

Manitoba Law Reform Commission

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April 28, 2011

Hon. Andrew Swan
Minister of Justice and Attorney General of Manitoba
104 Legislative Building
Winnipeg MB R3C 0V8

Dear Minister:

RE: THE ANIMAL CARE ACT

While Manitoba's Act has been highly praised by the Animal Legal Defence Fund, headquartered in California, to be second in Canada only to the Ontario's comparable Act, the December, 2010, seizure of animals from a farm near Swan River and the subsequent sale of the animals, some purchased by a daughter of the man arrested in connection with seizure, reveals a gap in the Act and suggests a few amendments that would strengthen the Act.

Subsequent to a seizure of an animal by an "animal protection officer", the Act provides for an appeal by the owner to the Animal Care Appeal Board, which by section 15(3) can order the animal to be returned to the owner, or empower the "director" to "sell, give away, or destroy the animal", or make any other appropriate order. If the Appeal Board decides not to return an animal to the owner, in connection with a sale, ordered by the director, the Act does not prohibit the purchase made by the owner's daughter in the Swan River incident. It is the Commission's opinion, that the Act should be amended to prohibit the purchase of an animal by the owner from whom it was seized, or by a family member or other relative of the owner, or anyone else on behalf of the owner. Also, the Act should be amended to make it an offence for any such person to make such a purchase and for the re-seizure of the animal.

For a considerable period of time, Swan River residents, as it was reported in the December 4, 2010, Winnipeg Free Press, had known about or suspected the abusive situation at the farm and had made apparently fruitless complaints to the “authorities”. There is no requirement in the Act for an animal protection officer or the director to respond to a complaint by a member of the public or to report to a complainant on what action was taken. The Commission thinks that the Act should be amended accordingly.

These amendments would make our Act unique, insofar as the other comparable Canadian Acts are concerned, elevate its reputation, and likely stimulate similar amendments elsewhere.

Finally, municipalities appoint animal control officers. Such officers are not animal protection officers, within *The Animal Care Act*, who are appointed by the Minister, pursuant to section 7 of the Act. It might be salutary to amend the Act to empower animal control officers as animal protection officers. By way of analogy, at one time the NHL employed a referee and two linesmen; linesmen have been elevated to be referees to have more eyes on all of the play; respecting the abuse of animals, we believe that there cannot be too many eyes on the lookout.

Yours truly,

Cameron Harvey, Q.C.
President