

# Lang Michener LLP

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## VIA REGULAR MAIL

August 11, 2006

Canadian Federation of Humane Societies  
102-30 Concourse Gate  
Ottawa, Ontario  
K2E 7V7

**Attention: Steve Carroll, Chief Executive Officer**

Dear Sirs:

**Re: Animal Cruelty Legislation**

We have been asked by the Canadian Sportfishing Industry Association (“CSIA”) to respond to your letters to them dated June 15 and July 19, 2006.

Our advice to the CSIA and to other hunting and fishing membership and industry associations is set out in the letter we wrote for them to the Honourable Irwin Cotler, then Minister of Justice and Attorney General of Canada, dated July 8, 2005, a copy of which is attached.

Simply put our advice is that Bill C-50:

- (1) created an offence of killing “an animal...brutally or viciously, regardless of whether the animal dies immediately”;
- (2) did not define the terms “brutally” and “viciously”;
- (3) did not exempt normal fishing and hunting and other animal industry uses from this offence as many other jurisdictions have done; and
- (4) leaves any person involved in hunting, fishing or other animal use industries charged with this offence no useful defence except to claim that the killing was not brutal or vicious.

Hunting and recreational fishing, as well as the commercial livestock and fishing industries, and trapping, necessarily involve the killing of animals. A new offence of killing “an animal...brutally or viciously” will allow those who are opposed to any of these activities to

bring charges against hunters, anglers, farmers and trappers because these activities involve killing, and force the hunters, anglers, farmers or trappers to defend their activities as not being brutal or vicious.

The phrase “regardless of whether the animal dies immediately” in the new offence prevents any participant in recreational hunting or fishing, or other animal use industries, charged under this section from making the argument that because the death of an animal is immediate the death should not be considered to be brutal or vicious. It is not reasonable to prevent an accused from making this argument. Immediate death is a widely accepted definition of humane killing and this section attempts to change this standard.

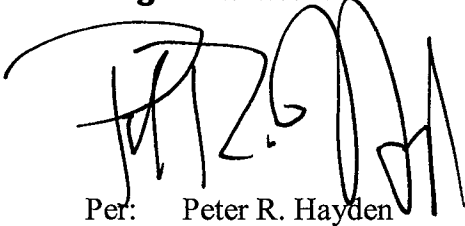
Canada’s current law provides that it is a crime to willfully cause “unnecessary pain, suffering or injury to an animal.” We contend that the main animal cruelty offence in Canada, as it currently does, should proscribe the causing of unnecessary pain, suffering or injury to an animal, and that killing an animal should not be an element of this offence. Making killing an element of the offence targets the hunters, anglers, farmers and trappers whose activities normally and properly involve the killing of animals.

We maintain our opinion that in normal situations the defence of “excuse” whether in s.429(2) of the *Criminal Code* or in the common law will be of no use to hunters, anglers, farmers or trappers charged with killing “an animal brutally or viciously”.

We also maintain that private prosecutions can readily be brought against persons charged with killing “an animal brutally or viciously”. Any private prosecution by animal rights activists will be well funded, carefully presented, and supported by many members of the animal rights associations involved.

Yours truly,

**Lang Michener LLP**

A handwritten signature in black ink, appearing to read 'Peter R. Hayden', is written over the printed name. The signature is stylized and cursive.

Per: Peter R. Hayden