barbara Cartwright: We agree that it is unnecessary and inhumane to destroy animals on an order of law as opposed to individually assessing each animal, determining what kinds of welfare issues they have, and looking at humane euthanasia, if that's required, based on their injuries and based on the recommendation of a veterinarian.

We would support striking down the second half, where the court is directed to actually destroy them, and support broadening that subsection to include all animals.

My only concern is our horizon is short in Parliament, and we would like to get this bill through to royal assent before Parliament rises. This issue has been on the books for a long time. There are other ways, as Camille pointed out, that animals can be seized. For example, under the provincial legislation, even if you're charging under the Criminal Code, you can also seize under the provincial legislation. We're not risking leaving animals in situations like that if we can seize them under the provincial legislation.

● (0925)

Mr. Michael Cooper: Professor Crook.

Dr. Alice Crook: It's really important that animals that have been seized, whether they be dogs or cocks, have a thorough behaviour evaluation to decide what is in their best interests and also for the safety of other animals and people. That may be a veterinary behaviourist or someone else who specializes in animal behaviour.

Mr. Michael Cooper: Thank you very much.

The Chair: Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much.

Thank you to all three of you and your organizations for your advocacy, without which I don't think we would be here today talking about this piece of legislation.

I want to follow up on Mr. Cooper's questions, but turn instead to this question of a prohibition order associated with bestiality. Obviously, you're supportive, Ms. Labchuk, because you proposed it, but Ms. Cartwright and Ms. Crook, do you have views on this proposed amendment?

Ms. Barbara Cartwright: Yes, we are obviously supportive of an amendment that would prohibit anyone convicted of sexual assault of an animal no longer being able to be in contact with animals. As long as the offence stays in the sexual offences and the prohibition is put into 447(1) around the prohibition order, that's fine. We do advocate strongly that this particular offence remain in section 160 and isn't moved to the animal cruelty section, because it is a sexual offence and it should be recognized as a sexual offence.

Mr. Nathaniel Erskine-Smith: Ms. Crook.

Dr. Alice Crook: I would totally agree with that. CVMA would support that, yes.

Mr. Nathaniel Erskine-Smith: I note there is obviously strong support around this table for Bill C-84, and at different times it's been called very important and at different times modest. In keeping with Ms. Crook's very appropriate commitment to build a more humane and compassionate Canada, if you were to put yourself in the shoes of Justice Minister David Lametti, is there something missing in this piece of legislation that you would want to see, apart from the tweaks you've proposed, Ms. Labchuk?

Ms. Camille Labchuk: There have been consultations and reports and draft legislation tabled and introduced and debated, including before this committee and in the Senate, repeatedly over the last 20 years. If you look at the history of those various pieces of animal cruelty legislation, what you see are provisions addressing neglect loopholes in the Criminal Code right now. The mental standard for neglecting an animal that the prosecutor has to prove to get a conviction is that an animal must be willfully neglected, so two terms that are the essential polar opposites of each other: willful and neglect.

The neglect problems with the Criminal Code have resulted in many situations where individuals should have been prosecuted criminally, but were prosecuted under weaker provincial animal protection legislation to avoid concerns over judges acquitting people inappropriately.

Overall, there is a lot more that the Criminal Code should offer to animals, and a lot more that the public should expect from the Criminal Code. It is important, and I agree with you, Mr. Erskine-Smith, that we address animal fighting and bestiality, but completely overhauling this section and taking it out of the, frankly, 1950s, when it was last amended, is appropriate to do in 2019.

Mr. Nathaniel Erskine-Smith: Ms. Cartwright.

Ms. Barbara Cartwright: We are very supportive of the bill as it stands. While they are modest changes, the reason I focused on the word “modest” is it is something that all the stakeholders can easily get behind. Unfortunately, that is where many of the bills over the last 20 years have died. It's because the stakeholders couldn't agree.

Before you now is a modest update to those sections. We have broad support not just from humane societies, SPCAs, but from animal welfare, veterinarians, from all of the agricultural communities. It meets the needs of all of those stakeholders. That's really important to focus on in this case.

That said, we fully support and have sent letters to the justice minister many times over the last few years, supporting the concept of a bigger and broader engagement on how we actually make the entire Criminal Code effective for the protection of animals. We do tend to zero in on the animal cruelty section, but there are other things that can also be done, so it needs a comprehensive overhaul. We are pleased to see that the minister committed to continuing that work and we'll continue to advocate for that.

• (0930)

Mr. Nathaniel Erskine-Smith: Ms. Crook.

Dr. Alice Crook: CVMA has long supported changes to the Criminal Code regarding the abuse and neglect of animals. We also see this bill as a good start, addressing two particularly egregious sections. We most recently supported Bill C-246 and the provisions there. We see that as a longer-term goal and it's really important to get the provisions in Bill C-84 passed.

Mr. Nathaniel Erskine-Smith: My last question picks up on this idea of a bigger conversation and Bill C-84 as a first step. I want to actually note that this is a non-partisan issue, because I've had conversations with Michelle Rempel, with Len Webber, with Murray Rankin, members of all parties who care about ending animal cruelty. They want to have conversations around a table to say, “Let's make this a non-partisan issue. Let's bring stakeholders from all sides in and let's hammer out some consensus to move forward in a more significant way.”

You can maybe get a glimpse of what that could look like around this table, where we're focused on these two specific concrete provisions. But we're not able to talk about how we can better protect animals beyond the confines of these two specific provisions, as far as it goes, and so we get a piecemeal approach. We get Bill S-214 on cosmetic testing. We get Bill S-238 on shark finning. We get Bill S-203 on cetaceans in captivity. We get Bill C-84, which focuses on two specific provisions in the Criminal Code.

I guess the fundamental question I have is in terms of thinking of a way forward. Do you think it would be useful to strike a special all-party parliamentary committee to look at animal protections more broadly, to make recommendations to the government so we can see a piece of government legislation that implements much broader reform, where consensus has been forged across party lines and across a broader set of stakeholders?

I'll go around the table as well. Ms. Labchuk.

Ms. Camille Labchuk: We would absolutely support that type of approach. I think that having some body to examine these issues from a bird's eye view and to think more holistically about how we can integrate animal welfare and protection issues into many facets of our federal laws, not just the Criminal Code, is very important.

I would also note that it's become clear to me in my work as an animal protection lawyer that we have an issue in this country, in that animal welfare is divided between the federal level and provincial level, and even municipalities have a role. It becomes a situation where there can be a lot of buck passing. A province might say, “Well, that's up to the feds to do,” and the federal government often likes to say, “Well, that's a provincial responsibility.” Sometimes people use that as an excuse to say that a bill might be unconstitutional or it steps outside of its jurisdiction.

I think it's seeing the federal government take a greater leadership role in uniting provinces, in examining what we have at the federal and provincial levels, where the gaps are, where we can coordinate more. How we appropriately fund animal law enforcement is a huge piece of this puzzle. Right now it's largely funded by private donations given to SPCAs and humane societies. Those are all issues that such a committee could examine to the benefit of animals.

Mr. Nathaniel Erskine-Smith: Really quickly, from the rest of the witnesses....

Ms. Barbara Cartwright: We absolutely support it. There have been laws on the books protecting animals from cruelty since one year before Confederation. Nova Scotia had the first laws on the continent. It has long been an important part of Canadian values to protect animals.

What we have seen over the last 20 years is this piecemeal approach, where we have to bring in just one bill, one bill, one bill. It's worked. We had to do it, but the bigger ones, the more thorough thinking through of how we can better protect animals in Canada and reflect Canadians' values in the Criminal Code have not happened.

We would very much support bringing together all stakeholders. It can't just be a section of our communities. It has to be everyone together to make that lasting change.

Dr. Alice Crook: Some other countries have quite comprehensive animal welfare frameworks, like New Zealand, for instance, which has an excellent one. That's exactly what it consists of. It's a comprehensive, consultative approach that tries to address the broader issues as well as the issues on the ground, such as veterinarians, as we deal with and that animal protection organizations deal with.

The Chair: Thank you very much.

Mr. Rankin.

● (0935)

Mr. Murray Rankin (Victoria, NDP): Thank you, Chair.

Thank you to all of our witnesses for being here.

I'd like to start with you, Ms. Cartwright and Humane Canada, and acknowledge with thanks your organization's 40 years of advocacy and all of your member humane societies. You do amazing work for which we all should be grateful.

For Canadians watching at home and others, you correctly said that Bill C-84 is a modest bill. Dr. Crook has talked about it being a first step and Ms. Labchuk has called for a complete overhaul. Canadians might ask why we are here with these two clauses, essentially. The answer, of course, is that the Liberal majority chose to defeat Mr. Erskine-Smith's Bill C-246, which would have been more comprehensive, which would have done the comprehensive reform that the minister has once again committed to, but we are two years later and no closer to that review. I really appreciate and support Mr. Erskine-Smith's suggestion that there be an all-party, non-partisan commitment to this, some kind of committee, and I would be pleased to be a part of it.

The first question relates to what Ms. Cartwright said about the prevalence, the connection between sadism and bestiality being most impactful upon children. Professor Crook, you also, in a letter supporting Bill C-246, wrote as follows for veterinarians: "There is overwhelming evidence of a direct link between abuse of animals and violence towards people, especially other members of the family—children, spouse, elders." What is that evidence? Both of you have referred to it. I'd like you to speak a little more, each of you, about where that comes from, perhaps starting with you, Ms. Cartwright.

Ms. Barbara Cartwright: Certainly. There has been about 50 years of research into the links, when an animal is suffering, with what is happening around that animal and the kind of suffering that happens there. A great deal of it has come out of the United States, until very recently. We now have a professor here in Canada, Dr. Amy Fitzgerald, who is at the University of Windsor. She is doing the same or similar research that we see in the United States, to get us some Canadian data on the links, particularly between animal violence and domestic and interpersonal violence. It's not surprising that it's similar to what we see in the States. What is surprising is that it's actually a little worse here. By that, I mean, the instances of women reporting that when they're in a violent situation, their animal is also in a violent situation. Sixty-five per cent of women report delaying leaving a violent situation because of their animal, because of concerns about the safety of that animal. The animal is used to extort or coerce the partner or spouse and the children, typically, into different acts that they may not want to commit. It is also shocking, in the cases of those women who did leave, that almost a third of

them report going back for the animal, to either check in on it or to resume living with the abuser because they cannot get their animal out.

We see very strong relationships between those two forms of violence because, of course, an animal is part of the family. It's a vulnerable part of the family and as you likely all know, there's a great deal of love that goes between humans to their animals. It's a very easy target for an abuser to use to coerce the abused, unfortunately. There is a great deal of evidence.

There is also the formation of the Canadian Violence Link Coalition here in Canada. It was started last year. Humane Canada helped bring that to the forefront. We also launched the first conference in order to study and bring forward all of the different academic research that's going on and that supports the links between animal violence and human violence. We see it ranging not only from domestic violence, interpersonal violence, but all the way up to probably the classic that most people think of, the serial killer. While not all abusers are serial killers, all serial killers are animal abusers. That evidence exists and it's a common step up from animal abuse if they have a propensity for serial violence. I shouldn't just say serial killers; it's serial violence; it's serial rapists as well.

Mr. Murray Rankin: Thank you.

Professor Crook.

Dr. Alice Crook: I would add that the way we see this really direct link is first of all, as Ms. Cartwright said, that women will delay leaving situations because of fear for the safety of their animals.

Quite a few veterinary practices and animal welfare organizations have arrangements with domestic violence shelters to take in animals when they can't.... Most shelters will take in animals when the women and the children are there. Veterinarians see that. As far as the link with bestiality is concerned, it's one of the ways that abusers try to control their victims, whether they're animals or children, so both. What is documented, unfortunately, is that abusers will force the child or the spouse to interact with animals in a sexual way to humiliate them, to witness the injury to the animals. The animals, the children and maybe the spouse are vulnerable, so it's all linked to the abuser's approach of trying to control and intimidate the animals. There's a lot of documentation for that.

● (0940)

Mr. Murray Rankin: Thank you. I appreciate that.

In the short amount of time....

Am I out of time?

The Chair: You're at six minutes now.

Is it really short?

Mr. Murray Rankin: I wanted to ask Ms. Labchuk about some of her suggested amendments.

The Chair: Those are important, so perhaps you can get in a really short and snappy one, and then Ms. Labchuk can give a quick answer.

Mr. Murray Rankin: Thank you very much.

Thank you for the work that Animal Justice does.

You have suggested that cruelty provisions in the Criminal Code are different here because judges are not empowered to ban a person convicted of a section 160 offence from owning, having custody or control of, or residing in the same premises as an animal. This animal ownership ban that you've sought, which I, by the way, find compelling....

You've talked about how there are different parts of the Criminal Code where these provisions are found. Does a judge currently have no discretion for an animal ownership ban or the things you've sought? Must we do this to achieve this, or is there discretion in a sentencing judge in any event?

Ms. Camille Labchuk: To my knowledge, the only other provision that would be of assistance is that a period of probation could include a term that prevents a person from having contact with an animal during that period. I used to be a criminal lawyer, but it has been a few years. I believe that the maximum probation period is three years. That would expire at the end of that term, and then a person would be free to go and obtain animals. That would be a gap.

Mr. Murray Rankin: A lifetime ban is what you would achieve, beyond three years presumably.

Ms. Camille Labchuk: I always think it's appropriate to give judges that discretion. If they think five years, 10 years or a lifetime is appropriate, I think that's right.

Mr. Murray Rankin: Agreed.

Thank you.

The Chair: Thank you very much.

We'll now go to Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you, Chair.

Thank you, witnesses, for your testimony today. I want to start by following up on something that Mr. Cooper brought up.

Ms. Labchuk, you mentioned section 447, I believe, and amending it to ensure that animals, once seized, are not destroyed. Can you elaborate on that?

Also, for animals that have been abused, birds especially, what kind of resources would organizations like yours require in order to rehabilitate or take care of those animals once they have been saved?

Ms. Camille Labchuk: Right now, in a situation where there would be a bust of an animal-fighting ring—be it dogs or birds—what would typically happen is that police and/or the SPCA or humane society, usually working in partnership with each other for a larger bust in particular, would go into that situation. They would seize those animals, often pursuant to provincial legislation. Those animals would be housed by the humane society or SPCA, typically.

At that point, there would be the ability for them to be given care if they need it, and the ability for a veterinarian to determine whether an animal should be humanely euthanized, if that's the appropriate situation.

As far as the longer-term disposition of those animals goes, there are a number of options. Sanctuaries are something that in this province and across the country we're starting to see more of. There are sanctuaries specifically dealing with many types of animals. There are dog sanctuaries, horse sanctuaries and sanctuaries for farmed animals as well, where animals rescued from farming situations can live out the rest of their lives in some semblance of what they would experience in a more natural environment. There are facilities that are able to take in birds, for sure, and provide assistance to them.

In terms of how to make an evaluation of whether it's appropriate to rehabilitate an animal, especially a bird, I would leave that to veterinary experts to comment on. I know that you will be hearing from some representatives from the BC SPCA, who have been involved in bird-fighting busts and may be able to offer more information.

• (0945)

Ms. Iqra Khalid: Thank you.

Ms. Cartwright, do you have any comment on that?

Ms. Barbara Cartwright: No. I would say that's exactly how it happens.

I think the important thing to note, too, is that there is the ability for restitution on behalf of the courts. It was something that we did manage to get updated back in the mid-2000s. There is a huge weight of cost, time and emotional effort that humane societies and SPCAs take on in rehabilitating animals, particularly for large seizures such as you would get at an animal-fighting ring.

Ms. Iqra Khalid: Ms. Cartwright, you also drew a connection between abuse against animals and abuse against humans, especially children. What are the implications of that observation in terms of how crimes against animals are dealt with in Canada?

Do crimes need to be more tailored to the contextual approach saying that if somebody's abusing an animal in a home, for example, there is a stronger likelihood of there being child abuse? Do you think that our Criminal Code needs to take that into account, in terms of designing its crimes and sentencing?

Ms. Barbara Cartwright: I think more needs to be taken into account in the actual enforcement of the laws. If the laws are strong for children and animals to protect them, then they will be effective.

Where we see it falling apart is that our enforcement authorities aren't necessarily working together. Our community responses to child protection and animal protection need to work more closely together. For example, when an SPCA officer goes into a home to respond to an animal cruelty call, have they looked at the child? If they see something, their duty to report it and call in child protection is important. Likewise, we need to see it the opposite way. If someone has gone in under a child protection call, are they looking at the animals, and can they report?

This is part of why we started the Canadian Violence Link Coalition. We have 10 diverse, different streams of society coming together in the Canadian Violence Link Coalition, to better strengthen the work across those lines so that we have a strong response to all forms of violence, because it is so critical.

If the laws are strong and we have co-operation amongst the different agencies, then we'll be able to better protect all those vulnerable animals and people, and have safer communities.

Ms. Iqra Khalid: Do you think more research needs to be done in drawing that causation or correlation between the two types of crimes?

Ms. Barbara Cartwright: I think people like to hear the evidence; however, as I was saying earlier, we do have 50 years of evidence, and it's all around the world.

I am pleased that Dr. Amy Fitzgerald is doing research here in Canada. I might add that research has brought forward the fact that hasn't been seen before in research. She was able to do a test to determine the correlation of the severity of the abuse to the animal to the severity of the abuse to the human. She has found that they're directly related: the more severe the animal abuse, the more severe the human suffering.

That kind of research is very helpful, but I would say that we already have the research and it's time to act.

Ms. Iqra Khalid: When we talk about having laws to address issues such as bestiality and violence against animals, children, etc., I always want to know the root cause of that violence. In this instance, do we know what the root causes are? Can we get to know what the root causes are? How do we address the issue at the root cause?

Ms. Barbara Cartwright: That's a question as to what the root cause of violence is and I am probably not the best academic—I'm not an academic—to actually answer that question. I am also not a psychologist. So I can't answer on what the root cause of violence is.

Ms. Iqra Khalid: Dr. Crook, do you have any comments on that?

Dr. Alice Crook: It goes back; often people who abuse animals were abused as children. This has been shown by the evidence over and over again. They may have observed animal abuse, so it definitely goes forward across generations, like domestic violence, but I think it's a very large question.

Ms. Iqra Khalid: Thank you.

Thank you, Chair.

The Chair: To tie things up, Ms. Labchuk, I know you'll send a copy of the amendment you're proposing to the committee, but essentially what I imagine you're proposing with respect to the

prohibition order is taking subsection 447.1(1), and adding the sections on bestiality to the list of sections to which it would apply.

● (0950)

Ms. Camille Labchuk: That's right.

The Chair: If for whatever reason I would judge that unreceivable because that section is not being amended, then would it be taking that wording in reverse and putting it back into the bestiality sections?

Ms. Camille Labchuk: That's exactly right, Chair.

The Chair: Okay, thank you. It was very constructive, really helpful.

Thanks to all three of you for all you do to protect animals and vulnerable Canadians every day.

We'll take a brief pause and ask the next panel to come up.

● (0950)

_____ (Pause) _____

● (0955)

The Chair: We will now resume our meeting of the Standing Committee on Justice and Human Rights and our study of Bill C-84.

We have a little bit of an unusual situation where both members of our panel are here by video conference today.

We are joined by Ms. Josie Candito, as an individual, from Toronto, Ontario, and by Professor Peter Sankoff, a professor of law and associate dean at the University of Alberta, from Edmonton.

Welcome to both of you. You both have 10 minutes for your opening statements, and then we'll go to questions from the panel.

We will start with Ms. Candito.

Ms. Josie Candito (Animal Rights Activist, As an Individual): First, I want to thank our dedicated MP for Parkdale—High Park, Arif Virani, for allowing me this opportunity to speak to all of you today.

Presently, many animal rights laws fall under individual provinces. Unfortunately, this often leaves animals unprotected or protected more in one province than another. In some cases, the animals may be transported between provinces, falling under different legislation in each province. Animal cruelty is wrong, no matter which province it occurs in, and standards for animal rights and protections should be universal across our country. I have some proposals for policy changes on the federal level.

First, animals must be recognized as beings that can feel pain, and animal cruelty crimes should be moved from the property section of the Criminal Code. It is important to note that recognizing animals as sentient beings is not reinventing the wheel. Quebec already recognizes animals in this fashion, and the U.K. has a plan to enact this type of legislation.

To include this language in federal animal rights protection legislation, to me, would be reasonable. Animal cruelty laws currently fall under the property section of the Criminal Code. As animals are sentient beings, this offence should be moved to a new section titled "Offences against animals" in the Criminal Code. Animals are not inanimate property like a car or a watch. The change would recognize animals as thinking, feeling beings and would recognize that it would be wrong to harm them, as opposed to recognizing that it is wrong to damage someone's property. These animals are our families, our fur children, our best friends. They have emotions, feelings and unique personalities. We have the bare minimum guidelines for food, water and shelter. A dog tied down outside on a piece of plywood is acceptable by law at this time.

Second, the language of animal cruelty law must be strengthened to close loopholes that allow abusers to escape penalties. In the current Criminal Code, there are loopholes that allow certain kinds of animal abusers to escape punishment. Many of these loopholes could be closed with amendments to the legislation, as we are doing with this bill by closing loopholes against animal fighting and by providing a definition of bestiality and brutal and vicious killing. We could change the language in current legislation from "wilful neglect" to "gross negligence", therefore making the act of neglect punishable regardless of whether it was premeditated.

Bill C-84 has been tabled and, hopefully, the bill will pass soon.

It is important to add a clause to ban animal ownership if one is convicted of animal cruelty more than once. Any person who has harmed an animal more than once has done so through gross negligence or wilful malice and should never be allowed to own an animal again. Imagine if your dog were stolen, stabbed with a screwdriver and dragged by a tow-chain, and the accused got probation. At the moment, statistics show that jail time is rarely served. Most of the time, the accused just gets probation.

Third, federal animal transportation regulations should be amended. Stiffer laws are required to ensure the safe transportation of animals, free from dehydration due to heat stress and from overcrowding and/or burdening animals in undersized transport trailers.

Fourth, there should be a ban on the sale of puppies by pet shops and third party commercial dealers. Puppies must be available only from rescue centres or reputable dealers where the puppies are always seen with their real mothers. Reputable breeders should be held to high breeding standards and should be licensed, monitored and registered. Restricting the sale of puppies encourages more people to rescue older dogs.

Last August, the U.K. passed Lucy's law. I believe such a law is attainable here. The U.K. has set an example and hopefully Canada will follow.

Fifth, a registered animal offenders list should be created. This list would not need to be publicly searchable. It has been proven that people who commit animal abuse often go on to commit domestic violence and other violent assaults. There is a link between animal, domestic and child abuse. Creating a registry of animal abusers ensures that law enforcement can identify a pattern of abuse earlier. Many states in the U.S. have already enacted such a list, which

lessens the burden in Canada to reinvent the wheel. A registry can act as a deterrent. If potential animal abusers know that there may be a permanent searchable record, that may deter them from this abuse.

•(1000)

A registry of animal offenders would also ensure greater protection of animals. Those adopting an animal, those providing care to animals and those providing animal services would be asked to sign affidavits to swear they are not on the list. False statements could be punishable by law.

We know that the Liberal government stands against animal abuse and against abuse of women. I hope that it will be the party of history, with everybody working together in a non-partisan way to continue to make these changes in our law.

Tail docking, ear cropping, declawing of animals and mutilations that are not medically beneficial should be illegal and punishable under the federal law. Obviously, spaying and neutering would be beneficial.

The Canadian Veterinary Medical Association has long opposed these procedures as they are unnecessary and put animals at increased risk of damage, infection, pain and distress. There is no reason why any of these cosmetic procedures should be allowed anywhere in Canada. Some provinces have already enacted bans on these sorts of procedures, in particular, B.C. and Quebec. A ban on unethical and unnecessary mutilation should be country-wide.

Our animal anti-cruelty laws are outdated. It has been 127 years since these laws have been properly updated. Obviously, views were different then from what they are right now. "To date, politicians have utterly failed to update our laws". That's a quote from the February 15, 2018 edition of The Globe and Mail.

I personally rescued a dog named Charlie, but that day, he rescued me, and I vowed then to keep going and advocate for updated laws to protect our animals. It is a very personal and passionate thing that I believe. We need to be the animals' voices.

I hope that all the parties can come together, and that some changes can be made. This new law, I believe, will take baby steps towards where we need to go. We still have a lot of work to do.

I'll just leave you with a quote that I love, "The greatness of a nation and its moral progress can be judged by the way its animals are treated."

Thank you all for listening.

•(1005)

The Chair: Thank you very much.

We will now move to Professor Sankoff.

Professor Peter Sankoff (Professor, Faculty of Law, University of Alberta, As an Individual): Thank you very much.

On a personal note, I just wanted to say it's nice to see another alumnus of Dollard-des-Ormeaux doing such important work for the country. Thank you very much.

The Chair: Thank you very much.

Prof. Peter Sankoff: I'm very honoured to be here speaking to this bill. I appeared before the Supreme Court in the D.L.W. case that prompted this particular piece of legislation, and I've given a lot of thought to this particular issue as a result.

First of all, I want to congratulate members of Parliament for taking this on. I understood that the Minister of Justice, on introduction of the bill, said it was done in order to protect animals from harm. I think that's a wonderful change from what we heard of the bill's original origin when it was spoken about in the Supreme Court.

I did want to say, echoing the last speaker, that while this bill is an important piece of the puzzle, it's really not enough. I have done extensive study of animal cruelty laws around the world, and I usually say without much reservation that our federal animal cruelty laws are amongst the very worst in the western world. We are one of the few countries in the western world, and especially in the Commonwealth, that have not made substantial reform of our animal cruelty laws within the last decade.

The U.K., Australia, New Zealand and other countries have made radical studies and attempts to clarify problems. I can tell you that as someone on the ground working with these issues, our animal cruelty laws cause real problems for prosecutors, investigators and the courts. That is a direct result of Parliament's failure to reform them, and to make sense of some of the provisions that simply do not work. I would ask this committee to look at doing those things in future.

I want to talk briefly about why I believe this bill fits very nicely with the way in which the criminal law is evolving, and then perhaps comment on one or two of its shortcomings.

It is good that this is a shift, that we are changing bestiality from what used to be called a morality offence. The reason is that there are very few pure morality offences left in the Criminal Code and those that are left are very difficult to adjudicate for the courts. Finding the range of conduct that is said to fall within this particular wrongful morality is very complex and the courts don't like it.

The Supreme Court of Canada has indicated a clear preference [*Technical difficulty—Editor*] morality. That's what this change to bestiality is doing, in that it's assessing the harm against animals that takes place when you involve them in a sexual offence. They are vulnerable beings that do not have the ability to consent. It does so by recognizing that harm does not have to mean actual harm. That's an important point to look at when we look at what this bill does. Certain defenders of the status quo have recognized, and I think they have recognized correctly, that not every sexual act involving an animal causes actual harm. I think that is undoubtedly true. I mean harm to the animal when you're talking about the harms in question.

I wish to point out to the committee that the fact that certain sexual acts involving animals may or may not cause harm to the animal doesn't matter. I want to emphasize that our modern view of criminal law recognizes that there are times when we are allowed to criminalize the risk of harm. That's what I think this bill actually does. Where the risk is high enough, and the benefit of the act of question is low enough, it is acceptable to criminalize even if actual harm does not occur.

A good example that matches with what this bill is going to do involves polygamy. It's recognized in the court case that looked at whether or not polygamy was constitutional, that in an ideal world, it is possible to have polygamous marriages that in and of themselves don't cause harm. However, the court in the reference recognized that the risks of the act of polygamy across the board are high enough, and the people involved are vulnerable enough, that the criminal law is entitled to step in and say, "This act itself needs to be banned in all instances, even if it doesn't cause harm in every single situation."

This is the exact same thing with bestiality. Not every sexual act involving an animal is going to cause harm to the animal, but given the special vulnerability of animals, the private nature of this abuse, and most importantly, the fact that animals will never be able to testify or relate the actual harm or conduct that they suffered, the risks are simply too high, given that the activity provides so little benefit to Canadian citizens.

Finally, evidence of psychological harm, which I believe has been shown through studies looking at bestiality, are very difficult to substantiate, given the burden of proof and the difficulty of obtaining sufficient evidence.

● (1010)

The idea that you could leave bestiality as a harm-based offence and only prosecute in instances of harm I believe is a flawed way of looking at this, given the nature of the conduct in question and the difficulties involved with prosecuting offences involving animals. Animals are the most vulnerable beings in our care and in our society. Given the lack of benefit and the message that is sent if we allow continued sexual conduct involving those that can never consent and cannot resist, given the power imbalances between humans and animals, a complete ban not only accords with our developing view of criminal law theory, but it also makes good sense.

I'm happy to take any criminal law related questions involving this bill, but let me just mention one concern that I have. It involves the way bestiality is separated from the other animal protection-based offences of the code. It's very clear that bestiality simpliciter—and I define that specifically as being separated from bestiality involving the presence of children—has never been viewed as a sexual offence even though it's contained in the sexual offences section of the code.

I say that because if you look at section 161 of the Criminal Code, which involves prohibition orders and special orders against sex offenders, you see that you cannot even order a ban involving sex offenders on someone who has committed bestiality simpliciter. The reason for this is that the person is not a sex offender in the ordinary way that we think of sex offenders, so you don't need to keep him away, necessarily, from children and other beings, or at least that is what Parliament has said in the past when it enacted section 161. I think that Parliament today is correct in recognizing that bestiality simpliciter is mostly about animals and about protecting them, and in order for that to make sense, it needs to be linked to the punishment sections that involve repeat offenders involving animals.

I think it is a large mistake not to link this particular offence to the prohibition order section of the code in section 447.1, which allows the court to impose prohibition orders on those who commit bestiality against animals. It seems to me that those who abuse the trust of animals through sexual exploitation simply should not have access to them any further, and whether that is done through a prohibition order, it's really the most effective way to complete that type of sentence upon an offender.

I wish to thank you very much for having me come before the committee today. I'm happy to take any questions that I can assist with.

The Chair: Thank you so much for that.

Both testimonies were very helpful and are very much appreciated.

We will now go to questions.

Mr. Barrett.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Thanks very much, Mr. Chair.

We've heard this morning that there seems to be a consensus around supporting a proposed prohibition on ownership of animals for individuals convicted of bestiality offences, recognizing that there might be an opportunity to remove the requirement for the destruction of animals seized in fighting investigations.

Professor Sankoff, my question is for you. It goes back to my questions for the minister when he was here last week. It's just for some clarification around the common-law application of the term "baiting". My interest in that is so as to clarify that the interpretation or application of that pertains only to animal fighting and would not be used to expand to and affect responsible and legal hunting and angling.

Prof. Peter Sankoff: In terms of my view on that section, where you're referring to paragraph 445.1(1)(b) of the code and the amendment that's being proposed to it, my understanding is that paragraph 445.1(1)(b) was enacted originally to deal with the historical offences of bull-baiting and bear-baiting, which were the original terms.

Mr. Michael Barrett: That's right.

Prof. Peter Sankoff: There is a very strong principle at common law which suggests that Parliament is assumed to have knowledge of the common law when it's enacting particular language.

First of all, my view is that re-enacting these particular words would not send a signal that you were doing anything different to the established meaning of those words because, first of all, there is no amendment to those particular words in what you are proposing in Bill C-84. Obviously it is impossible to ever predict with 100% certainty what any court will do, but I would be very comfortable in saying that the term "baiting" was enacted under the understanding that it was designed to deal with bear-baiting and bull-baiting, and I would be very surprised to see the court take a more expansive view of that wording given its historical placement.

•(1015)

Mr. Michael Barrett: Okay. Thanks very much.

The Chair: Mr. Cooper.

Mr. Michael Cooper: I will direct my question to you, Professor Sankoff.

Perhaps you could address the issue of amending section 160 of the Criminal Code and the need to close a gap that currently exists.

I characterized it when the minister appeared before the committee as a loophole. The minister said he wouldn't necessarily accept it as a loophole, citing other sections of the Criminal Code that might be applicable, especially in cases involving children, including sexual interference and sexual exploitation.

It's true that those particular sections encompass sexual contact with children, including touching with an object, but I would submit that the word "object" doesn't seem to be necessarily applicable in terms of referring to animals as objects. Certainly, the ordinary dictionary definition of object refers to inanimate things.

I was wondering if you could comment on the need for this loophole to be closed and how that relates to other sections of the Criminal Code.

Prof. Peter Sankoff: To echo what I said earlier, my belief is that the loophole needs to be closed. As a part-time defence lawyer, I struggle with the term "loophole", but I will say that the gap in the legislation needs to be closed, mainly for the reason I expressed earlier, that being that right now the problem is that touching an animal in a sexual way is simply not considered within the scope of bestiality.

What I think the minister was referring to is in sections 151 and 152. I take your point that it might be possible in some of those situations where you're involving a child...I think it's conceivable that you could refer to an animal as an object, but I do share your concern that it is not the best way to address this problem. I think it's possible that it would not be considered an object, and it would be left up to the court to interpret in a particular situation whether or not the animal did qualify within the context of section 151.

If you amend the bill as you're proposing to do here under section 160, I think you close any of that ambiguity. There is no room going forward, because it would be clear that any situation involving bestiality, which would be any sexual touching with an animal, would automatically fall within the revamped section 160.

I do take your point. I agree, I think with both you and the minister, that it is possible that section 151 could cover this conduct, but it would only cover this conduct where a child was involved. It would obviously not cover a situation where the animal and the offender were together alone, and it might not even do so, depending upon how a court viewed the interpretation of “object”. Closing this gap is I think desirable for both situations.

The Chair: Mr. Virani.

Mr. Arif Virani (Parkdale—High Park, Lib.): Thank you, Mr. Chair.

I want to direct some questions to Ms. Candito.

Josie, welcome to the committee.

Josie, I've known you for a long time, obviously, as a business owner in the western part of Toronto, in Parkdale—High Park. I've known you as an animal rights advocate and, to be frank, as someone who helps educate me and others in the community about animal rights and the importance of, as you've just said, speaking up for those who are voiceless, the creatures that are voiceless in Canada. I've also heard you speak about—it came out in testimony earlier today—those who start with animal abuse and the link leading to child abuse, abuse of women and even in some instances committing acts such as murder.

Thank you for that advocacy.

You've also developed a strong and robust network of other animal rights advocates in the Toronto area and beyond. We've seen your brief, and you've walked us through it.

First of all, tell me about some of the reception that you've had and heard of among the animal rights community about this bill, and the need to strengthen the laws that relate to bestiality and to bans on animal fighting. How is that piece of this legislation being received?

• (1020)

Ms. Josie Candito: Everybody is excited that this is a start. It's something where we look at each other and can't believe that it's still not there, but we're excited that it's a step towards protection. People are saying that these are just things that should be there and should have been there. We're so in awe that we're still talking about this and that it wasn't done years ago. We're just glad that it's being dealt with, and then, hopefully, we can proceed, because we're very excited about the rest of it. We can keep going and catch up to the rest of the world.

Mr. Arif Virani: Let me pick up on that, because I think it's an important point.

You've outlined a number of things. You've raised about seven different points. Some are directly under federal jurisdiction and relate to the Criminal Code. Some relate to other aspects of federal regulations, such as transport. Others relate to the commercial sale of animals, such as puppy sales, etc.

I'll put to you something that came up earlier. I'm not sure if you were able to listen in on the first hour of discussions, but Nate Erskine-Smith, who is sitting right next to me, was the author of Bill C-246. He talked about whether there's an appetite out there to go in a broader direction. There are so many different things out there. We

have things before Parliament about cetaceans—dolphins and whales—things like shark finning and bans on the cosmetic testing on animals. There are a lot of ideas out there.

Would it make sense to you to aggregate those ideas in terms of having some sort of broader discussion, consultation and analysis about how the federal government can lead a discussion on animal rights and take it forward in a more comprehensive way?

Ms. Josie Candito: A million per cent, because we have to move forward. These are great and they need to be dealt with, these few points that this bill has, but all the rest of them.... There are a million other points. It's a big project. To me, this is just baby steps, like I said before. There are so many more points. There are so many things we have to do.

Also, I hope everybody from the different parties on this committee go back to their groups and tell each other that everyone needs to work together. This is something that everybody should want, not just one party.

I understand that there's a political side to protecting the fishing and agriculture. I understand all of that. Most people are not.... We understand that this part needs to stay, but at the same time, we have to find a way to protect the animals—all sorts of them. It doesn't matter if it's puppy selling or the cosmetics world. Whatever world it is, I think we have not even started. There's a huge project ahead and a lot of work.

Mr. Arif Virani: With my last question, I want to ask you about your experience in the west end part of Toronto in aggregating people who want to discuss these issues. I remember very clearly your Woofest event. I remember seeing the posters about it and wondering what it was all about. It was a fun event for me and my kids, but it was also an event where you actually advocated for animal causes and animal rescue. You raised awareness. The number of people there was tremendous. It really congregated a number of people.

Do you think that's an anomaly or do you think people are much more concerned about animal rights than we presume? If they are concerned about it, why are they concerned about it? What are you tapping into with events like Woofest?

Ms. Josie Candito: It's so big. When I started this, everybody was saying, “How are you even going to come close to getting anything done?” Everybody feels that it's like climbing Mount Everest. How do you get anywhere? Unless we attack it and unless we understand that there are certain provinces, areas and things that we need to respect: where the country came from and that there is agriculture and an economy there.... We have to balance out the economy with the basic stuff that's not being taken care of. There has to be an understanding. We can't say that everybody has to stop eating meat. That's not going to fly. Then everything gets stopped. That's why the last bill didn't work: because everybody in agriculture and on the economy side were like, “Hey, no way.” That was not going to fly for their constituents.

We need to balance it out and make everybody understand that, no, we're not going to take away their economy, but we also need to make sure that the animals are treated a little more humanely. Also, we need to take care of the other side of it: when you buy a puppy, when you take care of a puppy, and when you're hurting a puppy, preventing you from getting an animal and doing all these laws.... It needs to be tackled in areas. That's where these amazing lawyers who know their stuff inside out, with every bill and every law, can now come together, and all these groups can come together. We can make a difference and get this moving forward.

I think we're 25 years behind where we're supposed to be. You have to tackle it. It has to get done.

• (1025)

Mr. Arif Virani: Thank you for your advocacy, Josie, and thank you for being here.

The Chair: Thank you very much.

Mr. Rankin.

Mr. Murray Rankin: Thank you very much.

I'd like to continue with you, Ms. Candito, if I may.

You made an interesting suggestion in your remarks about a registry of animal abusers. You pointed out that this is the case in some American states. We, of course, have heard from Professor Sankoff, who I'll talk to in a moment. He talks about this being a bill mostly about the animals themselves and their rights, if I can call it that. The idea of a registry of animal abusers is something that you called for.

I'd like you to speak a little bit more about why you think that would have merit.

Ms. Josie Candito: First of all, we put them on notice, "Oh, if I do anything, this is something that Canadian law is telling me about." It also puts other people out there, as you say, in that you've disclosed the information. Obviously, everybody can't look it up online, as there would be a privacy issue there, but the person would have to disclose this information. Say this person wants to take care of children or wants to work at something. The person would have to disclose this information. If they can hurt an animal, they can hurt a child, they can hurt a woman, they can hurt anybody; it's linked. I'm sure in the first hour there was a lot about the linking of this behaviour.

Mr. Murray Rankin: Thank you very much.

Professor Sankoff, first of all, thank you for your leadership in this area and thank you for intervening in the R. v. D.L.W. case. I think it's great.

You started by saying that we have in Canada, sadly, among the worst laws on animal cruelty in the western world. Thanks to the leadership of Mr. Erskine-Smith, we tried to make a dent in that in Bill C-246, but the Liberal majority voted it down. Maybe after the election we can get back to the basics on that.

Your analogy to polygamy was intriguing. You talked about how there's a possibility in an individual instance of no harm to the individuals involved, but society says the risks are high enough and the vulnerability of the children are great enough that really we

should proceed notwithstanding the lack of any particular harm in a given case. You use that as an analogy to bestiality, which I thought was a very apt one.

I'd like you to talk a bit more about that from the perspective of harm to the animals, which you focused on, almost like animal rights, Professor Singer's work and all of that. It's as distinct from the difficulty, as you pointed out, of proving psychological harm and all the other things.

Talk a little bit about that and see if that vision can be implanted in the current law as proposed in the narrow compass of Bill C-84.

Prof. Peter Sankoff: I think it does. I think the whole signal of this bill, and certainly the statements that have been made surrounding its enactment, go to the idea that...

It's twofold. I have focused on harm. It's interesting to note that in Switzerland and other jurisdictions that have dealt with bestiality, they've done it on the basis of animal dignity, essentially moving forward to suggest that animals are beings and we need to respect their physical and psychological integrity. As I referred to in my opening statements, we are sending the message that animals are vulnerable and that animals should not be exploited for sexual gratification. That was the message I sent to the Supreme Court when I spoke on D.L.W. Again, I should point out that I'm focusing more on the harm. I'll get back to that in just a second.

I would say that section 160, as the proposed amendment makes it, is also consistent with Parliament's treatment of sexual offences. That is an important statement to make as well. Parliament's treatment of sexual offences has been very clear: Those who cannot consent cannot be touched sexually. That is essentially what is stated in the Criminal Code with respect to, obviously, human beings. This just harmonizes that now. It's essentially saying that animals, which can never consent—they don't have the capacity to do so—are therefore being treated in the same way. I think it reflects our bigger statement about how we view sexuality, that sexuality must be between two people who are capable of consenting together.

I'll go back to the harm issue and what I was getting at with the analogy to polygamy, and there are other offences that do this as well. I've been engaged in debates with various people. There are people out there—I don't know if they're speaking in front of the committee—who are interested in bestiality. They seem to suggest that some animals are not harmed by this, and that so long as it is done in a way that's respectful of the animal and doesn't involve physical harm, we should not be concerned. That is the argument I've heard, that we should let people do what they wish; this is a libertarian society, and therefore, so long as the animal's not being harmed, we shouldn't be concerned.

My point back to that is twofold. First of all, it's very difficult to know whether they're correct. There are a lot of studies showing that the sexual touching and involvement of animals can cause psychological harm to the animal. We have studies that show that in the first place. The second point I wish to make, which was where I started with my opening remarks, is that it doesn't really matter whether it causes harm in an individual case. That's the point I was really getting at. Whether you can do this safely or in a way that isn't going to hurt the animals is completely beside the point.

We are entitled to do this because the risks of harm, when you are talking about animals as a group, as a class, are simply too large, especially when you're dealing with a category of being who cannot speak. You'll never be able to voice the alarm. It's the same thing when you're talking about very young children; still, at some point, those children will be able to voice the alarm and express what happened to them. Animals will never have that ability. As a result, the risks and the difficulties of actually investigating these things are simply too high. As a result, it makes sense to have a complete ban.

That's where I was going on this.

•(1030)

Mr. Murray Rankin: Professor Sankoff, Ms. Candito talked about the frustration people find when probation is often the only penalty. I'm wondering whether as a criminal lawyer you think an increase in penalties would assist in getting the judge's attention, with therefore more likelihood of having convictions, as opposed to simply going through a prosecution and being frustrated by the fact that the offender only gets probation most of the time.

Prof. Peter Sankoff: I'm less concerned about penalty than any other aspect of the code and the way it's dealt with. I think right now the opportunities for penalties, thanks to recent amendments to the code, are relatively high. It is true that on occasion the penalties are too low, but as a class, my study of this has not shown that penalty is the problem. The problem is getting the conviction in the first place. That would be my answer.

Mr. Murray Rankin: Thanks very much.

The Chair: Thank you.

I'll move to a combination of Mr. Fraser and Mr. McKinnon.

Mr. Fraser, we'll start with you.

Mr. Colin Fraser (West Nova, Lib.): Thank you very much, Mr. Chair.

Thank you to the witnesses for being here and to Mr. McKinnon for giving me a little bit of his time, because I wasn't able to ask this question.

I guess in the last panel the issue came up of amending the Criminal Code to allow discretion to judges to impose orders or conditions on the ownership of animals for people convicted of these types of offences.

Generally this falls under provincial jurisdiction where provincial animal protection acts will allow the sentencing judge to impose conditions against ownership of animals for people convicted under provincial legislation. The Criminal Code contemplates banning ownership of weapons in certain appropriate cases for a public safety purpose.

Professor Sankoff, I'm asking this question, not because I'm opposed to the idea of having this type of amendment to the Criminal Code banning animal ownership and allowing discretionary bans up to a lifetime, as we do for weapons. I'm just curious about your thoughts whether there are any constitutional issues, a section 91 or section 92 problem, in the division of powers, because it would seem to me that this would fall squarely under provincial jurisdiction property ownership rights. I don't know if it has the same public safety element that weapons offence bans have.

Could you comment on that, please?

Prof. Peter Sankoff: It's an interesting question. I've never thought of it in quite that way. I'll just say this.

First of all, the way it's done under provincial law really is because there are so many orders issued under provincial law simply because most prosecutions involving animal cruelty—it's not technically animal cruelty, animal distress or whatever—are undertaken under the provincial provisions.

I would just start by saying one of the reasons for that is how ineffective the federal cruelty provisions are. Let's just leave that aside. Of course, the power to order a prohibition already exists in section 447.1. What we're talking about here is extending it mostly from that section to apply as well in situations of bestiality.

The interesting question is whether or not section 447.1 as it currently stands is constitutional. I'm not aware of any challenge that's ever been brought to this particular provision. My feeling is that it does reflect the general idea in our animal cruelty provisions right now that ownership of animals involves some degree of obligation. There is a duty to keep animals, even under the federal law, in a way that is safe from harm.

I think section 447.1 reflects that animals are not strictly property. That statement has been expressed numerous times in the jurisprudence by judges who recognize that there's a little bit more to it than that. There is certainly an obligation to animals in a way that doesn't exist for any other property.

Again, it's difficult to speculate on what would happen if a constitutional challenge were brought, but I do think that the obligation aspect of what exists in our federal cruelty provisions would be enough of a linchpin for the courts to say that it's more than just property. The prohibition goes to the idea that there are real vulnerabilities in existence here, which have a public dimension to them, going beyond the property aspect.

I guess the long and short of it would be, if this was only about property, then the federal government couldn't legislate on cruelty at all. I think that the public dimension of that is what allows the courts to do that. I think that public dimension would extend into the sentencing process involving prohibition orders. That would be my guess. Again, it's difficult to speculate, but that would be my guess.

•(1035)

Mr. Colin Fraser: That's helpful.

Thank you.

The Chair: Mr. McKinnon.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): Thank you, Chair.

My question is for Professor Sankoff.

In your testimony and also in your response to Mr. Rankin, I believe you said that bestiality is not treated as a sexual offence, but that it is a sexual act, and that it should be treated as a sexual offence. Is that correct?

Prof. Peter Sankoff: It is and it isn't. What I said is that it currently is treated only as a sexual offence when children are involved in the sense that, for the prohibition order, you can order it if children have been involved.

Mr. Ron McKinnon: Should it be treated as a sexual offence when children are not involved as well?

Prof. Peter Sankoff: My view is, not in the way that we typically look at sexual offending. It's true that right now it's placed in the sexual offences sort of grab bag category of the code. It's in that little section there; it comes after children, but it doesn't exclusively deal with children. It's in what used to be the morals offences, the part of the code that has been the morals offences. They've been stripped down year after year as Parliament continues to remove them.

It's in the same place as buggery used to be, and that's now gone. It's in the same place as other acts prohibiting abortion, etc. All those things have just been removed one after the other to the point where bestiality is sort of standing there alone in its own category. I can't sit here and say before this committee that it's not a sexual offence. It involves sexual conduct, but it's a sexual offence with a non-human being. As a result, it seems to have more in accord in its modern conception with animal protection than it does purely with sexual offending.

That's why I have to say it covers a little bit of both of those things.

Mr. Ron McKinnon: Okay. I'm not quite clear on this. It seems to me that either it kind of is a sexual offence or not. I'm wondering whether people who commit bestiality offences and are convicted should appear on sexual offender registries and so forth.

Prof. Peter Sankoff: They don't right now. I'm just telling you what the situation is.

Mr. Ron McKinnon: Should they?

Prof. Peter Sankoff: It's an interesting question. I haven't done the study necessary. I certainly wasn't prepared to do the study necessary at this point to show whether there is any evidence to suggest that those who commit bestiality go on to commit other sexual offences.

If you look at what the prohibition order does, you'll see that it's designed to stop sexual offenders from being in situations where they can commit further offences. It keeps them away from children. It keeps them out of positions of responsibility, and so on.

I don't have the evidence to answer whether or not that's true of those who perform bestiality simpliciter. To be clear, where they

perform it in the presence of children, that is sexual offending. I have no issue with that and the code already deals with that. Whether or not there's the proof to show that it's necessary, I unfortunately don't know.

•(1040)

The Chair: Please make it a short one because your time is up.

Mr. Ron McKinnon: You also indicated that cases of bestiality are difficult to prosecute. Could you explain that and what could be done to make them easier to prosecute?

Prof. Peter Sankoff: The reality is that all animal cruelty and animal bestiality are difficult to prove because you don't have the core witness. That's always the issue. Prosecuting child sexual offences is also incredibly difficult when the children are very young. You just take that and extrapolate it to animals; it's the same thing. You don't have any witness, so essentially you're relying on other witness testimony.

To be honest, the only time we really get bestiality offenders is when they record it—it's video taped—because it's so impossible to get any evidence if it's done in private unless they either do it with other people around or they do it on video. The reason I suggested that it's a good idea to extend it to all forms of sexual conduct, which I think does make it slightly easier to prosecute, is that you're more likely to have a witness to sexual touching than you are to sexual penetration. That's why I believe that anything that can expand the definition is good.

The Chair: Thank you very much.

I want to thank both of our witnesses. You've been enormously helpful.

Peter, it's great to see another Dollard person back before the committee. We really appreciate your testimony. It was great.

Same to you, Josie. Thank you so much.

Have a wonderful day, everybody.

Committee, this is the approval of the travel budget for the modern slavery project caucus in London. The lower number is \$22,479.59 to send Ms. Khalid, Mr. Cooper and Mr. Rankin. Is everybody okay with that?

Some hon. members: Agreed.

The Chair: Thank you.

The meeting is adjourned.

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